

## **REFUGEES AMENDMENT BILL [B12B-2016] - STILL LACKING**

On 29 May 2017, the National Council of Provinces' (NCOP) Select Committee on Social Services invited the public to submit written submissions on the further amended *Refugees Amendment Bill* [B12B-2016]. The *Refugees Amendment Bill* (the Bill) was introduced in the National Assembly (NA) in September 2016 and aims to amend the *Refugees Act* of 1998.

In essence, the Bill seeks to address systemic corruption, which has besieged the asylum system for years. Furthermore, it provides further disqualification and cessation provisions regarding refugee status, and re-establishes the Standing Committee.

The Centre for Constitutional Rights (CFCR) delivered both written and oral submissions on the Bill to the Portfolio Committee on Home Affairs. However, despite these concerns, very little has been amended and the further amended Bill was passed by the NA on 15 March 2017 and sent to the NCOP for concurrence.

The CFCR is particularly concerned about the additional exclusionary grounds of denial of refugee status provided in the Bill, which will be exercised by one individual - namely the Refugee Status Determination Officer (RSDO). These additional exclusionary grounds are based on the 'reasonable belief' of the RSDO. They include, for instance, an offence relating to the fraudulent possession of a South African travel document, or the failure of an asylum-seeker to report to a Refugee Reception Office within five days of entry, in the absence of compelling reasons. The additional exclusionary grounds are in addition to the limited grounds stipulated in the *United Nations Convention Relating to the Status of Refugees* (1951 Convention), to which South Africa is a signatory and are contrary to the principle of 'non-refoulement'. The 1951 Convention limits exclusion to individuals guilty of war crimes, crimes against humanity, serious non-political crimes, and individuals guilty of acts contrary to the principles of the UN.

Despite its stated objective to combat corruption, the aims of the Bill may be completely defeated, as it affords a great deal of discretion to one individual to exclude refugee status - on grounds which are clearly in contravention of international principles on refugees. There is, furthermore, little oversight on the RSDO's decision to award refugee status. As such, the CFCR's submission seeks to align South Africa's asylum-seeking process with that of both international law, as well as the nation's Constitution.

**Issued by the Centre for Constitutional Rights  
15 June 2017**