

## Youth to the rescue

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country is sliding into an abyss, locked into positions we cannot escape.

"There is hope that the youth will find the courage to reach across the divide and find the vision to escape the past. If all you can do is to bring into this conference the national divisions of your elders' cynicism, then you undervalue yourselves".

A substantial degree of agreement was also reached by the commission on economic growth and development, led by Professor H W Vilakazi of the University of Zululand, although the debates on nationalisation and sanctions revealed deep rifts between parties.

Where there was disagreement was on the appropriate policy mechanisms, particularly policy on job creation. Tension also emerged over the effect of sanctions and mass action on the economy, with some delegates recording unconditional opposition, while the ANC and some other parties stressed that it was impossible to separate economics and politics and that mass action and sanctions should be seen in the broader context of the liberation struggle.

The AJF, for its part, stated: "Mass action, sanctions and the like harms the economy, but is a legitimate and democratic right of oppressed people to reach their political goals, although we do not recognise this method as the correct way in the present situation which is one of seeking consensus through negotiations".

Most observers were optimistic throughout the conference - a group of ANCYL delegates stated that the experience amounted to a "spiritual liberation" that helped to bridge the divide between "us and them".

Others noted that the conference might have happened too late. In the closing session the national steering committee moved a proposal that the committee continues to investigate the advisability or possibility of setting up a broad National Youth Forum for youth to address its concerns. The ANC and a few others opposed this on the grounds that the committee was not representative enough and, specifically, because deep divisions still need to be bridged before it could commit itself to a binding structure. After a proposal from the DP the delegates decided to support the proposal to continue without the ANCYL, but to try to persuade it to return to the forum.

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# SA hospitality fails refugees

**The human rights of tens of thousands of people are trampled on by South African legislation relating to aliens and the government's lack of policy on refugees. SELLO RAMASALA sketches the dimensions of the problem.**

**O**ver 60 000 people were deported from South Africa in 1991 - 75 per cent of them Mozambicans. Their plight is the result of the absence of any government policy on refugees - the term "refugee" is not officially recognised - and of the draconian Aliens Control Act of 1991.

The act regulates the admission of aliens into South Africa, their status and their departure, and also immigration into the country. It gives immigration officers the power to detain and summarily repatriate any person deemed an illegal immigrant.

These are people who are not South African citizens who enter the country at any place other than a port of entry, railway station, border post, airport, or any place specified by the minister where an immigration officer is stationed.

They also include people who do not abide by the conditions attached by an immigration officer to a temporary residence permit. The granting of this temporary permission usually requires payment of a deposit, the amount of which is in the discretion of the immigration officer, theoretically guided by the amount of the return fare to the relevant person's country of origin. A person who breaches any condition of such a provisional stay forfeits this deposit to the state.

The act provides that any person who has been declared a prohibited immigrant shall be informed by the immigration officer of his or her right to make representations to the minister for a review of the declaration. Statistics are not kept in this regard but officials at the Home Affairs Department concede that not a single review occurred in 1991.

This power of review - properly the province of a court - may be delegated by the minister to lesser officials, a situation susceptible to corruption. In addition, representations have to be made within three

days of the declaration, and immediately in the case of persons who arrive by ship. This clearly does not afford the designated prohibited immigrant a fair chance of an adequate review.

There is no provision for legal representation for persons declared prohibited immigrants and all their representations have to be made in writing. Finally, they have the right only to request a review.

While permits for temporary residence are issued by immigration officers, permits for permanent residence are granted by the Immigrants' Selection Board, whose members are appointed by the minister. Either of the two residence permits, permanent or temporary, may be cancelled by the minister. The act makes no provision for appeal against such a cancellation.

Apart from summary repatriation, aliens without the requisite permits suffer other limitations on their rights. They may not be employed, instructed, trained, licensed or authorised to conduct business or carry out any profession or occupation; they may not enter into an agreement or co-operate with anyone in business; they may not be harboured nor may they buy immovable property anywhere in the country.

The Aliens Control Act repealed the Aliens Act of 1937 and the Admission of Persons to the Republic Regulation Act of 1972. The former forbade the Immigrants Selection Board to grant permanent residence to a person who could not within a reasonable period after entry assimilate with the European inhabitants of the Republic. The latter declared as prohibited immigrants persons unable by reason of deficient education to read and write any European language.

Although the statute book is now purged of such provisions, the hearts and minds of immigration officers and those who constitute selection boards cannot be changed by





basis of policy towards the Mozambicans?

There can be no doubt about the need for a humane policy on refugees in South Africa. Legislation should provide for the establishment of a national refugee machinery whose mandate should include defining and implementing national policies for assistance to refugees, as well as advising on further legislation on the issue.

Regional co-operation on the problems of refugees could assist to determine the burdens faced by the countries of refuge and ways and

*Mozambican refugees: not as welcome as the Angolans and Zimbabweans were.*

draftspersons.

The aliens most to be pitied are the tens of thousands of Mozambicans who have fled from the atrocities of Renamo and sought sanctuary in South Africa. They have simply been deported back. The South African government does not recognise them as refugees.

In 1985 the territorial government of Gazankulu took pity on the fugitives, entering into an agreement with the central government which provided for the resettlement of Mozambican refugees in Gazankulu. Kangwane followed suit.

However, the South African government treats as prohibited immigrants any resettled refugee who ventures out of Gazankulu or Kangwane into the rest of South Africa.

There is no doubt that the Mozambican fugitives qualify as refugees in terms of international law, specifically the first article of the 1951 United Nations Convention Relating to the Status of Refugees. They are outside their country of origin; they are unable to avail themselves of the protection of that country; and this is attributable to a well-founded fear of being persecuted. Finally, the persecution feared is occurring for reasons of race, religion, nationality or membership in a particular political opinion.

The South African Council of Churches has attempted since 1985 to persuade the government to stop deporting Mozambican

fugitives and instead to negotiate the issue with the United Nations High Commissioner for Refugees (UNHCR). These attempts have been in vain and although a document detailing an "understanding" between the South African government and the UNHCR on "the voluntary repatriation and reintegration of South African returnees" was gazetted in September last year, it deals only with returnees and not refugees.

**T**HE recalcitrance of the government in respect of the Mozambicans stands in sharp contrast to its policy in regard to the flood of Angolans who entered the country in the mid-1970s and the Zimbabweans and Namibians who have arrived since – some of whom are in the South African Defence Force.

Then Home Affairs Minister Connie Mulder said at the time that government policy on the Angolan influx was: "To accommodate the people who fled because they were in danger of their lives, and to provide them with everything they need. It is our policy to treat them in the most humane way we can, irrespective of colour or who they are."

Yet the Angolans admitted to South Africa had no well-founded fear of persecution such as the Mozambican refugees have. If humanity was the basis of policy on the Angolans, why can humanity not be the

means of sharing the burden. Unfortunately the present government has been involved in destabilising almost all the countries in the region, so co-operation in this respect may not be easy to forge. However, the proposal does not apply only to the present government.

The government should undertake studies of the conditions and problems facing refugees, with the assistance of appropriate local and international organisations. The purpose of such studies would be to acquire the information necessary to formulate programmes of assistance and to devise solutions to the problems.

Refugees are different from ordinary foreigners looking for greener pastures. They are human beings, many of whom find themselves unavoidably without property or means of earning a living in their host country. Flight from persecution is not an act of cowardice or treason.

States should abide without qualification by the fundamental principle of refugee law – non-refoulement – which means, in simple terms, that no people should be forced to return to a country where their freedom or their lives are in danger.

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