



## SIHMA/CPLO Seminar #2 – 30 July 2014

The human cost of undocumented migration: Alternatives to irregular entry in South Africa

The Townhouse Hotel, Cape Town

Presenters: Rene Manenti (Centre for Migration Studies – Rome)

Jacob Matakanye (Messina Legal Advice Office, Musina)

Zaheera Jinnah, PhD (African Centre for Migration and Society, University of the Witwatersrand)

Moderator: Father Peter-John Pearson (Catholic Parliamentary Liaison Office)

### **Introduction**

Fr. Peter-John Pearson opened the seminar and welcomed all participants. He provided some background to the Catholic Parliamentary Liaison Office (CPLO) and the partnership with the Scalabrini Institute of Human Mobility in Africa (SIHMA) on the seminar series on migration.

Fr. Peter-John mentioned that the meeting will take place under Chatham House rules. The presentations made will be ascribed to the relevant speaker, whereas the discussion after will be captured generally and not ascribed to individuals. This allows for the freedom of interaction and commentary by the participants.

Sergio Carciotto director of SIHMA, introduced the institute to the participants. The Scalabrini Institute for Human Mobility in Africa is a newly formed research institute linked with the Scalabrini network of research centres based in eight countries. SIHMA is the first and only African centre part of the network. The primary focus of SIHMA is networking and research on migration related issues on the African continent. The intention of SIHMA and its research is to fill the gap between NGO's and the academic sector. A library and resource centre focusing on migration related material is currently being established. SIHMA also aims to contribute to international scholarship on the issue of human mobility in Africa via a peer-reviewed online journal that will be launched and published in 2015.

### **Presentations**

#### Rene Manenti

The presentation by Rene Manenti provided a sense of what is taking place in Europe, particularly the Mediterranean area, which is seen as the gateway to the continent. In the presentation a snapshot was given of the situation, it was understood that there are many other perspectives on migration into Europe and that this presentation covers just one of those.

The flux in immigration numbers can be connected to turmoil and conflict in the countries of origin. While the detection of illegal border crossings is not necessarily accurate for all entries it is an indication of the type of crossings that are taking place. The increase in 'illegal' border crossings during



2009- 2011 and again during 2012-2013 could be a result of the Arab Spring, as well as push factors related to the turmoil in Syria; Libya; Egypt and Serbia.

The migration routes taken by people are complicated and cannot be accurately captured in one presentation. However, through the analysis of recorded detections, the central Mediterranean route seems to be the most popular entrance route into Europe. Whereas the eastern Mediterranean route has become less favoured over the last few years, with a decline in the number of people entering through this area being recorded. The reason for the decrease in usage of the eastern Mediterranean route may be due to the increase in state protection and border control and patrols. Any changes in immigration or refugee laws and regulations will also affect the migratory route that is chosen by people. The western Mediterranean route has also had a decrease in the number of illegal detections due to changes in Morocco's security and migration control.

In addition to internal state decisions on immigration laws, bilateral agreements are also made around immigration and the flow of migrants. The result of the bilateral agreements may seem as though there is a decrease in the number of people coming from a particular country into Europe, however this does not reflect the number of people who have tried to leave their country of origin and who may have been stopped before exiting their country. A case in point is that of Libya and Italy in 2009 and 2011.

Rene made a series of recommendations which are general in nature, however can be applied to various situations.

- Steer away from the over militarisation of borders
- Improve good governance, specifically good migration governance
- Recognise the importance and challenges of south-south migration flows and intra-African migration
- Further research to be conducted on the existing situation, which should include the nexus between migration and development, as well as the psycho-social / socio-economic perspectives
- European Union member states should expedite the asylum seeking process for Europe.

In closing Rene emphasised that the tightening up of border controls may not deter the entrance of people, however it could result in people taking more dangerous routes to gain access to a country. It should not be forgotten that behind each number and statistic referred to in a report is a human being. This human element should form the focus of all research and action around migration.

### Jacob Matakanye

The focus of Jacob Matakanye's presentation was that of the suffering of human beings during migration. Jacob emphasised that in order to have better laws and regulations on migration there needs to be a focus on the human cost of migration.

In opening his presentation Jacob provided a background to the establishment of the Messina Legal Advice Office. He also gave an overview of the South African legal framework for migration management.

Messina became prominent as an entry site into South Africa during the 2007 influx of people from Zimbabwe. The porous borders in that area provides easy access into of South Africa. The need for an



advice office in Messina became apparent as there was a high number of human rights abuses taking place towards the Zimbabwean migrants. In addition, the nearest refugee reception office of the Department of Home Affairs, where incoming refugees and asylum seekers need to report to on entry into the country, is based in Pretoria which is approximately five hours away. The MLAO has developed a good working relationship with the South African government as they have seen that the need for having an advice office based at the point of entry is beneficial. The MLAO also regularly monitors the detention centres and shelters in Messina in order to gain statistics on a variety of issues ranging from human rights abuses to country of origin, which can be used in improving the implementation of South Africa's laws and its approach to migrants, refugees and asylum seekers.

While making the journey to a place of safety or better life, migrants are vulnerable to a variety of external factors such as the weather, environmental elements, health risks and law enforcement agencies. A problem that needs to be addressed is the 'no man's land' which is the area between the two borders of Zimbabwe and South Africa. The Limpopo River forms a natural boundary between the two countries, however this area falls outside of both countries jurisdiction. Jacob mentioned that there are many atrocities that are taking place in this area towards migrants, such as rape, physical abuse and even murder. This is of concern to MLAO and how South Africa can deal with the issues and what the solutions are has been raised in a number of fora.

Jacob further explained that when migrants finally make it into South Africa, after often arduous journeys, there is the issue of labour exploitation. This practice is rife in the areas around the border crossing, due to the desperate situation that migrants find themselves in. This has ripple effects in the South African community with regards to employment issues, and the 'enforcement' of minimum wages. Apart from employers paying below minimum wage in the agricultural sector and to domestic workers, there have been cases of collusion between employers and law enforcement agencies with regards to unlawful arrests and detention of undocumented migrants, as well as destroying legal permit documents.

Jacob also emphasised the importance of focusing on the human aspect of migration research and remembering that there is a person represented by each number that we read in statistics.

### Zaheera Jinnah

Zaheera's presentation did not look at asylum seekers, as the focus of her research has been low and semi-skilled workers that are economic migrants. At the onset of her presentation Zaheera mentioned that there needs to be a shift in focus around migration from the heavy securitisation of migration management to addressing the issue from a development potential point of view. Most media coverage in South Africa of its management of migration has been on the dominance of securitisation, however this is not peculiar to South Africa as it is also seen internationally.

A new regulation calls for heightened control and imposed restrictions on the movement of job seekers. The African National Congress in their document on Peace and Stability, 2012 also has a dominant focus on the securitisation of migration. While reference to developmental state is made often, this is within a limited national focus and favours the protection of employment for South African citizens and their economic development. There have however been some positive public remarks made, such as mention of the job seekers permit for citizens from SADC. These remarks have however remained just that and there have been no developments on such a permit. This is an example of the haphazard approach by the South African government to immigration.



Currently there is an apartheid era provision for the employment of low skilled workers enmasse for the mining and agricultural sector work, this is still valid under the corporate permits. However, there are many exclusions that the permit holder faces, such as access to pension funds; disability claims and family or spousal entry on the permit. In reality the issuing of corporate permits is very low. The critical skills permit is another option for entry into South Africa, however the list of these skills has not been published so is not a viable option at present. Under the current regulations there may be an increase the number of undocumented migrants coming into South Africa. This will be exacerbated by the recent decrease in the validity of an asylum seekers permit from 14 to 5 days, as it is likely to increase the number of undocumented migrants which is a counter-intuitive move.

A number of policy options have been tabled and there is currently a Southern African Development Community (SADC) draft that aims to manage and facilitate labour migration in the region. This policy places labour migration in a human rights framework and has a more developmental focus. The SADC protocol on migration, while a good policy, lacks that two-thirds ratification for enforcement of the protocol. Should this be implemented SADC will follow other economic regional bodies in Africa, such as ECOWAS and COMESA around labour movement. There are lessons to be learnt and policy options to be considered from these regional bodies around the free movement of people for labour; goods and services. A pioneering example is that of a single border post office where two countries share a border, this has been implemented between Zimbabwe and Zambia and seems to be having a positive impact on efficient border crossing.

Moving beyond policy there is a need for better ministerial organisation, and inter-ministerial cooperation. Departments that should be engaged in this issue include Labour; Health; Higher Education and Home Affairs. Well-functioning departments that have the skills to respond adequately to the needs of migrants is required in order for the effective implementation of policies.

Zaheera concluded that migration can't be stopped and will not end and experience shows that heavy securitisation and deportations is likely to increase the number of migration into a country. Undocumented migration is not only bad for the migrants, but has a negative effect on the workforce of the destination country.

## **Closing**

Sergio thanked all participants and the presenters. An invitation was extended to the next SIHMA/CPLO discussion to be held on 3 September on the free movement of people within SADC.

Fr Peter-John thanked the presenters and participants for the discussions.