



6 September 2018

Honourable Hlomane Patrick Chauke
Member of Parliament
Chairperson of the Portfolio Committee on Home Affairs
Per email: pchauke@parliament.gov.za

C/o. Mr Eddie Mathonsi
Secretary of the Portfolio Committee on Home Affairs
Per email: emathonsi@parliament.gov.za

And to: Minister Malusi Gigaba
Department of Home Affairs
Per Email: Minister@dha.gov.za

C/o. Ms. Nobuhle Mazibuko
Secretary to the Minister of Home Affairs
Per Email: nobuhle.mazibuko@dha.gov.za

And to: Deputy Minister Fatima Chohan
Department of Home Affairs
Per email: fchohan@parliament.gov.za / andre.gaum@dha.gov.za

Dear Honourable Chauke

Corruption Watch Enquiry: Corruption at the Desmond Tutu Refugee Reception Centre Marabastad, Pretoria.

1. We refer to the above matter.
2. Corruption Watch (CW) is a civil society organisation that opened its doors to the public in January 2012. We are registered as a non-profit company in terms of the Companies Act.
3. Corruption Watch seeks to expose corruption and the abuse of public funds. We aim to expose those who engage in corrupt activities, nepotism and abuse of public funds in both the public and private sector.

4. As part of our mandate, we are committed to strengthening the criminal justice system, including efforts to address financial crime; to the refinement of our planning and procurement systems; and to supporting and strengthening the ability of private and public bodies to better detect and address corruption in their spheres of operation.
5. We have noted the concerns recently raised by members of the Portfolio Committee in respect of corrupt activity that is continuing at the Desmond Tutu Refugee Reception Centre in Marabastad, Pretoria (“Marabastad”).¹ We also note the media coverage² on this issue which indicates that members of the Portfolio Committee on Home Affairs (“the Committee”) wants harsher sanctions against officials found to be colluding with syndicates to undermine the refugee system. We note that you have indicated that, *“one of the measures that must be implemented includes lifestyle audits on officials within the environment.”*³
6. We have been raising issues of corruption and maladministration with the Department of Home Affairs (“DHA”) since 2015, yet no decisive action has been taken to address issues. It is very concerning that despite the strong civil society calls for reform and urgent action in respect of these issues, nothing has been done. This has resulted in one of the most vulnerable sectors of our community being seriously and negatively impacted, in many instances deprived of their basic human rights, in circumstances where South Africa has domestic and international obligations to respect, protect and promote such rights.
7. Our work on this issue, including our substantive report and details of criminal charges against DHA officials appear below. We also detail our extensive efforts to collaborate with and assist the DHA, efforts which have been consistently rebuffed.

Background

8. Corruption Watch’s project to address corruption affecting refugees and asylum seekers was launched in June 2015. Project Lokisa or “Let’s fix it” was borne out of a need to address a high number of complaints of corruption by refugees and asylum

¹ <https://pmg.org.za/committee-meeting/27002/>

² <https://www.news24.com/SouthAfrica/News/home-affairs-mps-concerned-about-reports-of-criminal-elements-at-pretoria-refugee-office-20180901?isapp=true>

³ <https://www.timeslive.co.za/news/south-africa/2018-09-01-corruption-crackdown-looms-at-pretoria-refugee-office/>

seekers, to our reporting channels as well as reports provided to us by civil society partners.

9. Our decision to embark on the project was reinforced by the findings of the “Queue here for Corruption Report” by Lawyers for Human Rights (“LHR”) and the African Centre for Migration & Society (“ACMS”).⁴ The research report which was based on data and interviews collected over several months and in respect of five refugee reception offices, made clear the need for urgent intervention in addressing corruption affecting refugees and asylum seekers. We considered the outcomes and recommendations of the “Queue here for Corruption” Report and decided to pursue narrow aspects of their findings. These related to reporting corruption, investigations, and disciplinary sanctions against and prosecutions of corrupt officials.
10. We sought to collect as many high quality reports of corruption from refugees and asylum seekers as possible but acknowledged the hesitance they would have in reporting to us, given that Corruption Watch and the reporting process would be largely unknown to them. We therefore designed unique report forms which could be used by our partners, who are all trusted by refugee and asylum communities, to easily collect the details of a report from any of their clients who had experienced corruption and who wished to report their experience to us. We printed posters and leaflets in seven languages, with the aim of spreading as much information as possible about Project Lokisa as well as the fact that their reports would be kept strictly confidential.
11. During the course of our project, we worked with the Refugee Rights Unit, LHR, Peace Action, Jesuit Refugee Services, the Wits Law Clinic, the Co-ordinating Body for Refugees and Migrants in South Africa (“CORMSA”), and the African Diaspora Forum (“ADF”). Our partners all serve refugee and asylum communities in one way or another and were able to collect reports easily.
12. The reports which were collected as well as reports ultimately made via our own reporting channels enabled us to better understand the corruption affecting refugees and asylum seekers, to engage with whistle-blowers in a meaningful way and to investigate a select number of matters. We sought co-operation from the DHA on

⁴ <http://www.lhr.org.za/sites/lhr.org.za/files/272268061-queue-here-for-corruption.pdf>

Project Lokisa as well as for activities going forward and this co-operation was not forthcoming despite immense effort on the part of Corruption Watch.

Experience of Non Co-operation by the DHA

13. We confirm that from as early as May 2015, we contacted various officials in order to establish a line of communication between our offices. We were initially directed to Mr Majid Mowzer in order to set up a meeting with the Deputy Minister, whose portfolio deals with refugees and asylum seekers. After months of attempting to set up a meeting, we were referred to Mr Matome Malatsi who leads the Counter-Corruption Unit. We met with Mr Malatsi on 9 July 2015 and he was very positive about the objectives of our project and about possible collaboration. He indicated that we would need to present our project to the DHA EXCO and the Ministerial Management Committee meeting in order to obtain official authorisation for such collaboration.
14. After several months of correspondence and requests for arrangements to be made for our presentation, we were eventually given an opportunity to make a presentation to the DHA EXCO on 29 February 2016. We followed up on the outcome of the presentation and only received a response on 7 July 2016, in terms of which Director General Apleni indicated that co-operation was not possible as there were already interventions being implemented at Marabastad. A copy of his response is attached hereto marked “**A**”.
15. It was clear from the response, that the nature and objective of our long term co-operation was not considered when responding to us. We made it very clear at the EXCO presentation, that we would like to work with the DHA not only on the Project but in order to set up a complaints handling mechanism which would assist refugees and asylum seekers to report corruption safely and without fear.
16. The DHA’s refusal to co-operate with us did not deter the implementation of our project and we proceeded to compile the outcomes of investigations reported to us as well as other policy findings and recommendations in a substantive report entitled “*Asylum at a Price*”. A copy of this report is attached marked “**B**”.
17. In order to prepare for the launch of the above report, Corruption Watch wrote to the DHA on 24 October 2016, in order to invite officials to attend the launch of the report,

which took place outside the Marabastad Home Affairs office on 22 November 2016. A copy of this letter is marked “C”.

18. In this letter, we referred to the lack of co-operation by the DHA and indicated that we had prepared a Memorandum of Understanding (“MOU”) which set out the narrow terms of proposed co-operation, with a request that they agree to such terms. A copy of this MOU is attached marked “D” and illustrates how Corruption Watch and the DHA could collaborate in respect of a complaints handling mechanism that would assist refugees and asylum seekers to report corruption safely and without fear.
19. It is important to note that in this 2016 letter, we also highlighted the continued difficulties being faced by refugees and asylum seekers despite the upgrades which had been done at the Marabastad office, we indicated the following:

“The introduction of technological improvements at the Marabastad Refugee Reception Office has not resulted in a great deal of change and corruption is still rife at the office;

There is insufficient information on the manner in which refugees and asylum seekers can report corruption to the DHA or other anti-corruption hotlines. In particular, information is not available in the many languages which are understood and spoken by those being served that RRO’s.

Even when a refugee or asylum seeker is made aware of a reporting channel, he or she is too afraid to the DHA for fear of reprisal, especially since reports cannot be made anonymously and since affidavits are required to be completed, exposing them to significant risks; and

Although outreach programmes and “Know your rights booklets” are made available to citizens, similar programmes and information is not being made available to refugee and migrant communities.”

20. We confirm that we did not receive the courtesy of a response to our letter, the enquiries made therein, or to the proposed MOU. The DHA also ignored our invitation to attend the launch of our report and did not attend.

21. Our report featured the outcomes of our investigations, data and statistics relating to corruption affecting refugees and asylum seekers, interviews with our whistle-blowers and recommendations on how to address corruption in this space. We also prepared a video which highlighted the arduous journey of refugees and asylum seekers applying for official documentation in South Africa and the manner in which corruption undermines their dignity and human rights. For ease of access, a links to the report, infographic and video appear can be accessed here:

Report:

<https://www.corruptionwatch.org.za/wp-content/uploads/2016/11/Project-Lokisa..pdf>

Infographic:

<https://www.corruptionwatch.org.za/wp-content/uploads/2016/11/How-the-Asylum-System-Works.pdf>

Video:

https://drive.google.com/file/d/0B5DOyGMnKws_aUtOS1piQmFxFxNnM/view?usp=sharing

22. Our investigations also enabled us to refer four matters to our investigative firm who conducted sting operations in the matters. Video and photographic evidence were collected and we lodged criminal complaints, at the Johannesburg Central Police Station, against two DHA officials and one interpreter employed by ZRGB Translation and Interpretation Services.
23. The criminal complaints were assigned the following case numbers: **934/11/16**; **935/11/16** and **936/11/16** and were referred to the Directorate of Priority Crimes Investigation (“the Hawks”). We have been engaging with members of the Hawks in Germiston around these investigations and were informed that in order to proceed with the finalization of the investigations, the refugees and asylum seekers would need to participate in further sting operations and co-operate with the Hawks. The refugees and asylum seekers involved are too afraid to do so and we understand that the investigations have therefore come to a halt. We referred a further three reports to the Hawks in Germiston who have displayed a commitment to resolving the matters but appear to have difficulty in co-operating with the DHA.
24. We have referred a further six matters to the Hawks in Cape Town as they concern corrupt activity in the Cape Town area. Our partner in Cape Town, the Refugee Rights

Unit, has been liaising with the Hawks in Cape Town on our behalf, and it appears that corrupt activity is rife in that area. We understand that these investigations are pending and that although some progress has been made, the matters are quite complex and difficult to investigate.

25. The details of investigating officers in both Germiston and Cape Town can be made available to the Committee on request.
26. In addition to following up with the Hawks on the investigations referred to them, we also followed up, on 15 May 2017, with the previous Minister of Home Affairs, Hlengiwe Mkhize in order to, once again, attempt co-operation with DHA. A copy of this letter is attached marked “E”. We did not receive a response to our letter.
27. We also made submissions to this Committee on the Draft Refugees Regulations, 2018 and the Draft Immigration Amendment Bill in order to apprise the Committee of our efforts in addressing corruption affecting refugees and asylum seekers and to make recommendations for reform. Copies of our submissions are attached marked “F” and “G” respectively.

Conclusion

28. We kindly request the Committee to carefully consider our letter and to take steps to hold the DHA accountable for their dilatory conduct in addressing corruption at Marabastad and other refugee reception offices.
29. We urge the Committee to also liaise with the Portfolio Committee on Police and the Portfolio Committee on Justice and Correctional Services, in order to understand why investigations and prosecutions are not proceeding in respect of these urgent matters.
30. Please note that in the interests of transparency, we may publish this correspondence and any response thereto.

Yours faithfully,

Leanne Govindsamy/ Zanele Mwale
Legal and Investigations Unit
Corruption Watch
[Unsigned due to electronic transmission]