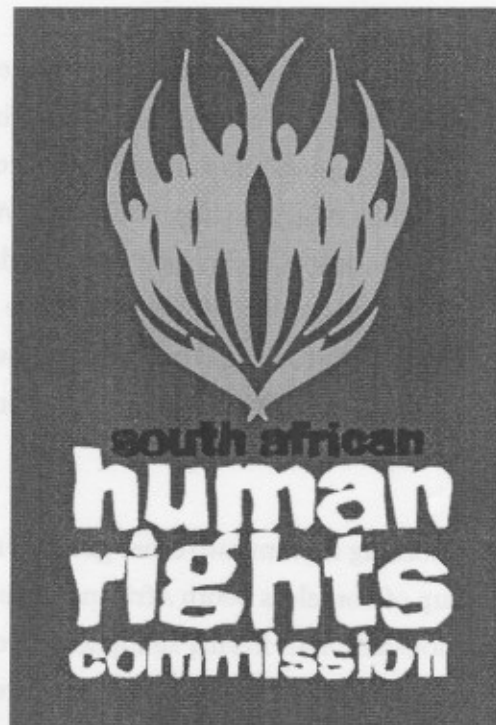


# **SAHRC Report on Conditions Underneath The Foreshore Overpass**



**11 June 2008**  
**Updated 18 June 2008**

## **I. Introduction**

The Western Cape office of the South African Human Rights Commission received a phone call from a concerned member of the public on the afternoon of 11 June 2008 reporting that the Cape Town City Council transferred 300 to 400 foreign nationals from the Department of Home Affairs ("Home Affairs") at the Cape Town Refugee Reception office on the Waterfront to a location underneath the Foreshore Overpass, behind the Market Toyota and VW dealership on Oswald Pirow Road.

The concerned citizen reported that Home Affairs wanted to use the location as a point to pick up non-nationals seeking documentation identifying them as asylum seekers. Home Affairs has recently moved its Refugee Office from the Waterfront to the township Nyanga. However, many refugees still gather at the Waterfront, and Home Affairs has devised a system to transport asylum seekers each day to the Nyanga office to submit their asylum application. Home Affairs sought to move the queue of asylum seekers from the Waterfront to the Foreshore Overpass, and the City Council permitted the use of its land for this purpose. The citizen said the transfer of the non-nationals took place on Monday, 9 June 2008.

In addition to those seeking asylum, two other groups are using the Foreshore Overpass for shelter. A group of homeless South Africans has used the Overpass as shelter for some time, and non-nationals fleeing xenophobic violence have recently congregated there as well. The citizen was concerned for the welfare of the non-nationals because of the lack of shelter under the Overpass and the cold, rainy, and windy conditions outside. The Commission has also received reports of violent assaults that have occurred underneath the Overpass.

## **II. Commission Action**

Two members of the Commission's Parliamentary Programme conducted a site visit on 11 June at approximately 16:30. The Commission went to Foreshore and found approximately 500 people underneath the Overpass. People lined both sides of the

roadway. Groups of people milled about, many huddled on the curb or sat on guardrails while others took shelter in makeshift tents made of cardboard and plastic sheeting. In addition to the hundreds of people who were present when the Commission arrived, the Commission observed additional groups of people arriving as the workday ended.

Many of the people under the Overpass were non-nationals, who said that they had fled their homes after the outbreak of xenophobic violence in the Western Cape. Countries represented included Burundi, the DRC, Malawi, Mozambique, Rwanda, Tanzania, and Zimbabwe. The non-nationals said they attempted to find shelter with Home Affairs, but then were transferred to this location under the Overpass with no provisions and no shelter. One non-national exhibited wounds closed with stitches on both his face and head from the xenophobic attacks.

The Commission noted that conditions underneath the Foreshore Overpass did not comport with minimum standards for human habitation. The only shelters were made of cardboard boxes, plastic wrapping, and newspapers, held down against the wind by rocks. Most people had no shelter at all. Men and women slept curled up in blankets on the ground along either side of the roadway. People interviewed by the Commission indicated that the more established shelters primarily housed homeless South Africans who had lived at the site prior to the xenophobic violence.

The people have no showers or bathing facilities of any kind, no hot water, no regular food provisions, no laundry facilities, and no medical services. Blankets and clothes, particularly warm clothes, are scarce. The Salvation Army reported that it provides dinner for 500 people three days per week, the Adonis Musati group provides dinner an additional three days per week, and other donors provide food and other supplies sporadically.

The Commission noted two cold water taps and approximately 15 new plastic mobile toilets to serve the population at the site. While the Commission was there, a representative of the City's waterworks department drove into the camp, checked the flow of water from one of the taps, and then left.

Attached to this report are photographs illustrating the conditions underneath the Overpass.

After returning from the Foreshore Overpass location, the Commission confirmed with a member of the Community Policing Forum that the City had, in fact, approved of the Department of Home Affairs' transfer of non-nationals to the location. In addition, the Commission learned that the city was aware that non-nationals were living underneath the Overpass and that the city installed the taps and toilets to serve them. Lastly, the Commission learned that the surrounding businesses had complained about the use of the Overpass location and the large influx of non-national inhabitants.

A non-governmental organization based in Cape Town informed the Commission that the area under the Foreshore Overpass has been used as a shelter for homeless South Africans and displaced non-nationals for some time. The NGO indicated that some of those who use the Overpass for shelter suffer from substance abuse, mental health concerns, and other serious problems. The NGO also said that criminal elements exist at the site.

### **III. Analysis**

The Department of Home Affairs currently faces an enormous backlog of non-nationals seeking documentation as asylum seekers. This backlog forces non-nationals to wait in queues for up to four weeks to fulfill their legal requirements and receive the documentation necessary to stay in South Africa. Home Affairs' decision to use the Foreshore Overpass as a pick-up point for asylum seekers has led to three distinct groups using the Overpass as shelter: homeless South Africans, non-nationals fleeing xenophobic violence, and the asylum seekers queuing for Home Affairs.

The action by Home Affairs and the City to bring together these vulnerable populations has greatly exacerbated the problems of each of the three groups present under the Overpass, inflamed tensions, and increased the threat of potential violence.

Each of these three groups faces specific challenges. The problems facing homeless South Africans include the lack of access to adequate housing, health care, water, and social security, which are rights guaranteed by the Constitution. Asylum



seekers require efficient and speedy service to fulfill their legal obligations to remain in South Africa. Those who are victims of xenophobic violence appear traumatized and are still fearful after fleeing the xenophobic violence. They require the safety, security, and basic human services guaranteed to all.

Foreshore is not adequate shelter for anyone, homeless South Africans, victims of xenophobia, or asylum seekers, despite the recent additions of toilets and taps. Home Affairs and the City brought together three vulnerable populations with divergent needs into one location that was ill-suited to serve the needs of any of the groups. Foreshore falls short of fulfilling the basic human rights guaranteed by the Constitution for the communities residing there.

## **IV. Recommendations**

The Commission calls upon:

- **The City and Province to**

1. Take measures to ensure the safety of those people currently living under the Foreshore Overpass;
2. Provide food, clothing, and access to sanitation services, such as bathing and basic personal hygiene needs, on an urgent basis;
3. Provide immediate access to adequate basic shelter for both homeless South Africans and the displaced non-nationals currently living under the Foreshore Overpass;
4. Ensure that these communities receive the necessary services, including trauma and mental health counseling, substance abuse counseling, and other resources as needed.

- **The Department of Home Affairs to**

1. Issue an immediate moratorium on arrests and deportations of undocumented non-nationals;
2. Present and implement a plan to alleviate the current backlog of those seeking to register as asylum-seekers;

3. Ensure the safety and basic human rights of those queuing to seek asylum in South Africa;
4. Consult with the United Nations High Commissioner for Refugees (UNHCR), and request and receive technical assistance on how best to register, document, and re-document the non-nationals.

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  - b. Provide immediate access to adequate basic shelter for both homeless South Africans and the displaced non-nationals currently living under the Foreshore Overpass;
2. Ensure that these communities receive the necessary services, including health and mental health counselling, substance abuse counselling, and other services as needed.

##### The Department of Home Affairs to:

1. Issue an immediate directive on arrival and deportations of undocumented non-nationals;
2. Present and implement a plan to alleviate the current backlog of those seeking to register as asylum-seekers.

