



Refugee Documentation Centre (Ireland)  
LEGAL AID BOARD

## **South Africa - Researched and compiled by the Refugee Documentation Centre of Ireland on 10 October 2011.**

### **Treatment of Zimbabwean asylum seekers/immigrants and availability of police protection.**

The *United States Department of State* in a report released in April 2011, reviewing events of the preceding year, note:

“The constitution and law prohibit arbitrary arrest and detention; however, security forces arbitrarily arrested Zimbabwean migrants and trafficking victims during the year.” (United States Department of State (8 April 2011) *2010 Human Rights Report: South Africa*, Section 1d Arbitrary Arrest or Detention)

It is also stated in this report that:

“Refugee advocacy organizations charged that police and immigration officials abused refugees and asylum seekers and forcefully repatriated some asylum seekers, particularly Zimbabweans, although there were no such reports during the year.” (ibid, Section 2d Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons Section/Protection of Refugees)

This report also notes:

“In May 2009, following international and domestic criticism, the government suspended deportations of Zimbabweans; NGOs estimated there were between one and three million undocumented Zimbabweans in the country. The government also introduced a 90-day visa-free entry for Zimbabwean nationals and an associated right to work, and proposed a system of longer-term permits, known as special dispensation permits, for Zimbabweans already in the country under the Immigration Act. The permit system was never fully implemented; however, on September 20, the government began a three-month documentation and amnesty drive. Zimbabweans already in the country on or before March 31, 2009 were offered the chance to turn in any fraudulent South African identity documents without penalty and then apply for the appropriate study, work, or business permits. Requirements to obtain the permits were simplified, and the government worked closely with Zimbabwean authorities to try to ensure that all potential applicants would be able to obtain a valid passport. Those who did not take advantage of the documentation drive faced deportation. Asylum-seekers with pending claims had the option of withdrawing their application and reapplying under the new initiative or continuing with their original claim. As of December 31, 275,762 applications had been received, of which 42,779 applications had been finalized and approved, with 10,166 awaiting review; 222,817 applications were awaiting adjudication. Amnesty was granted to 6,243 Zimbabwean nationals, and a total of 49,255 Zimbabwean nationals had surrendered their asylum status to obtain valid work and business permits.” (ibid)

A publication issued in April 2011 by the *Consortium for Refugees and Migrants in South Africa* notes:

“The DHA is currently processing the roughly 275 000 applications it received as part of the Zimbabwe Documentation Process. These efforts are being hampered by the Zimbabwean government’s inability to meet the demand for passports. Nonetheless, DHA has stated that all permit applications will be finalised by 31 July, and deportations will resume on 1 August, 2011. DHA has not stated how the appeal and review process will function under these deadlines, although it has stated that all initial rejections will be reviewed. There have also been reports of Zimbabweans being detained, both at police stations and at the Lindela Detention Centre for illegal foreigners. Some of these individuals have receipts verifying their permit applications. Moreover, individuals may only be detained at Lindela pending deportation, and Zimbabweans cannot be deported because the moratorium is still in effect. This means that they are being illegally detained at Lindela, and also raises the risk that they will be held beyond the 120 days allowed by law.” (Consortium for Refugees and Migrants in South Africa (April 2011) *Protecting Refugees, Asylum Seekers and Immigrants in South Africa during 2010*, p.83)

DHA is an acronym for Department of Home Affairs.

A report published by *Amnesty International* in May 2011 commenting on events of 2010 states:

“On at least two occasions, in cases brought by Lawyers for Human Rights, the courts ordered the release of Zimbabwean and Somali nationals held unlawfully in custody and at risk of forcible return. The Ministry of Home Affairs’ scheme announced in September to regularize the status of thousands of Zimbabweans living in South Africa and lift the moratorium against their deportation raised fears of future mass deportations due to the practical challenges of receiving and processing applications within the time frame. In December, the Minister stated that Zimbabweans who had entered the permit application process by 31 December would not be deported. According to official figures over 250,000 had applied by the cut-off date. Security personnel reportedly used excessive force against Zimbabweans waiting to make applications at the Cape Town Department of Home Affairs office.” (Amnesty International (13 May 2011) *Annual Report 2011, South Africa*)

A document issued in June 2011 by *Human Rights Watch* notes:

“The South African government should quickly open a new refugee reception center in Johannesburg, Human Rights Watch said today. The closing of the existing center on June 1, 2011, will make it even harder for asylum seekers to lodge claims in the country’s chronically overburdened asylum system, which increases asylum seekers’ risk of being caught without the required permit to stay in the country and deported, Human Rights Watch said. While acknowledging that the office closure puts all asylum seekers at risk, Human Rights Watch urged the South African government to extend its moratorium on deportations of Zimbabweans until Johannesburg has a functioning refugee reception center. In the two years before South Africa suspended deportations of Zimbabweans in April 2009, police deported an estimated 400,000 Zimbabweans, including asylum seekers who had been unable to lodge their claims. International law prohibits the deportation of refugees and asylum seekers whose safety would be at risk.” (Human Rights Watch (2 June 2011) *South Africa: Open New Johannesburg Refugee Center*)

This report also states:

"A 2008 Human Rights Watch report "Neighbors in Need: Zimbabweans Seeking Refuge in South Africa" highlighted the significant obstacles preventing many asylum seekers from lodging their claims within the required 14 days of arrival in South Africa or from renewing their permits on time, mostly due to long lines at the refugee centers. A 2005 Human Rights Watch report on the Johannesburg refugee reception center, "Living on the Margins: Inadequate Protection for Refugees and Asylum Seekers in Johannesburg," documented similar problems. The surge in asylum applications means the obstacles have almost certainly increased, and with it the risk of unlawful deportation of tens of thousands of Zimbabwean and other asylum seekers unable to lodge or renew their claims, Human Rights Watch said." (ibid)

An *IRIN News* report from July 2011 states:

"In a week that saw two Somali traders shot dead in Cape Town and two more in Port Elizabeth, the South African government's handling of xenophobia received the lowest possible rating in a report by the African Peer Review Mechanism (APRM) Monitoring Project. Three years after widespread violence against foreigners broke out across the country, evaluators from the Monitoring Project noted that the government had failed to prioritize the issue, and that "there is even an element of denialism on the part of some officials." (*IRIN News* (4 July 2011) *South Africa: Government gets lowest rating on xenophobia*)

In July 2011 *IRIN News* cites a spokesperson, Gabriel Shumba, of the Zimbabwe Exiles Forum:

"Shumba...said members of the police force appeared to be taking a different position. "The attitude of the police is very worrying - they're now on a witch hunt of Zimbabweans." He said he had received reports from Zimbabweans all over the country who had been arrested "for no apparent reason" and asked for bribes." (*IRIN News* (6 July 2011) *South Africa: Deportation threat for undocumented Zimbabweans*)

In August 2011 a report published by *IRIN News* states:

"In recent months, reports of political violence and intimidation in Zimbabwe have been on the increase and 39 percent of Zimbabweans told a recent Gallup poll that in the past year they did not always have enough money to buy food." (*IRIN News* (2 August 2011) *South Africa: Still no clarity on Zimbabwean deportations*)

*IRIN News* in October 2011 notes:

"After months of rumour and speculation, South Africa's Department of Home Affairs appears to have quietly lifted a moratorium on deportations of undocumented Zimbabweans who did not apply for legal status through the Zimbabwe Documentation Process (ZDP). The move contradicts recent assurances from the director-general of home affairs, Mkuseli Apleni, to parliament that deportations would not resume until the ZDP was completed and Home Affairs Minister Nkosazana Dlamini Zuma had pronounced the end of the special dispensation allowing Zimbabweans to enter and remain in the country without documents. The International Organization for Migration (IOM) estimates that 1-1.5 million Zimbabwean migrants are living in South Africa, but only 275,000 Zimbabweans had applied to be regularized through the ZDP by the 31 December 2010 deadline and the department has so far only issued permits to just over half of them." (*IRIN News* (7 October 2011) *South Africa: Deportations of Zimbabwean migrants set to resume*)

This report also states:

“...police appear to be acting on an internal directive sent by director-general of home affairs Apleni on 27 September (IRIN has a copy), instructing the police service, as well as the defence force and home affairs offices to start deporting undocumented Zimbabwean nationals.” (ibid)

This report also points out that:

“Responding to questions about the lifting of the moratorium on deportations of Zimbabweans at a media briefing on 6 October, Home Affairs Minister Dlamini Zuma said: “The moratorium applied to specific people who entered South Africa at a specific time. There is no moratorium for Zimbabweans who come into South Africa today and break our immigration law... If you break our laws, we will arrest you.” (Ibid)

It is also stated in this report that:

“Before the moratorium came into effect in April 2009, South Africa was deporting Zimbabweans who had entered the country illegally at a rate of about 200,000 a year and refugee rights organizations regularly complained about migrants suffering human rights abuses at the hands of police and during detention at Lindela.” (Ibid)

The *Mail & Guardian* in October 2011 states:

“The moratorium on deporting illegal Zimbabweans has quietly been lifted by the department of home affairs, leading to an outcry from refugee rights groups. No deportations of Zimbabweans have taken place for almost two years while home affairs have been running the Zimbabwe documentation project (ZDP) to offer legal status to Zimbabweans living illegally in South Africa.” (Mail & Guardian (7 October 2011) *Home affairs resumes Zim deportations*)

## References

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This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

### **Sources Consulted**

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