

Cape

Cape Bar's response to refugee crisis

Contributed by Andrew Brown, Cape Bar

South Africans watched in incredulous horror and shame last year as the country erupted into xenophobic violence, claiming the lives, businesses and homes of thousands of foreign nationals in a frenzy of bloodletting and pent-up anger. The ensuing refugee crisis was hopelessly unanticipated by the authorities and the scale of the displacement quickly escalated out of control. It was a situation that demanded the intervention of people and organisations beyond the confines of the State. And as is so often the case, it provided an opportunity for those with skills and expertise to show their willingness to get involved.

The Cape Bar and its members responded to the humanitarian disaster both personally and professionally, both financially and legally. An Ad Hoc Committee on Refugee Crisis was formed by members of the Bar: its members came from the senior and junior ranks of the Bar. It is not appropriate to name the people who gave unselfishly of their time on this committee and in undertaking the various tasks assigned to them. But we are proud of their contribution and of their representation of our Bar.

The crisis generated a need for legal assistance at a number of levels, including civil intervention, criminal representation and legal advice and assistance to the non-governmental organisations involved in helping the huge numbers of displaced persons that started to collect at points throughout the Cape Peninsula. One of the committee members researched the law relating to refugees

and prepared a memorandum and a file of relevant resources which was made available to all members of the Bar. A pro bono initiative was launched by the committee, requesting members of the Bar to make themselves available for pro bono work. The response was excellent and over fifteen members were ultimately involved in providing opinions and undertaking litigation. In addition, members made themselves available to undertake pro bono legal defence work in the criminal cases that arose, particularly once frustration levels in the refugee camps increased. One member (in liaison with the Treatment Action Campaign and the UCT Law Clinic) attended numerous meetings, consultations and court appearances in defence of a large group of refugees charged as a result of a protest action at a refugee camp. The charges were ultimately withdrawn against all of the accused.

The committee also undertook a collection of donations from members, raising over R 20 000 which was used mainly to buy blankets and mattresses. The committee also ensured that communication remained open amongst the various role-players, including the State, the Law Society, ALS, BLA, NADEL, non-governmental organisations and the refugee representatives themselves. This was also managed by members of the committee who attended various meetings and kept the stakeholders informed of the resources being made available by the Bar.

The humanitarian crisis has now passed and the camps have been closed (some only very recently). As ashamed as we ought to be of the conduct of some of our fellow-citizens, so too can we be proud that those in the legal profession did not stand by and watch the situation deteriorate further. It provided an invaluable lesson to all of us as to what can be achieved with some commitment to the ideals of the Constitution to which we so often refer in court, and established a basis from which future crisis response teams can be launched. We can only hope that it will not be necessary again.



Press statement by the GCB on the Dalai Lama

The General Council of the Bar of South Africa (GCB) considers the refusal to issue a visa to the Dalai Lama to be in violation of the constitutionally protected rights to freedom of speech, freedom of conscience, religion, thought, belief and opinion contained in both sections 15 and 16 of our Bill of Rights where there is no constitutionally justifiable basis for the refusal.

We are gravely concerned about the precedent this sets and the apparent arbitrary grant and refusal of visas which finds the

1989 Nobel Peace Prize winner being precluded from attending a conference dedicated to disseminating the self-same values for which he was awarded the Peace Prize, namely his opposition to the use of violence and his philosophy of peace.

It is unfortunate that we are found comparing the refusal now to issue a visa to a Nobel laureate with the refusal to grant Albert Luthuli a passport to receive his Nobel Peace prize.

The values upon which our democratic state is now built should not waiver.

Patric Mtshaulana SC, chairperson: General Council of the Bar of SA

Brian Spilg SC, convenor: Human Rights Committee of the GCB

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