Fall 2011

Migration, Vulnerability and Xenophobia: Central African Refugee and Asylum Seekers' Access to Health Services in Durban, South Africa

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SIT Study Abroad

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SIT Community Health and Social Policy

Fall 2011

2. Abstract

In 1998, South Africa passed historic legislation that bridged international conventions on refugees and asylum seekers with the protections and rights defined in the South African Constitution and Bill of Rights. The 1998 refugees act defined specific rights that refugees and asylum seekers are entitled in South Africa, the most important of which include the provision of legal and immigration documentation, employment, adequate housing, and health and social services. When asylum seekers arrive in Durban, many are in the need of immediate health services as a result of long journeys, pre-existing conditions, pregnancy, or illnesses contracted in refugee camps throughout Southern Africa. However, despite domestic and international protocols outlining the need to provide health services to refugees and asylum seekers, many migrants under this specific immigration status have experienced barriers in access of quality of primary health care. Through in-depth interviews of refugees and asylum, as well as a volunteer position with Lawyers for Human Rights, a learnership project was completed to explore ways in which the public sector can better provide acceptable health services for refugees and asylum seekers specifically in Durban. The learnership specifically attempts to understand refugee and asylum seekers experience accessing health services in South Africa under this migration status in the public sector, knowledge of refugee rights and methods of advocacy to uphold those rights, and structural determinants of access and quality of health services.

Methodologies employed in the development of this paper include formal interviews with refugees and asylum seekers, a volunteer position with Lawyers for Human Rights, and informal discussions with experts and attorneys. Formal interviews conducted employed both standardized open and dialogic interviews, where informants discussed biographical information and access to health and social services as an asylum seeker in Durban. In addition the learner volunteered with LHR, specifically within its Refugee and Migrants Rights Program to observe the legal aid process, provide any necessary organizational support, and gain more insight into the services refugees and asylum seekers receive compared to those which they are legally entitled by national and international law.

The learner found that individual attitudes of service providers have the power to determine the provision and quality of services guaranteed by national and international law to refugees and asylum seekers. Barriers to health services, and even refusal of PHC altogether, are a result of health staffs' demands to produce legal documentation, refusal to converse with foreign patients in a common language, denying the use of interpreters, verbal abuse and discriminatory remarks, prioritizing of South African nationals in the quality and wait time for care, and the lack of confidentiality and privacy protections for refugees and asylum seekers seeking HIV treatment at public PHC facilities.

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4. Acknowledgements

The learner would like to extend her sincerest gratitude to the individuals who participated in interviews, provided a valuable volunteer experience, assisted in the research design, and gave general guidance to the learner in the development of this learnership. First, the learner would like to thank the School for International Training (SIT) in Durban, specifically Zed, Zandi, Sdu, Thula, and Jeremy, who assisted in the design and volunteer placement of the learner, provided background information and research resources, and arranged transportation to meetings and interviews. The learner would like to extend her sincere gratitude to her research adviser, Baruti Amisi, who provided important background information about refugees and asylum seekers in Durban, assisted in the research design and learnership proposal, and arranged interviews with women at the KwaZulu-Natal Refugee Council office. Through Baruti Amisi's important arrangement of interviews within the refugee community, the learner was able to gain trust and confidence among refugee and asylum seekers interviewed in the development of this learnerhsip. The learner would like to thank the group of women who participated in interviews during the development of this paper, who shared their difficult stories in accessing health services in Durban as refugees and asylum seekers. The learner wishes to extend her deepest appreciation to those women who voluntarily traveled to Albert Park after a long day of work, waited in a queue to be interviewed, and allowed the learner to further use their difficult experiences as findings in the final version of this learnership. Though the learner could not provide immediate solutions to the women's problems in accessing health services, she hopes that the learnership will contribute to an ongoing effort to improve services for the women's children living in South Africa.

Finally, the learner would like to extend a specific acknowledgement to the staff at Lawyers for Human Rights (LHR) who not only provided the learner with an important volunteer position in the Refugee Rights Program, but also continually engaged with the learner to allow a better understanding of international and domestic law and protocol surrounding refugee and asylum seekers' rights. The staff at LHR provided invaluable information about refugee and asylum seekers rights and experiences of life specifically within in Durban and gave the learner a great deal of freedom to engage with the clients, ask questions about the asylum seeking process, and gain practical skills to work in the legal field. In the development and final product of this report, the learner hopes to convey a high level of respect for individual opinions and experiences expressed in accessing and providing health services to refugees and asylum seekers in Durban. The learner hopes to contribute to the important and ongoing discussion on how to improve health services for this specific group of migrants in South Africa, rather than place blame on specific health staff or facilities in Durban.

5. Acronyms

AU	African Union
ARV	Anti-Retrovirals
ART	Anti- Retroviral Treatment
DHA	Department of Home Affairs
DRC	Democratic Republic of Congo
IDP	Internally Displaced Person
KZNRC	KwaZulu-Natal Refugee Council
LHR	Lawyers for Human Rights
NGO	Non-Governmental Organization
PHC	Primary Health Care
RAB	Refugee Appeal Board
RRO	Refugee Reception Office
RSS	Refugee Social Services
SCRA	Standing Committee for Refugee Affairs
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
WHO	World Health Organization

6. Introduction

Since the early 1990s, many sub-Saharan African countries have experienced a renewed occurrence of political and civil strife, economic deterioration, and a breakdown of physical and human security. These situations have led to a general increase in migration movements across the continent as a result of increased instability and uncertainty. Upon the termination of South Africa's apartheid migration policies in 1993 and the official recognition of refugees, South Africa became a major destination for migrants facing conflict, persecution, and economic breakdown. (Schacter, 2009, p. 6). The Consortium for Refugees and Migrants in South Africa released a report in April 2011 which stated, "At the beginning of 2010, sub-Saharan Africa was home to some 2 million refugees…Some 420,000 individual asylum seekers were registered in sub-Saharan Africa in 2009, with more than half of these in South Africa, which has the highest number of asylum applications worldwide" (p. 8).

International organizations have defined refugees and asylum seekers as a distinct group of migrants with specific rights, entitlements, and protections that should be universally recognized by all member states of that organization, such as the United Nations (UN) or African Union (AU). The concept of a refugee was originally developed as a result of the recognition as a right to seek asylum from persecution in other countries in the 1948 Universal Declaration of Human Rights, which was eventually translated into concrete definitions in the 1951 UN Convention relating to the Status of Refugees.[1] The UN Refugee Convention defines a refugee as: "someone who is unable or unwilling to return to their country of origin owing to a well-

[1] The United Nations Convention relating to the Status of Refugees, adopted in 1951, will be referred to as the UN Refugee Convention for the remainder of the paper. Reference to this convention will include the sole amendment made in 1967 to include persons fitting the definition of a refugee beyond those persons affected in World War II.

founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion" (1951, p. 3).

South Africa now officially recognizes the three fundamental instruments establishing refugee rights and principles, which are the 1951 Convention Relating to Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and the I969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa. In addition, South Africa established the Refugees Act of 1998, which incorporated international instruments for refugee standards and principles into domestic law, further integrating rights and justice mechanisms recognized by the South African constitution.

In accordance with the Convention Relating to the Status of Refugees (UN, 195 I), the Protocol Relating to the Status of Refugees (UN, 1967), the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU, 1969), the Universal Declaration of Human Rights (UN, 1948), and any other relevant convention or international agreement to which the Republic is or becomes a party (Department of Home Affairs, 1998), South Africa defined and narrowed what specific rights refugees and asylum seekers would be entitled in South Africa. The 1998 Refugee Act declared:

> "A refugee- (u) is entitled to a formal written recognition of refugee status in the prescribed form; 40 *(b)* enjoys full legal protection, which includes the rights set out in Chapter 2 of the Constitution and the right to remain in the Republic in accordance with the provisions of this Act; (c) is entitled to apply for an immigration permit in terms of the Aliens Control Act, 1991, after five years' continuous residence in the Republic from the date 45 on which he or she was granted asylum, if the Standing Committee certifies that he or she will remain a refugee indefinitely; (d) is entitled to an identity document referred to in section 30; (e) is entitled to a South African travel document on application as contemplated in section 31;(f) is entitled to seek employment; and (g) is entitled to the same basic health services and basic primary education which the inhabitants of the Republic receive from time to time" (Department of Home Affairs, 1998).

However, despite efforts to establish domestic standards, protocols, and protections of refugee rights, refugees and asylum seekers remain an extremely vulnerable migrant population in South Africa today. Refugees and asylum seekers often face serious obstacles in South Africa including difficulty accessing social services, employment, housing, health care, education, welfare, and police protection. Xenophobia remains a serious problem in South Africa, which has affected individual attitudes of government staff towards foreigners who provide legal protection, health services, social welfare, education, and more. Specifically, health service providers have often denied asylum seekers and refugees health care as a result of xenophobic attitudes, despite the existence of national legislation granting this group of migrants specific rights to health services. Further, xenophobic attitudes among service and legal providers have often impacted individual refugees and asylum seekers access to health services in Durban. Crush and Tawodzera (2011, p. 4) explain, "One of the most common xenophobic stereotypes in South Africa is that public services (including hospitals and clinics) are being 'swamped' by foreign nationals. Two-thirds of South Africans in the 2006 survey felt that foreign migrants "use up" resources and 49% that they bring diseases when they come to South Africa. South Africans also feel that the right to access health services should depend on citizenship and legal status in the country" (Crush & Tawodzera, 2011, p. 4).

While less than half of foreigners reported ever needing health services, nearly 30% of migrants to South Africa reported difficulties when attempting to access health services. (Richter and Vearey, 2008, p. 6). A variety of secondary articles reveal that predominant reasons for difficulty accessing health services include language barriers between refugees or asylum seekers and health staff, denial of treatment as a result of inadequate provision of legal documents, denial of treatment by health staff as a result of being foreign, poor treatment by health clerks, poor

treatment by doctors, verbal abuse by health staff, longer queues to access services than South African counterparts, expensive fees for public services, and denial of ARVs on account of supposed inadequate supply. The denial of services, humiliation, and general low level of care compared to South African counterparts also plays a large role in the under-utilization of health services by the refugee and asylum seeking community in Durban as a result of harassment, embarrassment, and unnecessary payment for services rendered free.

Ultimately, individual attitudes of service providers have the power to determine the provision and quality of services guaranteed by national and international law to refugees and asylum seekers. Landau explores this discrimination in detail and explains, "The inability or unwillingness of many hospital staff members to distinguish between different classes of migrants (coupled with xenophobia) often means that migrants, including refugees, are denied access to basic health services or that they are charged the fees levied on other non-citizens" (2006, p. 319).

However, the existence of medical xenophobia in the public funded health sector is itself a core violation of South Africa's Constitution, Bills of Rights, obligations to uphold international human rights conventions, and various national codes of medical ethics. Crush and Tawodzera (2011) clarify:

> "Domestically, Section 27 of the Bill of Rights in the South African Constitution notes that everyone has a right to have access to health care services. This section (unlike most others) is silent on the citizenry of the people upon whom the rights are bestowed, and is commonly interpreted as applying to citizens and non-citizens alike. Furthermore, Article 27 (g) of the Refugees Act (130 of 1998) makes it abundantly clear that refugees in South Africa are to be given the same rights of access as everyone else in the country" (2011, p. 6).

Through in-depth interviews of refugees, asylum seekers, and experts, as well as a volunteer position with Lawyers for Human Rights, a learnership project was completed to

explore ways in which the public sector can better provide acceptable health services for refugees and asylum seekers specifically in Durban. The learnership specifically attempts to understand refugee and asylum seekers experience accessing health services in South Africa under this migration status in the public sector, knowledge of refugee rights and methods of advocacy to uphold those rights, and structural determinants of access and quality of health services. In the development of this paper, the learner interviewed refugees, asylum seekers, and experts, and spoke to lawyers to attain information on access and acceptability of the provision of health services to refugees and asylum seekers in Durban. Interviews conducted provided an important insight into individual experiences of refugees and asylum seekers accessing health services and revealed wider trends that this group of migrants experience when seeking health care.

In addition to interviews, the learner volunteered with Lawyer's for Human Rights (LHR), specifically within its Refugee and Migrants Rights Program to observe the legal aid process, provide any necessary organizational support, and gain more insight into the services refugees and asylum seekers receive compared to those which they are legally entitled by national and international law. LHR's Refugee and Migrants Rights Programs aims to instruct refugees and asylum seekers of their legal rights, help this population navigate the legal, institutional, and social systems to obtain legal documentation as a refugee or asylum seeker, provide information and support in understanding legal processes in South Africa, and help refugees and asylum seekers utilize other organizational and church-provided services in Durban to help in areas of social need. Through the volunteer position, the learner was able to better understand what legal rights refugees and asylum seekers are entitled and how they are able to better advocate for those rights.

The final product of the learnership is divided into a social analysis of refugees and asylum seekers' access to health services, engaging both primary and secondary sources in its discussion, and an evaluation of the learner's practicum component. The practicum evaluation aims to analyze current work, institutional and organizational policies, and general impressions of the non-profit and legal aid field in Durban. Combined, the practicum and social analysis components have allowed the learner to develop specific recommendations to improve access and quality of health services for refugees and asylum seekers in South Africa today. This hybrid social and practicum learnership is significant because it will explore the provision of health and social services to an already marginalized population in Durban. It is evident that while national and international conventions on the physical and welfare protection of refugees and asylum seekers are clearly outlined, structural and institutional failures must be immediately addressed to ensure the rights of an already marginalized segment of the South African population are upheld. Principles of human rights, justice, and support for international law provide sufficient justification in addressing the important issue of access to health services for refugees and asylum seekers, which is a universal human right in itself. Insights gained into how service provision can be improved for refugees and asylum seekers will help promote a human rights based approach to refugee and asylum seekers absorption and adherence to international conventions on refugee protection.

7. Methodologies

7.1 General Questions and Learnership Design

In the period of three weeks, the learner sought to answer the following broad questions: What health services are refugees and asylum seekers entitled in Durban and what requirements must they fulfill to access these services? What are refugees and asylum seekers' experiences accessing PHC in Durban and what deterrents exist in access and quality of services, if any? What social, economic, and cultural support systems are in place to aid refugees in absorption and survival in South Africa and how can these systems be strengthened? What improvements can be made to ensure refugees and asylum seekers receive acceptable PHC equal to their South African counterparts? The learner answered these questions and developed recommendations through formal interviews of refugees and asylum seekers, a volunteer position with LHR, and informal discussions with lawyers specializing in refugee rights.

7.2 Formal Interviews of Refugees and Asylum Seekers

The learner used a combination of standardized open interviews and dialogic interviews of refugees and asylum seekers in Durban through arranged interviews by Mr. Baruti Amisi. When speaking with refugees and asylum seekers it was essential to gain the trust and understanding of the interviewee. To aid the learner this task, Mr. Baruti Amisi contacted all interviewees before the formal interviews took place to explain the objectives, importance, and further use of the learnership. Mr. Baruti Amisi is the Chief Executive Officer of the KwaZulu-Natal Refugee Council (KZNRC) and a researcher at the Centre for Civil Society and the School of Development Studies at the University of KwaZulu-Natal. His positions allow him to oversee the welfare of twenty-three refugee communities in the Durban area. Further, a translator was arranged in the case that the interviewee did not speak English. Finally, Mr. Baruti Amisi's

arrangement of interviews allowed for a diverse set of refugee experiences and communities represented in the learnership.

The learner divided the formal interview of refugees and asylum seekers into two distinct parts. The first part of the interview served to gain contextual and biographical information about informants through the questions outlined in the appendix. Participants freely responded to open-ended questions to the extent they felt comfortable. The second part of the interview used a hybrid between standardized open interviews and dialogic interviews. The learner asked broader questions about general experiences as a refugee or asylum seeker in South Africa and allowed the interviewee to discuss the matters they felt were most important. If the interviewee had trouble identifying particular issues and experiences, the learner reverted back to the standardized open interview questions to help guide the conversation. However, if the interviewee was successful in openly discussing their experience, the learner engaged in a more balanced and open conversation.

By speaking with the learner, refugees and asylum seekers in Durban were able to contribute to a larger local dialogue on ways to better provide refugees and asylum seekers with acceptable health and social services. The learner explained that her goals are to learn more about refugees and asylum seekers in Durban, volunteer with a local law firm to gain insight into how the legal process can aid refugees and asylum seekers, and produce a set of recommendations that health staff, advocates, and educators can use to help ensure better access to these services for refugees and their children in the future. The benefit of these recommendations, which was only possible to produce from a variety of successful and informative interviews, will promote further discussion among service providers in Durban on

how to improve health and social services and eliminating xenophobic attitudes prevalent in South African society.

7.3 Volunteer Position with LHR

The learner's volunteer position at LHR largely consisted of refugee intake during open consultation hours. During the intake, the learner inquired about the necessary information, compiled the file for the attorney or legal intern, and referred to clients to other legal aid firms, such as the Legal Aid Board or ProBono, if LHR could not provide legal aid for their specific case. In addition, the learner assisted in research for existing and new cases, participated in staff meetings, and gave opinions during the discussion of specific clients and their legal cases. Throughout the learner's volunteer position, there was ample room for questions, discussion, clarification, and access to legal resources in the office surrounding refugee and international law, such as UNHCR and domestic refugee policies.

7.4 Secondary Sources

Secondary sources were gathered in the development of this paper to help the learner better understand the foundations and realities of refugee and asylum seekers' rights, protections, and access to health services in South Africa. Secondary sources include journal articles, unpublished papers, policy briefs, and organizational web pages which have provided insight and analysis into the realities that refugees and asylum seekers face in South Africa, including xenophobia, police protection and violence, service provision, the emergence of refugee networks, and general statistical information. Data gathered was obtained through the internet, specifically though George Washington University's online library portal, SIT's online library portal, and Google Scholar. Key search terms for secondary data included, "refugees, asylum

seekers, Central African migration, urban refugee policy, health services in Durban, xenophobia in South Africa, verbal abuse and discriminatory statements, and the refusal of refugee health services."

7.5 Limitations and Biases

Limitations inherent when completing a study on refugee and asylum seekers in South Africa include difficulty understanding and navigating complex refugee networks and communities, gaining trust and confidence among competing refugee communities, and finding willing participants to interview, as many refugees and asylum seekers are afraid to share their stories as a result of historical legacies of violence against the community when complaints have been lodged. In addition, if the researcher of a study involving refugees is not of the same country of origin or spent extensive amount of time in the region where a specific refugee or asylum seekers originated, it is difficult for the researcher to fully understanding religious, cultural, and national values to which this group of migrants compares their experiences in their new host country. Finally, language barriers present the need for the use of translators in many formal interviews. When translators are employed in the data collection process, some parts of the interview are lost in translation or sometimes improperly translated into English. The result of translation is often that the learner gains a broader and often more basic understanding of the experiences that interviewees discuss.

Specifically within this study of refugees and asylum seekers, logistical constraints limited the study's scope and ability to represent a diverse group of refugees and asylum seekers from varying communities in their country of origin and networks in Durban. Because the learner only had three weeks to complete the learnership, there was insufficient time to gather a

diverse set of contacts in the refugee community and build trust among competing communities. The result of limited time and transportation was that all interviews were coordinated by one individual associated with one organization, which did not maintain connections with all refugee networks in Durban. Thus persons interviewed represented communities that KZNRC worked alongside, and interviews did not include refugees or asylums seekers unaffiliated with this organization. Finally, the nine women interviewed in the development of this paper all belonged to a women's cooperative organization in Durban with a particular willingness to discuss their experiences as a method to engage in a local dialogue surrounding refugee rights and social services to better their experiences as refugees in Durban in the future. Thus, the women interviewed represent a specific group of women with a distinct mindset, socioeconomic status, geographical origin, and age.

Biases of the learner are inherent in all data collection. The learner's personal views and opinions on refugees and asylum seekers, international organizations, human rights, and acceptable provision of rights and specific services to refugees and asylum seekers in any country have given the learner a specific lenses to which she interpreted and analyzed the data collected. These views have largely been shaped by the learner's environment in the United States, university classes addressing refugee issues with a human rights approach, previous work experience with an advocacy organization addressing rebel activity in Central Africa, and previous travel experiences to refugee and IDP camps in Northern Uganda. These experiences combined have contributed to the learner's understanding of refugees, international conventions and laws, and general urban refugee policy. Finally, the learner only spent four months in Durban, and her knowledge of the refugee and asylum-seeking environment in Durban specifically was solely based on secondary sources and interactions with the certain groups of

refugees, organizations, and individuals that are not representative of all refugee communities in the area.

In addition to biases of the learner, biases also exist among individuals participating in formal interviews and informal discussions. All of the interviewees have spent a significant amount of time in Eastern DRC, are all women in their child rearing years, and all have children. Thus, their experiences as refugees are specific to refugee and asylum seeking mothers in South Africa who have experienced health service provision in Eastern Congo, to which they compare health service experiences in South Africa. While secondary sources have provided a basic context and foundation for various refugee communities and general refugee experiences in South Africa at large, individual refugees and asylum seekers have unique experiences of life in their country of origin and within South Africa. Therefore, in-depth analysis of health service provision for refugees and asylum seekers is limited to the experiences discussed within this learnership, which can only suggest, rather than prove wider trends in the Durban area.

8. Literature Review: Most Important Works Consulted

United Nations. (1951). *Convention and protocol relating to the status of refugees.* Retrieved October 18, 2011, from http://www.unhcr.org/3b66c2aa10.html.

Often referred to as the International Convention on Refugees, this UN document outlines the definition of a refugee, rights to which refugees are entitles, states' obligation in upholding refugee rights, and general protocols for refugee protection. The convention defines a refugee as, "someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion" (UN, 1951). The convention serves as a tool to define a specific group of migrants facing persecution and as a rights-based instrument to ensure

the provision of basic welfare, protection, and social services. The three central principles of the convention to which UN member states are responsible are non-discrimination, non-penalization, and non-refoulement. In addition, the convention highlights minimum basic standards for the handling and treatment of refugees, without state preference for specific refugee groups or their own citizenry. Rights specifically defined in the convention include access to justice systems, primary education, employment, provision of legal documentation, and a refugee travel document similar to a passport. To complete a learnership in the area of refugee and asylum seekers rights, it is essential to understand the international protocols that South Africa is obligated. Thus, national law and procedure must embody and reflect the minimum basic standards set by the UN in 1951, and must work to eliminate issues of xenophobia limiting the ability to uphold this convention.

Lawyers for Human Rights. (2009). *Refugee Information Guide 2009.* Retrieved September 15, 2011, from lhr.org.za.

Lawyers for Human Rights is a legal aid firm that maintains a variety of legal aid programs in offices throughout South Africa. In 1996, LHR established the Refugee and Migrants Rights Program, which specifically advocated for the rights of refugees, asylum seekers, and other marginalized migrant groups residing in South Africa. In 2009, LHR released a report aimed to provide "information on how to apply for asylum and seek legal assistance, where to find material assistance, how to access social assistance such as health, education, employment, trauma- and psychological support both from government and non-governmental sources" (LHR, 2009, iii). The information guide defines the differences between an asylum seeker and refugee, and which rights each population is entitled to. This guide helps migrants who fall under refugee and asylum seeking categories better understand their rights in South

Africa, and also how to best advocate for those rights. A refugee or asylum seeker may receive conflicting and confusing information from government officials, often in a language that do not fully understand, and this guide helps to empower those migrant populations to the greatest extent possible. Much of the general advice in the guide revolves around government officials, corruption, and obtaining proper legal papers in a confusing bureaucratic environment. This document is critical in the learnership, as it represents an existing resource aimed to empower refugees and asylum seekers. In addition, the report highlights specific organizations, agencies, and refugee services in Durban that allow refugees and asylum seekers to obtain the support they need for absorption and survival. This information allowed the learner to better understand existing structures providing refugee and asylum seekers aid.

Crush, J. & Tawodzera, G. (2011). Medical Xenophobia: Zimbabwean Access to Health Services in South Africa. *Southern African Migration Programme (SAMP), Migration Policy Series,* 54, 1-40.

While this policy paper specifically addresses problems of medical xenophobia among the Zimbabwean population in South Africa, its findings and explanations can be used to understand the wider problems of refugee and asylum seekers' access to health services. This paper specifically notes that health staff must provide health services, not only in emergency medical situations, but also at any point of consultation for people who cannot produce legal documentation. This article is extremely important in the learner's understanding of access to health services because it contradicts the common belief in South Africa that refugees and asylum seekers must produce permits to access health and social services. If academics and professionals are unaware of health directives and policies, it is likely that health staff and government officials are also misinformed on the provision of care. In addition, their findings show evidence of abuse of refugees and asylum seekers by health staff both with and without

legal documents at health facilities in South Africa. Crush and Tawodzera advocate this problem should be addressed through training of health staff on how to physically and emotionally treat this group of migrants, as well as acceptable protocols on the refusal of services.

Richter, M. and Vearey, J. (2008). Challenges to the successful implementation of policy to protect the right of access to health for all in South Africa." *Prepared for the Gauteng Department of Health,* 1-69.

Prepared for the Department of Health, this important report explains that despite popular belief among health staff, identity booklets or papers are *not* a pre-requisite to receive basic health care or ARVs, as all foreign patients are entitled to the same level of health services as their South African counterparts. However, as the article highlights, almost 30% of foreigners requesting basic health care report encountering problems and requests to produce legal identity papers. Richter and Vearey's research reveals the specific types of problems foreigners encounter at health facilities, the most common being refusal to use a common language by health staff and verbal abuse. This report is important in exploring ways the South African government can better train hospital staff on acceptable treatment of refugees and asylum seekers. While it is obvious that many health staff are misinformed on laws providing all people, regardless of legal status, little has been done to train and educate health staff on national law and acceptable treatment of refugees and asylum seekers. Without investment in education of health staff on these policies, together with the Department of Home Affair's current inability to process asylum seekers to assure provision of legal documents to access health and social services, refugees and asylum seekers will continue to be wrongfully denied services provided by the state deemed human rights. In addressing this large problem in health facilities, the architect of initiatives to curb refugee and asylum seekers discrimination must investigate the best way to

address xenophobic attitudes among health staff and what methods would best ensure all foreigners not be turned away from rightful access to health services.

Gee, R., Lervik, M., & Holst, E. (2010). Immigrants an Refugees in Durban: The City's Response. Unpublished research paper, School of Politics, University of KwaZulu-Natal.

Students at University of KwaZulu-Natal produced a research report addressing the legal process refugees and asylum seekers undergo and the services in which they have access, specifically in Durban. While questions are addressed at a local level, they advocate their findings are related to a larger national legal framework. Much of their data was retrieved from interviews with various actors who interact with refugees and asylum seekers, allowing them to produce policy recommendations based on their findings to improve situations for refugees and asylum seekers in Durban. This paper is significant because it highlights refugees and asylums seekers specific experience in Durban, as well the vulnerabilities they faced in housing, employment, and health services as a result of their citizenship status. By examining citizenship, transnational human capital, and globalization, the authors are able to reveal how deportation can used a threat in labor, housing, and other experiences of refugees and asylum seekers, which ultimately make refugees more vulnerable to inadequate housing, unfair labor conditions and wages, and unequal access to health and social services. In addition, it specifically addresses what refugees and asylum seekers experience in Durban in terms of access to NGOs/church organizations, ways of engaging in income generating activities, specific demographical data on country of origin, education and skills level, physical location, and problems of xenophobia among their South African counterparts compared to articles focusing on Johannesburg, Cape Town, or other cities with large numbers of refugees and asylum seekers. When completing a learnership surrounding refugees and asylum seekers specifically in Durban, it is extremely important to gain this type of baseline knowledge of the population and barriers that it faces.

9. Findings and Analysis

9.1 Socio-Historical Context

Until 1991, an immigrant in South Africa was considered a person who could successfully integrate into the white population, resulting in almost all migrants originating from European or neighboring African countries maintaining significant white populations. (Schacter, 2009, p. 6) Apartheid policy intentionally excluded non-white and African migrant groups from entering South Africa as a method of social control, labeling refugees as 'aliens' to imply "difference, strangeness and otherness" (Gee, Lervik & Holst, 2010, p. 6). Increasing political instability and economic deterioration across Sub-Saharan in the early 1990s, combined with growing international pressure for the promotion of a democratic state, led to South Africa's official recognition of refugees in 1993, specifically recognizing international conventions and instruments for refugee protection. Since 1993, South Africa has officially recognized the Convention Relating to the Status of Refugees (UN, 195 I); the Protocol Relating to the Status of Refugees (UN, 1967); the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU, 1969); and the Universal Declaration of Human Rights (UN, 1948). In 1998, the South African government integrated international conventions with specific rights and justice protections defined in the South African constitution.

South Africa maintains international definitions of an asylum seeker, and has set in place specific policies accept persons entering South Africa who have been "subjected to persecution on account of his or her race, religion, nationality, political opinion or membership of a particular social group; or his or her life, physical safety or freedom would be threatened on account of external aggression, occupation, foreign domination or other events seriously disturbing or disrupting public order in either part or the whole of that country" (DHA, 1998, p. 6). In addition, any dependent of an asylum seeker, such as a spouse or child, is also eligible for rights

and protections ensured under this migration status. A Burundian woman explained, "I am under my husband's refugee status as well as our nine children. We need him to go to DHA to renew our statuses because we are dependents but we have the same things given to us as he gets" (Informant A, Personal communication, Novemer 14, 2011).

Between the fall of the Apartheid government in the early 1990s and the establishment of the Refugees Act (130 of 1998), all refugee issues were addressed by the Aliens Control Act 8, which served as an umbrella policy for all immigrants. However, the Aliens Control Act failed to distinguish between the rights of migrants in general and asylum seekers specifically. Landau explains, "Asylum applicants and refugees were either granted temporary permits to enter the country under section 41, or granted exemption from the entry and residence requirements of the Act on grounds of 'special circumstances.'" (2006, p. 54). However, this policy had two critical flaws. First, there were no specific domestic laws on refugee protections and rights, refoulement protection measures, and general refugee treatment by government officials. Second, the Aliens Control Act dealt with refugees as individual immigrants, rather than members of a larger group experiencing conflict or persecution. This delayed the process of obtaining asylum status exponentially, as each case had to be evaluated individually rather than recognizing conflict or persecution in a general geographic area or towards a specific group of people. (Landau, 2006, p. 54). Recognizing the need for specific legislation addressing refugees and asylum seekers, the South African government initiated the development of a refugee specific immigration policy.

The 1998 Refugees Act not only defined who a refugee is, processes by which refugees must apply for asylum, and protections to which refugees are entitled, but also promoted the implementation of an integrative urban refugee policy. Richter and Vearey highlight, "refugees and asylum seekers are encouraged to self-settle and integrate, rather than be confined to camps.

A range of additional rights are provided to such individuals through the Refugee Act (1998) and the South African constitution, including basic primary health care, adequate housing, the right to work and study, and certain forms of public assistance in the form of social grants or other relevant services" (Richter and Vearey, 2008, p. 13). One asylum seeker[2] originating from Uvira, DRC explained, "I left Uvira in 2007 and took a boat to Tanzania and then a car to Mozambique, where I stayed for one year. Me, my husband and child stayed in that camp and it was horrible. Living was so bad. In South Africa we are having a better life in Durban. It's not like animals here, it's not like the camps" (Informant C, personal communication, November 14, 2011).

The implementation of an urban refugee policy in South Africa serves a major driver for migration movements from across the continent. While refugee and asylum seekers may not be seeking out specific services outlined in domestic legislation, such as health care or adequate housing, it is evident that those with sufficient resources prefer South Africa as a host country because of its progressive and integrative policies. Another woman from North Kivu, DRC highlighted, "It's better not to live in the camp. In South Africa, and here in Durban it's not a camp. It's a difficult but there is not disease and guns and rape like in the camps" (Informant E, personal communication, November 14, 2011). Gee, Lervik, and Holst explain that this is not limited to a small number of people either, stating that, "South Africa was the world's largest recipient of individual refugee applications receiving almost a quarter of the world total. South Africa was also by far the country with the largest number of pending applications; almost 310,00 people were still waiting to have their applications considered in 2009, out of 983,000 globally (UNHCR)" (2010, p. 8).

[2] Names of women interviewed are not provided in this paper for purposes of anonymity and confidentiality from fears of xenophobic violence, as in the 2008 xenophobic attacks.

In 2009, Lawyers for Human Rights released a refugee information guide explaining specific rights, legal procedures, and contact information for refugee assistance organizations in Durban to aid asylum seekers and refugees in understanding and protecting their rights in South Africa. The guide highlighted the process by which asylum seekers must obtain documentation, navigate the renewal process, and how to make an appeal if denied refugee status. Their guide explains, "According to the Refugees Act, no person may be denied the opportunity to apply for asylum. A person who has applied for asylum is allowed to stay in South Africa until there has been a final decision on the application. A final decision is one given after all possible appeals and reviews of a negative decision have been exhausted" (2009, p. 4). However, by completing a learnership at LHR, it was clear that many procedures implemented by DHA in the asylum application process were violated, as well as rights promised by domestic law. Clients visiting LHR were frequently denied an asylum application for having incorrect border transit papers, rejected as unfounded or manifestly unfounded for asylum claims clearly within the recognized definition of a refugee, and given false information by DHA officials. LHR published difficulties refugees and asylum seekers often experience despite the fact the practices blatantly violate DHA protocols. Their report highlighted:

> "Many people experience great difficulties accessing the refugee offices and sometimes have to queue for weeks before they are attended to for the first time. The DHA does not provide proof that you have been queuing outside the refugee reception office. So until you have obtained your Section 22 permit, even if you are attempting to follow the law, you could still be arrested by the police or immigration officials" (2009, p. 4).

In addition, while refugee and asylum seekers were denied legal documentation by DHA, they simultaneously faced discriminatory attitudes from police in the Durban area. Individual discriminatory attitudes among police officials combined with the knowledge that many asylum seekers have been systematically denied legal documentation (referred to as Section 22 permits),

many asylum seekers and refugees have been arrested and detained for having no immigration or asylum papers. Gee, Lervik, Holst explain, "Authorities use criteria like skin complexion, accent and inoculation marks to identify suspected undocumented migrants, while people are being arrested for being 'too black', having a 'foreign' name, or walking 'like a Mozambican'"(2010, p. 6). One Congolese woman described, "When I first came to Durban I had no papers. So I had to go to DHA every day and wait in the queue. They said, 'Go home. Back tomorrow.' During that time before I got my permit I was so scared. I was thinking maybe they will send me to jail because I have no papers to show" (Informant C, personal communication, November 14, 2011).

Discriminatory attitudes among the police, as well as many South Africans in Durban, are likely to be a legacy of apartheid's notion of "difference and strangeness" among non-white migrants and a feeling of competition for limited public resources available in South Africa today. Gee, Lervik, and Holst suggest that black migrants are generally unwelcome in South Africa by nationals. They highlight, "African immigrants and refugees are frequently referred to as 'aliens', a terminology inherited from the apartheid years, implying *difference, strangeness* and *otherness*…. this rhetoric is shared by government authorities, immigration officials, the media and the general public (2006, p. 9), suggesting a continuity of rhetoric from apartheid. There is also an increasing tendency to stigmatise immigrants, particularly black African immigrants, accusing them of undermining economic development and taking jobs from locals" (2010, p. 6). Combined, apartheid's legacy of difference and a perceived increase in competition for public resources has resulted in strong xenophobic sentiments among many South Africans, which can be defined as a hatred or fear of a foreigner. Polzer's report on xenophobic violence in South Africa explains:

> "Outsiders can easily become scapegoats for economic hardship and are vulnerable to robbery and attack because they lack documentation, often carry cash due to banking

> barriers, and are less likely to have the support of the general residents of the area. Although all South African residents face high levels of physical insecurity, outsiders are particularly vulnerable to ordinary and 'hate' crimes, meaning that any crime targeted at a foreign national *because* they are a foreign national can be considered xenophobic" (2010, p. 2).

While xenophobia often serves as a central reason for the withholding of legal documentation, violations in the provision of legal documentation, social and health services ensured in the 1998 Refugees Act are often ignored completely by public service providers. In fact, refugees and asylum seekers must often fend for themselves upon arrival in South Africa. As a result of limited national resources, even to provide for South African nationals, and discrimination among social service providers, refugees and asylum seekers are expected to provide for their own needs without government assistance. LHR further advises, "As asylum seekers and refugees you are required to provide for your own social and economic needs. Due to financial constraints, the South African government, UNHCR and NGOs can only provide assistance in exceptional cases, such as those concerning asylum seekers with disabilities or children requiring support" (2009, p. 19). In exceptional cases, refugees and asylum seekers have the opportunity to seek assistance with a UNHCR implementing partner, mostly NGOs and legal aid clinics, to obtain emergency assistance. However, aid provided by implementing partners is usually extremely minimal and for a short period of time to allow refugees and asylum seekers to find their own means of income and resource generation. Further, UNHCR targets aid for "vulnerable persons, such as mothers and children who have been in the country for less than two months, people with very serious illnesses and disabilities, and newly arrived single men with special needs. This assistance may include food and basic accommodation for a period of up to three months" (LHR, 2009, p. 19).

Limited resource provision from the South African government and organizations in Durban for refugees and asylum seekers has resulted in the emergence of extensive refugee

networks throughout the city. These refugee networks are often based on country of origin, ethnic and tribal affiliation, and similar experiences of persecution from specific geographical locations. The networks that have emerged in Durban are often descriptive of not only the various refugee communities present, but also allow basic refugee survival in a new host country that employs an integrative, rather than camp based, refugee policy. Amisi and Ballard explain, "These networks can be understood as communities of support which provide both monetary assistance and knowledge, and encouragement to overcome local difficulties. One reason given for the formation of networks is to help newcomers who would otherwise have to sleep on the streets when they arrive" (2005, p. 9).

The emergence of various refugee networks in Durban coordinate with the inflow of refugees from specific geographic locations since 1993. Amisi explains the emergence of refugee networks as a result of three waves of migration from Central Africa:

> The first wave occurred in the early 1990s when highly skilled and wealthy Congolese businessmen moved to South Africa for economic reasons in terms of employment and investment. The second wave took place between 1991 and 1994 and included many political refugees and economic refugees due to the breakdown of sociopolitical and economic conditions in Zaire, as it was known at that time. This breakdown resulted in brutal repression, massacres and massive human rights violations. The third wave occurred from 1994 stemming from the ethnic conflict in Burundi and Rwanda which spread through neighboring countries including the Congo. The third wave described by Bouillon (2001: 40-44) talked about consisted of three major key moments of political turmoil after 1994" (2006, p. 18-19).

While Amisi specifically highlights the large influx of refugees originating from Central African countries of DRC, Rwanda and Burundi, the UNHCR also documented large refugee communities in Durban from Somalia, Zimbabwe, Malawi, Pakistan, Bangladesh, India, China, Tanzania, and Ethiopia (UNHCR, 2006). Congolese refugees and asylum seekers, though, have been the best-documented and most accessible group of refuges in Durban. As the largest migrant population in Durban, with the exception of Zimbabweans who predominately qualify as

economic migrants, Congolese had a variety of reasons for settling in Durban, as opposed to other South African cities, or even other African countries maintaining integrative urban refugee policies. Amisi explains, "Congolese refugees mainly come from Mozambique and find themselves in Durban because of lack of resources to continue their journey" (2006, p. 17). Once refugees find themselves in poor camp conditions, they decide to attempt entering South Africa illegally through poorly policed borders. Informant A noted, "We had just jumped the fence near Manguzi. Durban was easiest to get to with no money from Manguzi. So we went" (Personal communication, November 14, 2011).

Well-established Congolese networks in Durban also serve as a large draw for incoming asylum seekers from the Eastern region of DRC, mainly North and South Kivu, as well as Bukavu province. One woman explained, "It was very bad in Uvira so I left. I could not go to a camp and I heard there were many Congolese in South Africa. I knew they could maybe help me because I had nothing. No money, nothing. So when I came to the border, the other foreigners told me oh, you must go to Durban. There are people from Eastern DRC there, so that is where I went" (Informant H, personal communication, November 14, 2011). While Congolese may be the most organized refugee network, similar patterns can be observed within other inflows of refugees from Burundi, Rwanda and Zimbabwe. A woman born in Burundi, who moved to Eastern DRC during her childhood noted, "We all help each other when we are first coming. But we mainly stick to those who speak our language or understand why we have left. It is not by choice that we are leaving and they can understand the traumas" (Informant A, personal communication, November 14, 2011).

During the learner's volunteer position at LHR, many clients explained that they were told to seek legal advice and social services from organizations in the Diakonia Center, such as

LHR or Refugee Social Services (RSS). Through informal conversations with clients, it became evident that asylum seekers from similar geographical areas often "took in" new migrants from their country of origin for a few days until an asylum application was filed. Hosts provided housing and minimal amounts of support, while also directing new asylum seekers to RSS, LHR, and other aid organizations, in addition to explaining methods of income generation through the informal economy. In addition, refugee networks tend to be concentrated in one area of Durban, allowing individuals to meet other asylum seekers, obtain advice about life in South Africa, and build relationships with established refugees and asylum seekers involved in the informal economy for purposes of income generation. Thus, Durban has areas, which have been recognized as heavily populated by foreigners. Gee, Lervik, and Holst explain, "The majority of foreigners operate in the City Centre, the Grey/Victoria Street Area and the Warwick junction area. Further, due to their higher education levels and better skills, foreign street traders generally are better business-oriented, have supply contacts abroad, and offer better quality services" (2010, p. 11).

When asylum seekers arrive in Durban, many are in the need of immediate health services as a result of long journeys, pre-existing conditions, pregnancy, or illnesses contracted in refugee camps throughout Southern Africa. Out of the nine women interviewed, three were pregnant when they entered South Africa and one woman needed immediate treatment for her children suffering water-borne parasites contracted in the Nampala Refugee Camp in Northern Mozambique. While refugee networks can often provide housing, basic assistance for income generation, and food for a short time, networks cannot provide any type of health services, leaving asylum seekers to rely completely on government services and employees. A woman who spent an extended period of time in Nampala Refugee Camp explained, "We were having

parasites from the water in the camp. It was bad for my children, the parasites made them have no water in them and they were sick. I went to the clinic as soon as I came to Durban" (Informant F, personal communication, November 14, 2011). In addition, a 24-year-old Congolese woman explained, "I was six months pregnant when I came to Durban. It was the first time I went to the clinic for my baby. So I needed to go to get the right medicines" (Informant C, personal communication, November 14, 2011). However, medical xenophobia, misunderstanding among health staff on the provision of necessary documentation to receive care, and general discriminatory attitudes has often hindered refugees and asylum seekers to access health services in Durban, making it a pivotal issue to address because it is one area of services that refugees and asylum seekers cannot provide themselves or through established refugee networks, making it necessary to rely on government services and employees.

9.2 Medical Xenophobia and Misconceptions on the Provision of Services

While refugees and asylum seekers can often depend on well-established refugee networks from their country of origin for adequate housing, employment, and basic necessities, despite the fact that they are guaranteed these rights in the Refugees Act, health services is an area of services that this group of migrants must completely rely upon the South African government, which provides all people in South Africa with free PHC. While less than half of foreigners reported ever needing health services, nearly 30% of migrants to South Africa reported difficulties when attempting to access health services. (Richter and Vearey, 2008, p. 6). However, the most vulnerable groups of asylum seekers and refugees, mainly women, children, and disabled persons, are the most affected by the denial of health services once they have entered South Africa. Crush and Tawodzera explain that, "Domestically, Section 27 of the Bill of Rights in the south African Constitution notes that everyone has a right to access health care

services…Furthermore, Article 27 (g) of the Refugee Act (130 of 1998) makes it abundantly clear that refugees in South Africa are to be given the same rights of access as everyone else in the country" (2011, p. 6). However, rampant discrimination in South African society has led to the denial of health services to mainly black foreigners, referred to specifically as medical xenophobia.

Crush and Tawodzera explain, "Medical xenophobia refers to the negative attitudes and practices of health sector professionals and employees towards migrants and refugees on the job. There is considerable evidence (especially the police home affairs officials, refugee determination officers and customs agents) bring xenophobic attitudes when they come to work" (2011, p. 1). Medical xenophobia presents itself in a variety of ways. Secondary research, formal interviews, and informal discussions have revealed that patients were often "required to show identity documentation, proof of residence status and evidence of a home address before treatment is provided" (Crush and Tawodzera, 2011, p. 2). Second, health staff frequently refused to converse with foreign patients in a common language, including English, often requiring patients to bring a translator proficient in Zulu language. Third, refugees and asylum seekers experienced verbal abuse, blatantly discriminatory remarks, and insults. Fourth, refugees and asylum seekers were often required to wait in longer queues until all South African nationals had first been treated, and required to pay additional fees on the sole basis of being foreign (Crush and Tawodzera, 2011, p. 2). Finally, refugees and asylum seekers have often experienced difficulty obtaining ARVs for HIV treatment, though since a Department of Health directive in 2007 requiring free ARV treatment for all foreigners with or without ability to produce legal documentation, the main barrier to HIV treatment has been cultural sensitivity to confidentiality of HIV status, as nurses often reveal HIV status openly in the waiting room of clinics. Richter

and Vearey found in their study surrounding challenges in the implementation of health care for all people residing in South Africa:

Table 1: Challenges reported by foreign migrants when attempting to access healthcare[15]

Language problem	28%
Treated badly by nurse	23%
Denied treatment because of documents	22%
Denied treatment because foreigner	21%
Could not get treatment/medicine because of cost	16%
Treated badly by clerk	14%
Treated badly by doctor	10%
Denied treatment because I have moved and no longer fall under catchment area	4%
Other	14%

(Richter and Vearey, 2008, p. 6)

A central problem that refugees and asylum seekers encounter when accessing health services in Durban is the requirement to present legal documentations or asylum permits upon entrance into a PHC facility. However, Crush and Tawodzera specify that the South African government further narrowed protocols relating to health services for refugees and asylum seekers defined in the 1998 Refugees Act through a 2007 health directive. They highlight, "In 2007, the Department[3] went a step further and issued a directive that refugees and asylum seekers with or without a permit could access basic health care and should be assessed according to the current mans test" (2011, p. 8). Richter and Vearey further explain "South African green-coded identity booklets are NOT pre-requisite for basic healthcare or ART services; and all refugees and asylum seekers- with or without a permit- are entitled to basic healthcare and the same means test for South African citizens must be applied, not foreign patient rates" (2008, p. 5).

[3] The "Department" refers to the Department of Health in this case, not DHA.

Despite the release of the 2007 health directive, health staff continually deny refugees and asylum seekers PHC primarily as a result of their own xenophobic sentiments, believing that foreigners should not be eligible for limited South African PHC services, or the lack of training on PHC rights for migrants, often a result of health care management to train employees as a result of their own discriminatory attitudes. Jo Vearey explains in a study entitled, *Migration and Health Delivery Systems in Southern Africa,* "The resultant marginalization of non-citizen groups has led to health becoming conflated 'with the politics of citizenship,' in many cases leading to denial or healthcare to non-citizens" (n.d., p. 18). In LHR's refugee information guide, they advise, "It is sometimes difficult to access public-health related services as hospital workers do not always know the rights of refugees and asylum seekers; these staff members might also fail to recognize asylum seekers and refugee permits as valid forms of documentation." (2009, p. 26). Of the nine women interviewed, only one woman reported no difficulty at all accessing health services in Durban. Demands from nurses at reception of clinics and hospitals in the Durban metropolitan area were a frequent complaint amongst the group of interviewees. A thirty-six year old woman born in Burundi, who later moved to Eastern DRC with her family explained, "When you first go to the hospital, you get registered specifically because you are a refugee. You show your papers, then they register you and then you pay R20" (Informant A, personal communication, November 14, 2011). When the learner informed her that health staff should not require asylum seekers and refugees to produce permits or legal documentation, additionally showing her the 2007 health directive that may help future asylum seekers in her refugee network, she replied, "I have not heard this before. Maybe it will help those who they will deny without permits" (Informant A, personal communication, November 14, 2011).

Denial of health services as a result of the inability to produce permits had very serious consequences for two women interviewed. A nineteen-year-old woman from Uvira, DRC recounted her experience accessing pre-natal care in South Africa. The young Congolese woman became pregnant in South Africa and was directed to Addington Hospital for pre-natal care. She recounted, "I went to the hospital and the nurse in reception told me I needed papers. But I did not have papers. What was I supposed to do? I had pains so I went to the hospital" (Informant H, personal communication, November 14, 2011). After some time, the woman explained that she went back to the hospital, "I still had pains. I went back to Addington and I told the doctor about my pains in my stomach. He gave me medicine, but it was too strong. It wasn't Panado. I then lost my baby and the nurses took it out" (Informant H, personal communication, November 14, 2011). While it is impossible to know if the woman miscarried because of denial of health services for stomach pains, which resulted in treatment given too late to stop the miscarriage, or whether the doctor prescribed medication that caused the miscarriage, the delay of PHC resulted in serious implications for the young asylum seeker.

Perhaps even more serious, one Congolese had two difficult experiences accessing health services at Addington Hospital. When the Congolese woman was pregnant with her first child, she was not able to receive any pre-natal care as a result of continued refusal for PHC due to an inability to produce an asylum permit. She described, "When I went to the clinic after many times I was in labor. But like the times before I had no papers so they shouted at me. They said, 'No. No. No. You foreigner!' So I went to RSS and they made a letter for me. I went to the clinic again with the letter and they accepted it. But I was already in labor! They didn't give any medicines and I was paining. They just shouted, 'shut up! Shut up! Don't make noise!'" (Informant C, personal communication, November 14, 2011). Her second experience accessing

health services was occurred when her one and a half year old daughter was sick one morning. The woman recounted:

> "I ran to the hospital so quick. She looked so sick. I didn't even think to bring anything with me, I just went without my papers. The nurses at reception refused me because I was wearing African attire and they said I must give them my permit or no. I cried and begged because I had no one to send to get my papers. I had the right papers but who could go to get them? I just stand there and begged the nurses, when finally after a long time a white doctor passed and I begged him. He took the baby inside and I just stayed in reception, I didn't know what was happening. After thirty minutes, the nurse came to me and she was saying the baby died. They said the baby had no water in her, but I said no, that's not it. She never had any diarrhea" (Informant C, personal communication, November 14, 2011).

Landau explains, "South Africa's Urban Refugee Policy 319 states no one-regardless of nationality, documentation, or residency status- may be refused emergency or life saving medical treatment. The inability or unwillingness of many hospital staff members to distinguish between different classes of migrants (coupled with xenophobia) often means that migrants, including refugees, are denied access to basic health services…" (2006, p. 322). However, it is evident that refusal of health services, and even emergency health care, is commonplace in Durban health facilities. Vearey explains, "some public health facilities have been found to generate their own guidelines and policies that counter national legislation- continuing to demand South African identity documents and denying access to regional migrants" (n.d., p. 19). The result of the refusal not only could result in the non-treatment of illness, disease, and injury, but the actual death of refugees and asylum seekers for which they may be a life-saving solution. A twenty-four year old Congolese women with children born in South Africa stated, "If you don't have papers, even a child can die here. It doesn't matter. They just push you and say '*haibo!*'" (Informant G, personal communication, November 14, 2011).

9.3 Zulu Language, Verbal Insults, and Discriminatory Attitudes among Health Staff

Once refugees and asylum seekers have been properly registered and allowed access to health services, insults, verbal abuse, discriminatory remarks, and refusal of communication in a common language, such as English, were commonplace. Of the nine women interviewed, only one reported no experiences of verbal abuse whatsoever in PHC facilities. Interviews revealed that individual nurses and hospital staff maintained discriminatory attitudes towards refugees and asylum seekers accessing mainly basic services. One woman explained that refusal to communicate in a common language was the norm, not the exception, in her past experiences accessing health services for herself and her nine children. She stated, "Nurses will only speak Zulu to me, never English. If you have an accent, like mine is French and Swahili, they can't understand and they don't try. It's just like that. You don't get help" (Informant A, personal communication, November 14, 2011).

Another woman visiting the clinic for pre-natal care brought an interpreter with her to speak English, as she was still new in South Africa and hadn't yet learned English. She explained, "I brought my friend to the clinic with me, she would tell them what I was saying in French. The nurses just ignored her. They said to me, 'why don't you speak English? Why don't you understand? You foreigner!'" (Informant B, personal communication, November 14, 2011). Further, a twenty-one year old Congolese woman recounted, "I was having my first baby. The nurses only spoke Zulu. When my husband tried to tell them in English they said to him, 'Hey, hey, quiet you foreigner" (Informant F,personal communication, November 14, 2011).

The inability to communicate in Zulu with nurses in Durban PHC facilities resulted not only in verbal abuse, but also in longer queues and the refusal of treatment altogether. A twenty-four year old from Goma, DRC said, "If you don't know Zulu they start ignoring you and you are last. When you say, 'excuse me, I was here first,' they are just looking the other way.

Pretending I am not there. I am always last going to the clinic" (Informant G, personal communication, November 14, 2011). Still another woman described her experience when she took her young child to a clinic in Durban for a protruding skin rash. She recounted:

> "The nurses saw my dark dark skin. They said, 'go away foreigner.' They were treating South African children with chicken pox and they just sent me home and told me to put sugar and water in my baby's mouth. I said no, the baby is sick. The nurses just stared and said I must learn Zulu first and then maybe they are helping. They sent me away so I finally went to a chemist who treated her nicely. The chemist was from Pakistan, he was the only one helping" (Informant F, personal communication, November 14, 2011).

Such discriminatory attitudes may be a larger reflection of South Africans' views towards black foreigners in Durban, which have unfortunately been allowed to frequently enter the workplace. Where hospitals are often busy, understaffed, and extremely under-resourced, hospital staff preferred allocating services and physical resources to South African nationals first. Crush and Tawodzera found, "One of the most common xenophobic stereotypes in South Africa is that public services (including hospitals and clinics) are being 'swamped by foreign nationals. Two-thirds of South Africans in the 2006 survey felt that foreign migrants "use up" resources and 49% that they bring diseases when they come to South Africa. South Africans also feel that the right to access to health services should be depend on citizenship and legal status in the country" (2011, p. 4). Landau highlighted that guaranteeing health services does little to ensure refugees and asylum seekers have equal access and quality of health services. He explains, "Providing minimal assistance or relying on existing local resources does little to guarantee refugee access to critical services and may result in a sense of competition between refugees and hosts" (2006, p. 322).

Nurses in clinics are often untrained in the treatment of refugees and asylum seekers, resulting in health staff to bring personal views of foreigners into the workplace. With little structural systems and policies in place to ensure acceptable quality of care to refugees and

asylum seekers, abuse during the treatment process is common. The women interviewed recounted many stories of hurtful words stated by nurses about them and even directly to them in PHC facilities. The discriminatory statements and verbal abuse that occur in clinics only adds to stress and trauma experienced by refugees and asylum seekers as a result of conflict, persecution, and difficult journeys to South Africa. One woman described:

> "I came to the clinic in labor, the baby was already almost between my legs. The nurses just threw me in a bed, no medicine, no help. They shouted so loud, 'Shut up, you foreigner! Too much babies! You must stop having the babies!' Why only are they telling us to stop with the babies? They only complain about our babies. They just discriminated us, they don't take us seriously like their brothers and sisters" (Informant B, personal communication, November 14, 2011).

A thirty-six year old Congolese women described a similar experience at Addington Hospital on September 11, 2011. She stated:

> "I have seven kids. Every time I go to the clinic all of the nurses are laughing at me because I have so many. They shouted at me, 'It's too much! Close it! Close it! Why you come give birth in South Africa? You are just increasing the population of foreigners!' She just kept saying to close it. It made me feel so bad. You know, they don't understand, I have a husband. This is how it is in my culture, they can't understand that they are not the ones paying me" (Informant D, personal communication, November 14, 2011).

Such verbal abuse that targets not only the patient themselves, but also their children, families, and larger culture often results in further psychological stress among refugees and asylum seekers. In some cases, refugees and asylum seekers have reported visiting health facilities only in case of absolute emergency, leaving all other non-emergency and chronic problems untreated. A woman who fled DRC for reasons of violence explained, "I already have psychological traumas and now they are treating you inhumanely. It's like even if I can move past the old traumas, they just keep coming from here in South Africa" (Informant A, personal communication, November 14, 2011). Bandeira, Higson-Smith, Bantjes and Polatin's paper discussing traumas experienced in South Africa's refugee community suggests that refugees

already experienced symptoms of psychological trauma when entering South Africa. They explain, "A broad range of medical conditions were reported including restlessness, depression, neck and headaches, eye-related problems, dental problems, foot pain, anemia, difficulty urinating, high blood pressure an heart palpitations" (2010, p. 99). Refugees and asylum seekers generally remained un-counseled on these conditions because such services were rendered beyond the level of *primary* health care, and also simply accepted the new traumas initiated by treatment of nurses in Durban health facilities. One nineteen year old who experienced multiple pregnancy complications explained, "The terms they are using are very derogative. But I just have to focus and accept them because this is not my country, so I can't make trouble. I just accept. But in Congo it's not like this. The nurses will help everyone, they will be kind and they won't shout. This is how they should be helping here too" (Informant H, personal communication, November 14, 2011).

9.4 Barriers to HIV Treatment

Recently, much debate has risen over refugee and asylum seekers access to HIV treatment 4-and the provision of ARVs. In 2007 the Department of Health released a directive to all provincial health revenue manager with a section specifically addressing ART access for refugees and asylum seekers. The directive states, "Refugees/asylum seekers **with or without** a permit that do access public health care, shall be exempted from paying for ART services irrespective of the site or level of the institution where these are rendered" (Department of Health, 2007, p. 2). However, as seen in other aspects of health service provision, health staff frequently denied refugees and asylum seekers HIV treatment, violated confidentiality procedures that they would normally abide by for South African patients, and caused widespread stigma among the larger refugee community in Durban. Similar to South African views on

foreigners access to basic healthcare in general, Crush and Tawodzera found general disapproval of ARV provision for foreigners in general, and refugees and asylum seekers specifically. Their survey yielded:

> "Over 95% said that citizens should always enjoy the right to social services (including health) and ART (anti-retroviral therapy for HIV and AIDS). However, only 50% felt that legal migrants should enjoy the same right. The figures for refugees and undocumented migrants were even lower (27% and 13% respectively). Two-thirds felt that legal migrants should always have the right to access ART but, again, fewer thought that refugees and undocumented migrants should be eligible (50% and 38% respectively). Fully 43% said that undocumented migrants should always be denied ART. Finally, 61% said they supported a policy of deporting foreign citizens with HIV and AIDS (while only 24% were opposed). Sixty percent favored a policy of mandatory AIDS tests for refugees" (Crush and Tawodzera, 2011, p. 4).

Interviews suggested that the largest barrier to ARV access for Central African refugees and asylum seekers is the lack of confidentially procedures present in health facilities. While privacy remains a concern for HIV treatment for South African nationals, interviewees believed that nurses disregarded confidentiality procedures at a much higher rate for refugees and asylum seekers as a result of xenophobic attitudes that South Africans maintained in general in regards to ARV access among the refugee population. Informant A discussed her observations of how health staff address HIV treatment for refugees and asylum seekers accessing PHC in Durban. She explained, "Here the nurses are calling you by disease, not by your name. They will just say, ok you with HIV, just like that. There is absolutely no privacy for us" (Personal communication, November 14, 2011). Informant D highlighted, "It seems like if you are HIV positive you have to tell the whole world if you are a refugee here. In our country, the conversation between a doctor and a nurse is just between you and him. In South Africa, no" (Personal communication, November 14, 2011).

The lack of confidentiality coupled with existing stigma surrounding HIV in the Central African refugee community frequently acts as a barrier for refugees and asylum seekers to access

HIV treatment altogether. Informant A continued, "A person who is HIV positive will not go because they are sitting next to their neighbor or like that. See, in Congo HIV is considered a sickness for unbehaved people, so no one wants to identify. Refugees will not go for HIV treatment because they are afraid of the stigma. But this is a problem because HIV is a big fight. And if they are sick and not taking the pills, doing like that, they will lose" (Personal communication, November 14, 2011).

The lack of privacy procedures coupled with existing discriminatory attitudes reveals the urgent need for training of health staff on the provision of health services for refugees and asylum seekers, specifically providing directions that privacy procedures in place for South African nationals must also be applied to all migrant populations accessing PHC. Crush and Tawodzera explain:

> "Health workers who treat displaced persons are guided by the same principles that govern the treatment of any patient before them, irrespective of nationality or ethnic origin, which includes an intrinsic respect for human life and an oath to act in the patient's best interests when providing medical care." The guidelines further state that the role of health workers is "to act, within a legal framework, as advocates for access to health care, and not to restrict or ration care" and to treat patients in a manner that serve's the patient's best interests" (2011, p. 8).

In the case of refugees and asylum seekers, it is essential to ensure that health staff maintain strict confidentiality procedures regarding HIV testing and treatment. As noted by the interviewees, if privacy cannot be maintained, people will not seek HIV treatment because of such strong stigma existent in the refugee community. Thus, maintaining confidentiality procedures not only serve's the patient's best interests but also the wider South African population in stopping the spread of HIV.

9.5 Delays in Legal Documentation and Section 22 Permits from DHA

One of the largest barriers for refugees and asylum seekers accessing PHC in Durban is the requirement to provide legal docume43ntation or asylum permits issued by DHA. While national health directives define the need to provide PHC to any migrant, with or without legal documentation, refugees and asylum seekers are continually refused health services for not providing sufficient documentation. Thus, as long as refusal of services on the basis of legal documentation persists, delays in processing of asylum applications is an important issue that must be recognized as a barrier to refugee and asylum seeker's access to health services.

While police, health staff, immigration officials, and social service providers all play a role in the protection of refugee and asylum seekers' rights in South Africa, the responsibility of providing legal documentation for this specific group of migrants falls exclusively on the Department of Home affairs. Algotsson, and Klaaren highlight, "While the police serve various functions regarding the enforcement of immigration law, such as arrest and initial detention, the Department of Home Affairs retains ultimate responsibility for the granting of legal status to foreigners, the renewing of permits, and the deportation of undocumented migrants" (2011, p. 2).

The general process a migrant attempting to obtain asylum status is discussed in LHR's *Refugee Information Guide,* which aims to explain legal rights and procedures surrounding DHA's asylum application process. In addition, the guide aims to empower newly arrived refugees and asylum seekers to better advocate their legal rights in South Africa. When asylum seekers first arrive in South Africa, they are advised to lodge an asylum application as soon as possible to help avoid any type of detention by immigration officials for not being able to provide proper legal documentation. By law, DHA must accept all asylum applications, and will only later decide if the applicant's asylum claim is a legitimate to obtain refugee status in South Africa. The applicant will fill out a BI-1590 form and get finger printed, and after will receive a

Section 22 Permit.[4] DHA will then process the application and an interview will be scheduled, referred to as a status determination interview where the asylum seeker will be asked question about their specific claim to determine if the individual fulfills South Africa's definition of a refugee. After the interview, DHA will release their decision whether to approve or reject refugee status. LHR explains, "Section 22 permits are often valid for one or three months at a time. This means that you have to regularly renew your permit until your asylum claim has been finalised. It may take several months, even years, before you receive a final decision" (2009, p. 6). If DHA approves the asylum seeker's application, a Section 24 permit will then be issued, which officially recognizes an asylum seeker as a refugee entitled to a specific set of protection and rights.

However, through a volunteer position at LHR, it was evident that most asylum seekers were rejected by DHA, after officials decided individuals had an unfounded or manifestly unfounded refugee claim. In the case that an asylum seeker is rejected as unfounded, the individual claiming asylum has thirty days to lodge an appeal to the Refugee Appeal Board (RAB) or leave the country. Alternatively, if the asylum seeker is rejected as manifestly unfounded, the Standing Committee for Refugee Affairs (SCRA) will review the applicant's claim within fourteen days of rejection.

Landau explains, "Under the 1998 Refugees Act, the government is expected to adjudicate a claim within six months. In practice the adjudication process often takes much longer" (2006, p. 317). The learner's experience at LHR revealed that this time frame could be anywhere from eight months to years. Gee, Lervik, and Holst note, "South Africa has the world's highest number of pending asylum cases" (2010, p.2). And Landau further explains, "South

[4] All Section 22 permits refer to asylum permits exclusively.

Africa lacks the institutional pre-requisites for translating refugees' legal rights into true entitlements" (2006, p. 309). The processing of asylum applications in a six-month time period is such an instance when a legal right has most certainly not been an actual entitlement in practice.

Asylum seekers utilizing LHR's legal aid services often waited years before they had received an initial asylum decision granting or denying refugee status. During their waiting period they had sufficient time to establish livelihoods, housing, and relationships, making it much more difficult to leave the country if they were to be rejected years later for having an unfound claim, which seemed to be quite common However, asylum seekers were systematically denied the provision of social services during their waiting time period as well, including access to health care as a result of the inability to produce documentation. The waiting period included the time it took to simply *lodge* an initial asylum application, as many asylum seekers went to DHA for weeks and months to make an asylum application, leaving applicants with no form of permit whatsoever. Landau further explains, "Some wait for years. During this extended period asylum seekers remain in a state of limbo during which they may stay in the country, but can access few social services and receive almost no official or private assistance in finding employment. Delays in adjudicating asylum claims have also opened the process to widespread abuse" (2006, p. 318).

In addition, nurses in the reception areas of health facilities often disregarded or were not aware of the rights asylum permits rendered for PHC, often only accepting refugee status, or Section 24 Permits, as legitimate documentation for entitlement to health services. Richter and Vearey highlighted, "We have observed that hospital front line staff and their superiors refuse o are unable to recognize the asylum seeker permit, refugee permit, and the refugee identity document. Hospital staff is inclined to treat asylum seekers and refugees as ordinary foreign

patients. There have been occasions where they have refused to treat children of asylum seekers and refugees even if their parents were in possession of valid documents" (2008, p. 13).

One recurrent problem that asylum seekers sought legal advice was the inability to lodge an asylum claim. Despite the fact that, "according to the Refugees Act, no person may be denied the opportunity to apply for asylum" (LHR, 2009, p. 4), many asylum seekers were denied entrance to DHA by security guards and RROs. Clients at LHR recounted that they were refused an application on the basis that they lacked sufficient identification documents, such as a passport, birth certificate, etc., or could not produce border transit papers, even though domestic policy does not require the presentation of either of these types of documentation to apply for asylum status. As a result of strict border control notorious for turning away asylum seekers at land border crossings, many asylum seekers come through the porous border illegally, leaving many without border transit papers to present to DHA if they request those documents. Informant A explained, "We just jumped the fence by the Manguzi border. We went straight to Durban after that and then to home affairs. We had no identity papers or passports or like this" (Personal communication, November 14, 2011).

Reasons for the refusal of asylum applications may be insufficient training of employees at DHA on asylum policies, discriminatory attitudes towards foreigners that translate into the denial of immigration services, and attempts to limit the number of asylum applications from persons who have migrated for economic purposes, rather than for true refugee claims. Despite the large number of asylum applications filed and a general institutional inability to process such large numbers of asylum claims, refugees and asylum seekers lack ability to access health and social services because the provision of legal documentation is often required by service providers, regardless of policies set in place allowing services with or without the ability to

present Section 22 and 24 Permits. Delays in processing of asylum applications, as well as refusal to lodge an application altogether, is an important problem that must be addressed until far-reaching structural change diminishes discriminatory attitudes among staff in Durban health facilities, ensuring that refugees and asylums seekers receive the access to health services to which they are entitle by domestic and international law.

10. Recommendations to Improve Health Services for Refugees and Asylum Seekers

10.1 Training of Health Staff

Medical xenophobia, denial of services on the basis of legal documentation, refusal to use a common language and interpretation services, verbal abuse, and maintaining confidentiality in HIV testing and treatment are all areas of health service provision which can improved through the training of health staff in Durban PHC facilities. Informant F suggests, "Nurses must be informed that we are not here because we want to be. We are here because we must be here. We are suffering and we need help. We are not animals" (Personal communication, November 14, 2011). South Africa should model a training program after the 2008 World Health Assembly Resolution 61.17, which "calls upon member states to ensure the health of migrant populations, through a range of actions including: promoting migrant-sensitive health policies, promoting equitable access to health promotion, disease prevention and care for migrants…" (Vearey, ND, p. 18).

Specific training should be conducted first at the provincial level, where managers must be informed of the specific procedures for refugee and asylum seekers' rights to health services. The provincial training should include sessions that review the 1998 Refugees Act and the 2007 Health Directive that specifically gives refugees and asylum seekers rights to access health services at the same quality that South African nationals would access PHC. In addition,

managers should be provided with South Africa's 2007-2011 National Strategic Plan (NSP) for HIV & AIDS and STIs, which states that, "in early 2006, the National Department of Health (NDOH) issued a statement clarifying that patients do not need to be in possession of a South African identity booklet in order to access" (Vearey, ND, p. 19). In addition, a procedural manual should be distributed at the training similar to other manuals required to be visible for health staff and patients outlined in the Department of Health's *Primary Health Care Package for South Africa – a set of norms and standards.* The manual should include sections specifically addressing different types of migrant documentation and permits, rights to which refugees and asylum seekers are entitled, the required use of a common language, allowing of translators to enter the health facility and aid the patient in communication, rights of children and dependents of refugees and asylum seekers, special note to pre-existing psychological traumas, and procedures regarding the use of patient names, rather than disease when calling patients from public areas for consultation. Additionally, a special section should be dedicated to curbing verbal abuse from individual health staff maintaining xenophobic sentiments, diminishing the translation of discriminatory attitudes into public health facilities.

When asked what recommendations interviewees would advocate to improve their access and quality of PHC, informant A responded, "Nurses and doctors must learn how to deal with psychological trauma when treating patients in the refugee community and how to communicate with non-English speaking patients" (Personal communication, November 14, 2011). Informant B highlighted, "There can't be discrimination, and training should show nurses how to treat everyone the same. There must be more respect from nurses to all patients" (Personal communication, November 14, 2011). Informant D gave specific recommendations for confidentiality and privacy measures to be maintained in health facilities' reception areas. She

suggests, “A nurse must keep secrets, privacy, or it is demoralizing people” (Personal communication, November 14, 2011).

Once training has been completed for managers, training at the local level should take place immediately. Training should include all staff involved in the provision of health services in Durban PHC facilities and all staff participating in the training should meet a thorough understanding of the new manual. Managers should specifically address larger xenophobic sentiments present in South African society and express that individual discriminatory attitudes will not be tolerated in the provision of health services within the public sector.

The ultimate goal of training of health staff at the local level should be to ensure health services are equitable and accessible at all PHC facilities in Durban, making all facilities and staff accountable to the same standards. Informant E explained, “I went to the clinic and the nurse I saw was very encouraging and pleasant. It’s all by chance, it really just depends on the nurse you are seeing and luck” (Personal communication, November 14, 2011). Through training of all health staff, including employees in the reception areas, refugees and asylum seekers will receive more accessible and equitable PHC, eliminate verbal abuse, and ensure that no person is refused health services on the basis of legal documentation.

10.2 Addressing Xenophobia Through Public Awareness Campaigns

While training of health staff is a short-term solution to the provision of health services for refugees and asylum seekers, long-term structural change at the societal level must occur to address widespread discriminatory attitudes towards mainly black-African foreigners. Informant B suggested, “Structural change must happen to stop discrimination. There should be education and a big public awareness campaign talking about refugees” (Personal communication, November 14, 2011). Structural change should first be addressed in primary and secondary

schools in Durban with the implementation of a curriculum unit promoting cross-cultural understanding, dialogue, and interaction. Attempts to normalize relations between South African and foreign children should be implemented through integrated activities that promote these reconciliatory principles. In addition, organizations providing refugee assistance should plan and execute programs between South African and refugee communities, similar to a workshop provided by the KZNRC in KwaMashu that promoted dialogue between different cultures, nationalities, and socio-economic classes. Through workshops and education that promote dialogue and understanding, xenophobic sentiments and discriminatory attitudes between the South African and refugee communities in Durban will begin to be addressed at the societal level.

11. Practicum Component: Volunteer Position at Lawyers for Human Rights

11.1 Background of LHR

In 1996 LHR established a Refugee and Migrant Rights Program that “advocates, strengthens, and enforces the rights of asylum seekers, refugees, and other marginalized categories of migrants in South Africa" (*Refugee and Migrant Rights Programme,* n.d). The program consists of lawyers, a social worker, paralegals, administrators and interns with offices in Johannesburg, Pretoria, Durban, and Port Elizabeth. The learner’s volunteer position was completed in the Durban office, which focused on providing free legal aid to refugees, asylum seekers, and migrants wishing to obtain this type of immigration status. While some LHR offices provide services for deportation and detention, the Durban office focused it work mainly on helping refugees and asylum seekers navigate DHA policies, lodge appeals, explain legal rights and procedures, and uphold health, housing, employment, and social service rights. In cases where violations of rights occur, LHR assists clients through letters, correspondence,

communication assistance, and in some cases will open a formal case in the South African courts.

11.2 Refugee and Migrants Rights Program in Durban

Clients using LHR's services in Durban are limited to foreigners who wish to make or maintain an asylum claim. LHR provides free consulting services Monday thru Thursday between 8:30 a.m. and 12:30 p.m. During this time, clients may seek LHR services without an appointment. When a client enters the reception area, they are told to wait for the staff member or intern completing refugee intake forms. During the intake, the staff member inquires what the problem the client is experiencing, their immigration status, and what services they are seeking specifically. Copies of permits, legal documents, and any other supporting information for their specific case are made and compiled into a single file. The file is then distributed to the legal interns[5] or an attorney depending on the nature and complexity of the problem for which the client is seeking legal aid or advice. During the hours of 2:00 p.m. through 4:00 p.m., attorneys and legal interns are available by appointment only. These hours are most often used for clients needing ongoing legal aid or representation, legal research, and preparation for existing client cases, drafting of asylum appeals, and development of letters to aid clients whose rights have been violated.

11.3 The Learner's Role at LHR

The learner volunteered within LHR's Refugee Rights Program for three weeks (13.5 days), for a total of 108 hours. The learner was placed in the refugee reception area with the

[5] Legal interns at LHR have all completed necessary degrees to qualify them to give legal advice and services. Interns from abroad have often completed a graduate degree in legal studies, while South African interns usually refer to undergraduate students who are now completing their articles to become a fully qualified attorney.

central task of assisting in refugee intake. Refugee intake was completed by the learner by discussing the problem the client faced, evaluating whether LHR was the appropriate organization to assist the client with the problem, and either further refer the client to another organization in Durban that would assist the client or compile a file for the client to be seen by a lawyer at LHR. In addition, the learner was trained to provide instructions for clients, who lost their permits, were denied an asylum application from DHA who did not have the name of the DHA officer, and how to lodge a complaint about DHA or for an employment related matter. In a few instances, the lawyers at LHR assigned the learner to draft basic letter that clients would bring with them to DHA, hospitals, or the Department of Labour. However, these letters could not be shared in this paper as a result of client-attorney privilege regulations, a mechanism meant to protect the confidentiality of persons seeking legal aid. Finally, the learner completed basic office functions such as filing, copying, faxing, and answering phone calls.

The volunteer position allowed the learner to understand legal frameworks surrounding refugee issues and how refugees and asylum seekers go about obtaining resources to better understand and advocate their rights. Specifically, the learner was able to obtain a great deal of knowledge surrounding the legal requirements and processes refugees and asylum seekers must fulfill in Durban to obtain documentation, health services, street trading permits, and police protection. Through engagement with lawyers and informal discussions, the learner gathered contacts, engaged with refugees and asylum seekers, and had the opportunity to ask further questions about data gathered and general trends from colleagues that other clients experienced seeking health services. In addition, the volunteer position was an opportunity to address inconsistent information and ask questions about how to best go about obtaining information from the community in a responsible and sensitive manner towards possible psychological

trauma or fear of information sharing. Finally, informal discussions with lawyers at LHR allowed the learner to clarify any confusing aspects of the legal process and learn about common violations by officers at DHA and other public facilities, many of which have not been formally addressed at the national level.

11.4 Impressions of Organizational and Legal Support for Refugees and Asylum Seekers

Refugees and asylum seekers in Durban often arrive with little monetary resources and a strong support network. In addition, some speak minimal English and have little knowledge regarding the institutional and governmental policies regarding refugees and asylum seekers in South Africa. As discussed earlier, existing xenophobic attitudes among government officials and police has often resulted in the violation of refugee and asylum seekers' rights. By providing legal aid, distributing refugee information guides, and referring clients to other refugee aid organizations in Durban, LHR is able to achieve its objectives to advocate, strengthen, and enforce the rights of its clients, as well as empower clients to further protect their rights by simply providing them knowledge of what specific right they are entitled. The provision of legal aid allows refugees and asylum seekers' better understanding and ability to navigate DHA, social and health services, and a place to seek representation if legal rights have been seriously violated, which is unfortunately all too common for refugees and asylum seekers in Durban. While limited monetary and human resources prohibit LHR from providing legal representation and pursuing an active case for each client that enters the office, the provision of advice and knowledge surrounding policy and legal procedure effectively empowers clients to better navigate DHA and other governmental institutions.

12. Confidential Section

While LHR attempts to provide refugee and asylum seekers the legal advice and aid necessary to uphold their rights under this migration status, there are serious flaws among staff that inhibit the best possible provision of services. Although attorneys and administrative staff are clearly passionate about upholding refugee rights and empowering clients, specific staff members have become disillusioned and frustrated by DHA and the lack of institutional change that has occurred since the 1998 Refugees Act was implemented. As a result, many clients have been grouped in specific categories, such as from Bukavu, or "just a Zimbabwean," and have been denied the opportunity to explain why they qualify to make an asylum claim. Additional problems that the learner observed at LHR include shouting at clients in the reception area by administrative staff, general unwillingness to take extra measures for clients who have similar cases to other refugees and asylum seekers previously denied status, and the refusal to consult with clients who have legal cases, but ones that require extensive legal preparation, work, and litigation. While specific cases of individuals cannot be discussed in the confidential section of this paper because of attorney-client privilege to which the learner is obliged as a result of working within a legal environment, the learner strongly believes that despite particular staff's disillusionment and frustrations, each client should be treated as individual with a unique asylum claim. In addition, the learner strongly believes that if there is any possibility to assist a client in lodging an appeal, providing representation, or engaging in litigation because the client's rights have been violated that it is the duty of the attorney's to provide as much assistance as possible, given the usual amount of unoccupied time during afternoons which are most often afforded to individual staff's use of the internet for personal matters.

The most problematic issue at LHR is the treatment, and even refusal, of refugees and asylum seekers in the reception area where client intake is executed. Administrative staff that

work in reception are themselves South African nationals who despite working in the refugee aid field maintain particular xenophobic attitudes. On multiple occasions the learner witnessed administrative staff, none of which are attorneys, state to clients, “You don’t need to tell me your story. You don’t have a claim and we can’t help you. You’re here to make money and take jobs.” The learner observed that this particular statement and similar statements directed at Zimbabweans, Tanzanians, and Malawians who are generally rejected status because they are found to be migrating for economic purposes. However, administrative staff, just as DHA officials and RROs, cannot determine an individual’s asylum claim as legitimate or erroneous based on nationality alone without giving the individual opportunity to explain why they have a legitimate claim to asylum.

The learner also found that attorney’s frequently denied clients legal representation and extensive services including the drafting of letters and formal appeals based on LHR interviews, and formal legal notification to individuals responsible for the violation of refugee and asylum seekers rights that would be followed with legal action if the problem remained unresolved. Reasons for denial of these services were often cited as, “this client is the same as others. He/she does not have a strong case and the likelihood that legal action will actually help is quite small.” However, one legal intern frequently argued with senior staff that clients should at least be afforded the opportunity to be given legal services, representation, or any service provision that has even the smallest possibility to help the client’s specific situation. Like the legal intern, the learner feels that since there was visibly unused time during the workday and that staff should utilize this time to provide clients will all possible legal options.

Finally, administrative staff often required clients to return to LHR on another day when the firm could provide services for the client with for the sole reason that staff in reception did

not want to compile more difficult cases during busy mornings. However, requiring the client to return often meant that the individual would have to not only take time off formal or informal employment, but would also often spend money on transportation to LHR. Additionally, clients that sought services who had expired permits, or even no permit at all, risked walking busy and well-policed city streets to return to LHR. This put certain clients at risk for arrest, detention, and even deportation.

13. Conclusions

Through the methodologies employed, the learner was able to understand the provision of health services to refugees and asylum seekers in Durban, what requirements this specific groups of migrants had to fulfill in order to access PHC, and the realities of accessibility and quality of health services, despite policies and procedures defined at the national level. The learner found a variety of barriers to access to health services, in addition to the refusal of PHC altogether in some cases. Barriers to accessibility and quality of health services included medical xenophobia among individual health staff, denial of services based on legal documentation, verbal abuse and discriminatory statements, refusal of interpretation services, confidentiality procedures in HIV treatment, and delays in processing of asylum applications at DHA. Additionally, the findings and analysis of the learner allowed the development of specific recommendations for health staff and educators to aid in the promotion of understanding and reconciliation between South African and refugee communities in Durban.

While secondary sources provided large-scale studies and evidence of health service provision at the national level, individual experiences obtained through formal interviews shed light on the specific situations that refugees and asylum seekers face when accessing health services in Durban health facilities. Where fears of xenophobic violence exists within the refugee

and asylum seeking community both within Durban and the larger South African migrant community, refugees and asylum seekers have had little opportunity to formally complain about their experiences accessing PHC. While this paper was limited in the volume of interviews conducted, qualitative and experiential data was obtained that allowed informants to discuss their actual experiences. The documentation of informants' experiences through integration into a learnership project allows grievances to be aired anonymously without the fear of xenophobic backlash for "causing trouble" in their host country.

For informants who have experienced traumatic incidents, such as the death of a child or verbal abuse during childbirth, discussing their specific stories as refugees or asylum seekers accessing PHC allowed some interviewees a sense of justice in the sense that academics, experts, and students are beginning to mark refugee rights in South Africa as a national priority. In addition, it provides an opportunity for refugees and asylum seekers to make their own recommendations to health service providers and facilities based on their experiences. Most importantly, the final product of this learnership empowered interviewees by using their recommendations to contribute to a larger dialogue surrounding refugee rights in South Africa.

Implications of the learnership include contribution to a larger national dialogue on refugee rights and reporting of individual experiences that would not have been known due to a general unwillingness to lodge complaints. In addition, the learnership provides foundations for further studies on refugee and asylum seekers access to health and social services in Durban, providing a general framework for research conducted that allows more time and resources to access multiple refugee communities in the area. The experiential based approach of this learnership provides an alternative method for data collection that is taking place within the field of migration and refugee studies where refugees and asylum seekers themselves have a place to

make recommendations and contribute to future policy and procedure that will ultimately effect themselves, their children, and their wider refugee network.

14. Recommendations for Further Study

Despite efforts at the national level to address the problems refugees and asylum seekers face when accessing health services, individuals seeking PHC in South Africa continually experience strong xenophobic sentiments and the denial of services by health staff. While this learnership fulfilled objectives of understanding the nature of the problem and finding specific experiences of refugees and asylum seekers in Durban, limitations including insufficient time, resources, transportation, and the integration into a variety of competing refugee networks resulted in the ability to solely investigate Central Africans' experiences and a data set specific to one group of refugees and asylum seekers. However, access to PHC comparable to services provided for South African citizens remains a human right defined in both international and domestic policy and further studies should investigate methods on how to inspire structural change that eliminates the entrance of discriminatory attitudes among staff in health facilities. Future studies should investigate how different refugee communities experience health services, comparative experiences between health service provision in refugees and asylum seekers' country of origin and South Africa, what specific training would be most effective in providing knowledge of refugee rights to health staff, and how to best address the existence of prominent discriminatory attitudes at the societal levels through education, reconciliation, dialogue, and cross-cultural communication. Finally, methodologies employed in future studies should include formal interviews of all refugee communities in Durban to produce these recommendations that this learnership did not have the capability to include.

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Appendix 1: Interview Questions to Refugees and Asylum Seekers

1. Biographical Information of Refugees and Asylum Seekers
    - 1.1 Where were you born and what year?
    - 1.2 How many years did you remain in that country?
    - 1.3 What were your experiences of health services in your country of origin?
    - 1.4 Did you have any pre-existing health problems before immigrating to South Africa, and if so, how were you treated?
    - 1.5 Did you spend any time in another foreign country as a refugee, illegal migrant, or temporary resident?
    - 1.6 If so, what did your stay in that country entail?

2. Migration to South Africa
    - 2.1 When and how did you decide to come to South Africa?
    - 2.2 What means of transportation did you use to enter South Africa?
    - 2.3 Did any family or friends accompany you to South Africa?
    - 2.4 Did you obtain permission from the government to enter South Africa prior to entering the borders?
    - 2.5 Where did you live when you first arrived in South Africa?
    - 2.6 How did you generate income when you first arrived in South Africa?
    - 2.7 How did find yourself in Durban and what have been your experiences in Durban compared to other places in South Africa?

3. Life in South Africa as a Refugee or Asylum Seeker

3.1 Can you describe your positive and negative experiences as a resident in South Africa?

3.2 Do you feel equal to South African nationals and how have South African nationals treated you compared to citizens of your home country?

- 1.1 Can you describe your positive and negative experiences as a resident in South Africa?
- 1.2 Do you feel equal to South African nationals and how have South African nationals treated you compared to citizens of your home country?
- 1.3 Were you given information that you could easily understand on your rights in South Africa and how to advocate for those rights?
- 1.4 Have you faced bureaucratic challenges since entering South Africa?
- 1.5 Have you ever had any medical problems in which you wanted to see a community health worker, nurse, doctor, or obtain medication?
- 1.6 If so, how did you obtain these services?
- 1.7 What was your experience in obtaining these services?
- 1.8 Were these services equal to the quality that South African nationals receive?
- 1.9 Were you required to wait until South African nationals received care before you were granted consultation?
- 1.10 Has health staff ever refused to use common language or translators?

1.11 Have you experienced verbal abuse, insults, or xenophobic statements during a consultation or treatment?
1.12 Have you been required to present papers of legal status when trying to obtain health services?
1.13 Have you ever had an emergency medical situation?
1.14 If so, were you granted immediate treatment? Did you have to produce papers for free treatment?
1.15 What was the quality of the emergency care?
1.16 Did you experience any fear of immigration detention for failing to produce proper papers?
1.17 Do you receive any support or guidance from organizations or legal aid firms on accessing health services?
1.18 If so, which ones and how do they help you?
1.19 What ways do you think the South African government can improve your access to health and social services?
1.20 What bureaucratic changes do you feel are necessary to ensure you receive the treatment and care for which you are entitled by national and international law?

Appendix 2: Site Approval

Student Name: Cathy Kaplan

World Learning
SIT Study Abroad

ILP Site Information

Reminder: During ILP, we need to know how to get in touch with you **at all times**.

This document needs to be approved by the AD before you will be permitted to begin your ILP. In addition, you may not travel to any destination other than what is listed below without getting permission from the AD first. Please also indicate the places you will be staying, contact names, phone numbers, addresses or PO Box numbers, email addresses, and fax numbers (if applicable) during ILP.

Longer distance Travel date(s)	Destination	Mode of travel: bus, train, airline (with flights, times)	Contact Information (phone, email, travel companion, people you are staying with)
November 1, 2011	Windemere Flats, Durban	N/A	Aly Azhar- 0837001537 Abby Tapper-0837001491 Talia Lopez- 0837002756

And Brief description of daily travel from destination site/s above to work/interview sites.

Daily travel to (site name)	Describe modes and distances of tran	Daily Departure and Return Times
Lawyers for Human Rights	People Mover, 10 minute bus ride	Departure: 7:30 am Return: 4:00 pm
Interviewee Sites	People Mover, Mini Bus, Taxi	Departure: varies Return: 4:00 pm

CALL-IN DATES:
Every Monday and Thursday students must text the words, " I'm safe and my ISP is going fine" to Candice on 0825700348 by 5pm

1. Note that the Candice will be awaiting your calls on the designated call-in dates and will be concerned for you if no call is received.
2. A reminder: Certain activities deemed potentially dangerous to individual safety and program integrity are not permitted and are grounds for dismissal. These include, but are not limited to, motorcycling, hitchhiking, driving, parachuting, bungee-jumping, hang-gliding, riding in private airplanes, rock climbing, white water rafting, and scuba diving. Nor are you permitted to leave the country.

Dated: October 24, 2011 Student Signature: Cathy Kaplan

Any changes to this travel form must be agreed by the AD before travel

Consent Forms for Adult Respondents in English were explained at the beginning of the interview. In the case where informants spoke only French or Swahili, the translator explained the document thoroughly. The learner has all signed form in her possession that can be provided in the case of ethical review of this paper.

Appendix 3: Consent Form For Adult Respondents in English

Informant A

I can read English. (If not, but can read Zulu or Afrikaans, please supply). If participant cannot read, the onus is on the researcher to ensure that the quality of consent is nonetheless without reproach.

I have read the information about this learnership project and had it explained to me, and I fully understand what it says. I understand that this learnership is trying to find out (***Learner to state objectives***):

The goal of this learnership is to gain understanding of refugee and asylum seekers' access to health services in Durban, ultimately allowing the development of recommendations of how this specific population can better advocate its rights in the provision of government funded services. The learner will be volunteering with Lawyer's for Human Rights, specifically within its Refugee Program to observe the legal aid process, provide any necessary organizational support, and gain more insight into the services refugees and asylum seekers receive compared to those which they are legally entitled by national and international law. Lawyers for Human Rights' Refugee Program aims to, instruct refugees and asylum seekers on their rights to health and social services in South Africa represent individuals who have experienced violations of their rights when utilizing these services, and providing legal advice for everyday problems this population faces. In addition, the learner will interview experts, refugees and asylum seekers, and lawyers to attain information on personal experiences in the provision of health and social services in Durban, as well as how this population can ensure acceptable provision of services to which they are eligible. This hybrid social and practicum learnership is significant because it will explore the provision of health and social services to an already marginalized population in South Africa. Insights gained into how service provision can be improved for refugees and asylum seekers will help promote a human rights based approach to refugee and asylum seekers absorption and adherence to international conventions on refugee protection

I understand that my participation is voluntary and that I have a right to withdraw my consent to participate at any time without penalty.

I understand and am willing for you to ask me questions about: (***Learner to indicate what questions will be asked***)

Specific Questions to Informants

1 *Biographical Information of Refugees and Asylum Seekers*
2 *Migration to South Africa of Refugees and Asylum Seekers*
2.1 When and how did you decide to come to South Africa?
2.2 What means of transportation did you use to enter South Africa?
2.3 Did any family or friends accompany you to South Africa?
2.4 Did you obtain permission from the government to enter South Africa prior to entering the borders?
2.5 Where did you live when you first arrived in South Africa?

2.6 How did you generate income when you first arrived in South Africa?
2.7 How did find yourself in Durban and what have been your experiences in Durban compared to other places in South Africa?

3 *Life in South Africa as a Refugee*
3.1Can you describe your positive and negative experiences as a resident in South Africa?
3.2 Do you feel equal to South African nationals and how have South African nationals treated you compared to citizens of your home country?
3.3 Were you given information that you could easily understand on your rights in South Africa and how to advocate for those rights?
3.4 Have you faced bureaucratic challenges since entering South Africa?
3.5 Have you ever had any medical problems in which you wanted to see a community health worker, nurse, doctor, or obtain medication?
3.5.1 If so, how did you obtain these services? What was your experience in obtaining these services? Were these services equal to the quality that South African nationals receive? Were you required to wait until South African nationals received care before you were granted consultation? Has health staff ever refused to use common language or translators? Have you experienced verbal abuse, insults, or xenophobic statements during a consultation or treatment? Have you had difficulty understanding medication instructions when prescribed?
3.6 Have you been required to present papers of legal status when trying to obtain health services?
3.7 Have you ever had an emergency medical situation?
3.7.1 If so, were you granted immediate treatment?
3.7.2 Did you have to produce papers for free treatment?
3.7.3 What was the quality of the emergency care?
3.7.4 Did you experience any fear of immigration detention for failing to produce proper papers?
3.8 Are you eligible for any government sponsored social grants?
3.8.1 If so, which ones?
3.8.2 How did you go about receiving these grants?
3.8.3 What bureaucratic barriers did you experience when applying for these grants?
3.9 Do you receive any support or guidance from NGOs in the areas?
3.9.1 If so, which ones and how do they help you?
3.10 What ways do you think the South African government can improve your access to health and social services?
3.11 What bureaucratic changes do you feel are necessary to ensure you receive the treatment and care for which you are entitled by national and international law?

I **do** require that my **identity (and name)** be kept secret**.** I understand that, if requested, my name will not be written on any questionnaire and that no one will be able to link my name to the answers I give. If requested, my individual privacy will be maintained in all published and written data resulting from this learnership project.

I **do not** give permission for a **photograph** of me to be used in the writeup of this learnership or for future publication. I understand that the learner will not use or provide any photographs for commercial purposes or publication without my permission.

I understand that I will receive a copy of the final learnership project, which provides information on how individuals can better advocate their rights for health services.

I confirm that the learner has given me the address of the nearest School for International Training Study Abroad Office should I wish to go there for information. (18 Alton Road, Glenmore, Durban).
I know that if I have any questions or complaints about this learnership that I can contact anonymously, if I wish, the Director/s of the SIT South Africa Community Health Program (Zed McGladdery 0846834982).

I agree to participate in this learnership project.

Signature (participant)_____ (Signature Held)_____ Date:_November 14, 2011

Signature (learner)__ *Cathy Kaplan*_____ Date:_November 14, 2011

Appendix 3: Consent Form For Adult Respondents in English

Informant B

I can read English. (If not, but can read Zulu or Afrikaans, please supply). If participant cannot read, the onus is on the researcher to ensure that the quality of consent is nonetheless without reproach.

I have read the information about this learnership project and had it explained to me, and I fully understand what it says. I understand that this learnership is trying to find out (***Learner to state objectives***):

The goal of this learnership is to gain understanding of refugee and asylum seekers' access to health services in Durban, ultimately allowing the development of recommendations of how this specific population can better advocate its rights in the provision of government funded services. The learner will be volunteering with Lawyer's for Human Rights, specifically within its Refugee Program to observe the legal aid process, provide any necessary organizational support, and gain more insight into the services refugees and asylum seekers receive compared to those which they are legally entitled by national and international law. Lawyers for Human Rights' Refugee Program aims to, instruct refugees and asylum seekers on their rights to health and social services in South Africa represent individuals who have experienced violations of their rights when utilizing these services, and providing legal advice for everyday problems this population faces. In addition, the learner will interview experts, refugees and asylum seekers, and lawyers to attain information on personal experiences in the provision of health and social services in Durban, as well as how this population can ensure acceptable provision of services to which they are eligible. This hybrid social and practicum learnership is significant because it will explore the provision of health and social services to an already marginalized population in South Africa. Insights gained into how service provision can be improved for refugees and asylum seekers will help promote a human rights based approach to refugee and asylum seekers absorption and adherence to international conventions on refugee protection

I understand that my participation is voluntary and that I have a right to withdraw my consent to participate at any time without penalty.

I understand and am willing for you to ask me questions about: (***Learner to indicate what questions will be asked***)

Specific Questions to Informants

1 *Biographical Information of Refugees and Asylum Seekers*
2 *Migration to South Africa of Refugees and Asylum Seekers*
- 2.1 When and how did you decide to come to South Africa?
- 2.2 What means of transportation did you use to enter South Africa?
- 2.3 Did any family or friends accompany you to South Africa?
- 2.4 Did you obtain permission from the government to enter South Africa prior to entering the borders?
- 2.5 Where did you live when you first arrived in South Africa?

2.6 How did you generate income when you first arrived in South Africa?
2.7 How did find yourself in Durban and what have been your experiences in Durban compared to other places in South Africa?

3 *Life in South Africa as a Refugee*
3.1Can you describe your positive and negative experiences as a resident in South Africa?
3.2 Do you feel equal to South African nationals and how have South African nationals treated you compared to citizens of your home country?
3.3 Were you given information that you could easily understand on your rights in South Africa and how to advocate for those rights?
3.4 Have you faced bureaucratic challenges since entering South Africa?
3.5 Have you ever had any medical problems in which you wanted to see a community health worker, nurse, doctor, or obtain medication?
3.5.1 If so, how did you obtain these services? What was your experience in obtaining these services? Were these services equal to the quality that South African nationals receive? Were you required to wait until South African nationals received care before you were granted consultation? Has health staff ever refused to use common language or translators? Have you experienced verbal abuse, insults, or xenophobic statements during a consultation or treatment? Have you had difficulty understanding medication instructions when prescribed?
3.6 Have you been required to present papers of legal status when trying to obtain health services?
3.7 Have you ever had an emergency medical situation?
3.7.1 If so, were you granted immediate treatment?
3.7.2 Did you have to produce papers for free treatment?
3.7.3 What was the quality of the emergency care?
3.7.4 Did you experience any fear of immigration detention for failing to produce proper papers?
3.8 Are you eligible for any government sponsored social grants?
3.8.1 If so, which ones?
3.8.2 How did you go about receiving these grants?
3.8.3 What bureaucratic barriers did you experience when applying for these grants?
3.9 Do you receive any support or guidance from NGOs in the areas?
3.9.1 If so, which ones and how do they help you?
3.10 What ways do you think the South African government can improve your access to health and social services?
3.11 What bureaucratic changes do you feel are necessary to ensure you receive the treatment and care for which you are entitled by national and international law?

I **do** require that my **identity (and name)** be kept secret**.** I understand that, if requested, my name will not be written on any questionnaire and that no one will be able to link my name to the answers I give. If requested, my individual privacy will be maintained in all published and written data resulting from this learnership project.

I **do not** give permission for a **photograph** of me to be used in the writeup of this learnership or for future publication. I understand that the learner will not use or provide any photographs for commercial purposes or publication without my permission.

I understand that I will receive a copy of the final learnership project, which provides information on how individuals can better advocate their rights for health services.

I confirm that the learner has given me the address of the nearest School for International Training Study Abroad Office should I wish to go there for information. (18 Alton Road, Glenmore, Durban).
I know that if I have any questions or complaints about this learnership that I can contact anonymously, if I wish, the Director/s of the SIT South Africa Community Health Program (Zed McGladdery 0846834982).

I agree to participate in this learnership project.

Signature (participant)_____ (Signature Held)_____ Date:_November 14, 2011

Signature (learner)__ *Cathy Kaplan*_____ Date:_November 14, 2011

Appendix 3: Consent Form For Adult Respondents in English

Informant C

I can read English. (If not, but can read Zulu or Afrikaans, please supply). If participant cannot read, the onus is on the researcher to ensure that the quality of consent is nonetheless without reproach.

I have read the information about this learnership project and had it explained to me, and I fully understand what it says. I understand that this learnership is trying to find out (***Learner to state objectives***):

The goal of this learnership is to gain understanding of refugee and asylum seekers' access to health services in Durban, ultimately allowing the development of recommendations of how this specific population can better advocate its rights in the provision of government funded services. The learner will be volunteering with Lawyer's for Human Rights, specifically within its Refugee Program to observe the legal aid process, provide any necessary organizational support, and gain more insight into the services refugees and asylum seekers receive compared to those which they are legally entitled by national and international law. Lawyers for Human Rights' Refugee Program aims to, instruct refugees and asylum seekers on their rights to health and social services in South Africa represent individuals who have experienced violations of their rights when utilizing these services, and providing legal advice for everyday problems this population faces. In addition, the learner will interview experts, refugees and asylum seekers, and lawyers to attain information on personal experiences in the provision of health and social services in Durban, as well as how this population can ensure acceptable provision of services to which they are eligible. This hybrid social and practicum learnership is significant because it will explore the provision of health and social services to an already marginalized population in South Africa. Insights gained into how service provision can be improved for refugees and asylum seekers will help promote a human rights based approach to refugee and asylum seekers absorption and adherence to international conventions on refugee protection

I understand that my participation is voluntary and that I have a right to withdraw my consent to participate at any time without penalty.

I understand and am willing for you to ask me questions about: (***Learner to indicate what questions will be asked***)

Specific Questions to Informants

1 *Biographical Information of Refugees and Asylum Seekers*
2 *Migration to South Africa of Refugees and Asylum Seekers*
- 2.1 When and how did you decide to come to South Africa?
- 2.2 What means of transportation did you use to enter South Africa?
- 2.3 Did any family or friends accompany you to South Africa?
- 2.4 Did you obtain permission from the government to enter South Africa prior to entering the borders?
- 2.5 Where did you live when you first arrived in South Africa?

2.6 How did you generate income when you first arrived in South Africa?
2.7 How did find yourself in Durban and what have been your experiences in Durban compared to other places in South Africa?

3 *Life in South Africa as a Refugee*
3.1Can you describe your positive and negative experiences as a resident in South Africa?
3.2 Do you feel equal to South African nationals and how have South African nationals treated you compared to citizens of your home country?
3.3 Were you given information that you could easily understand on your rights in South Africa and how to advocate for those rights?
3.4 Have you faced bureaucratic challenges since entering South Africa?
3.5 Have you ever had any medical problems in which you wanted to see a community health worker, nurse, doctor, or obtain medication?
3.5.1 If so, how did you obtain these services? What was your experience in obtaining these services? Were these services equal to the quality that South African nationals receive? Were you required to wait until South African nationals received care before you were granted consultation? Has health staff ever refused to use common language or translators? Have you experienced verbal abuse, insults, or xenophobic statements during a consultation or treatment? Have you had difficulty understanding medication instructions when prescribed?
3.6 Have you been required to present papers of legal status when trying to obtain health services?
3.7 Have you ever had an emergency medical situation?
3.7.1 If so, were you granted immediate treatment?
3.7.2 Did you have to produce papers for free treatment?
3.7.3 What was the quality of the emergency care?
3.7.4 Did you experience any fear of immigration detention for failing to produce proper papers?
3.8 Are you eligible for any government sponsored social grants?
3.8.1 If so, which ones?
3.8.2 How did you go about receiving these grants?
3.8.3 What bureaucratic barriers did you experience when applying for these grants?
3.9 Do you receive any support or guidance from NGOs in the areas?
3.9.1 If so, which ones and how do they help you?
3.10 What ways do you think the South African government can improve your access to health and social services?
3.11 What bureaucratic changes do you feel are necessary to ensure you receive the treatment and care for which you are entitled by national and international law?

I **do** require that my **identity (and name)** be kept secret**.** I understand that, if requested, my name will not be written on any questionnaire and that no one will be able to link my name to the answers I give. If requested, my individual privacy will be maintained in all published and written data resulting from this learnership project.

I **do not** give permission for a **photograph** of me to be used in the writeup of this learnership or for future publication. I understand that the learner will not use or provide any photographs for commercial purposes or publication without my permission.

I understand that I will receive a copy of the final learnership project, which provides information on how individuals can better advocate their rights for health services.

I confirm that the learner has given me the address of the nearest School for International Training Study Abroad Office should I wish to go there for information. (18 Alton Road, Glenmore, Durban).
I know that if I have any questions or complaints about this learnership that I can contact anonymously, if I wish, the Director/s of the SIT South Africa Community Health Program (Zed McGladdery 0846834982).

I agree to participate in this learnership project.

Signature (participant)_____ (Signature Held)_____ Date:_November 14, 2011

Signature (learner)__ *Cathy Kaplan*_____ Date:_November 14, 2011

Appendix 3: Consent Form For Adult Respondents in English

Informant D

I can read English. (If not, but can read Zulu or Afrikaans, please supply). If participant cannot read, the onus is on the researcher to ensure that the quality of consent is nonetheless without reproach.

I have read the information about this learnership project and had it explained to me, and I fully understand what it says. I understand that this learnership is trying to find out (***Learner to state objectives***):

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I understand that my participation is voluntary and that I have a right to withdraw my consent to participate at any time without penalty.

I understand and am willing for you to ask me questions about: (***Learner to indicate what questions will be asked***)

Specific Questions to Informants

1 *Biographical Information of Refugees and Asylum Seekers*
2 *Migration to South Africa of Refugees and Asylum Seekers*
- 2.1 When and how did you decide to come to South Africa?
- 2.2 What means of transportation did you use to enter South Africa?
- 2.3 Did any family or friends accompany you to South Africa?
- 2.4 Did you obtain permission from the government to enter South Africa prior to entering the borders?
- 2.5 Where did you live when you first arrived in South Africa?

2.6 How did you generate income when you first arrived in South Africa?
2.7 How did find yourself in Durban and what have been your experiences in Durban compared to other places in South Africa?

3 *Life in South Africa as a Refugee*
3.1Can you describe your positive and negative experiences as a resident in South Africa?
3.2 Do you feel equal to South African nationals and how have South African nationals treated you compared to citizens of your home country?
3.3 Were you given information that you could easily understand on your rights in South Africa and how to advocate for those rights?
3.4 Have you faced bureaucratic challenges since entering South Africa?
3.5 Have you ever had any medical problems in which you wanted to see a community health worker, nurse, doctor, or obtain medication?
3.5.1 If so, how did you obtain these services? What was your experience in obtaining these services? Were these services equal to the quality that South African nationals receive? Were you required to wait until South African nationals received care before you were granted consultation? Has health staff ever refused to use common language or translators? Have you experienced verbal abuse, insults, or xenophobic statements during a consultation or treatment? Have you had difficulty understanding medication instructions when prescribed?
3.6 Have you been required to present papers of legal status when trying to obtain health services?
3.7 Have you ever had an emergency medical situation?
3.7.1 If so, were you granted immediate treatment?
3.7.2 Did you have to produce papers for free treatment?
3.7.3 What was the quality of the emergency care?
3.7.4 Did you experience any fear of immigration detention for failing to produce proper papers?
3.8 Are you eligible for any government sponsored social grants?
3.8.1 If so, which ones?
3.8.2 How did you go about receiving these grants?
3.8.3 What bureaucratic barriers did you experience when applying for these grants?
3.9 Do you receive any support or guidance from NGOs in the areas?
3.9.1 If so, which ones and how do they help you?
3.10 What ways do you think the South African government can improve your access to health and social services?
3.11 What bureaucratic changes do you feel are necessary to ensure you receive the treatment and care for which you are entitled by national and international law?

I **do** require that my **identity (and name)** be kept secret**.** I understand that, if requested, my name will not be written on any questionnaire and that no one will be able to link my name to the answers I give. If requested, my individual privacy will be maintained in all published and written data resulting from this learnership project.

I **do not** give permission for a **photograph** of me to be used in the writeup of this learnership or for future publication. I understand that the learner will not use or provide any photographs for commercial purposes or publication without my permission.

I understand that I will receive a copy of the final learnership project, which provides information on how individuals can better advocate their rights for health services.

I confirm that the learner has given me the address of the nearest School for International Training Study Abroad Office should I wish to go there for information. (18 Alton Road, Glenmore, Durban).
I know that if I have any questions or complaints about this learnership that I can contact anonymously, if I wish, the Director/s of the SIT South Africa Community Health Program (Zed McGladdery 0846834982).

I agree to participate in this learnership project.

Signature (participant)_____ (Signature Held)_____ Date:_November 14, 2011

Signature (learner)__ *Cathy Kaplan*_____ Date:_November 14, 2011

Appendix 3: Consent Form For Adult Respondents in English

Informant E

I can read English. (If not, but can read Zulu or Afrikaans, please supply). If participant cannot read, the onus is on the researcher to ensure that the quality of consent is nonetheless without reproach.

I have read the information about this learnership project and had it explained to me, and I fully understand what it says. I understand that this learnership is trying to find out (***Learner to state objectives***):

The goal of this learnership is to gain understanding of refugee and asylum seekers' access to health services in Durban, ultimately allowing the development of recommendations of how this specific population can better advocate its rights in the provision of government funded services. The learner will be volunteering with Lawyer's for Human Rights, specifically within its Refugee Program to observe the legal aid process, provide any necessary organizational support, and gain more insight into the services refugees and asylum seekers receive compared to those which they are legally entitled by national and international law. Lawyers for Human Rights' Refugee Program aims to, instruct refugees and asylum seekers on their rights to health and social services in South Africa represent individuals who have experienced violations of their rights when utilizing these services, and providing legal advice for everyday problems this population faces. In addition, the learner will interview experts, refugees and asylum seekers, and lawyers to attain information on personal experiences in the provision of health and social services in Durban, as well as how this population can ensure acceptable provision of services to which they are eligible. This hybrid social and practicum learnership is significant because it will explore the provision of health and social services to an already marginalized population in South Africa. Insights gained into how service provision can be improved for refugees and asylum seekers will help promote a human rights based approach to refugee and asylum seekers absorption and adherence to international conventions on refugee protection

I understand that my participation is voluntary and that I have a right to withdraw my consent to participate at any time without penalty.

I understand and am willing for you to ask me questions about: (***Learner to indicate what questions will be asked***)

Specific Questions to Informants

1 *Biographical Information of Refugees and Asylum Seekers*
2 *Migration to South Africa of Refugees and Asylum Seekers*
- 2.1 When and how did you decide to come to South Africa?
- 2.2 What means of transportation did you use to enter South Africa?
- 2.3 Did any family or friends accompany you to South Africa?
- 2.4 Did you obtain permission from the government to enter South Africa prior to entering the borders?
- 2.5 Where did you live when you first arrived in South Africa?

2.6 How did you generate income when you first arrived in South Africa?
2.7 How did find yourself in Durban and what have been your experiences in Durban compared to other places in South Africa?

3 *Life in South Africa as a Refugee*
3.1Can you describe your positive and negative experiences as a resident in South Africa?
3.2 Do you feel equal to South African nationals and how have South African nationals treated you compared to citizens of your home country?
3.3 Were you given information that you could easily understand on your rights in South Africa and how to advocate for those rights?
3.4 Have you faced bureaucratic challenges since entering South Africa?
3.5 Have you ever had any medical problems in which you wanted to see a community health worker, nurse, doctor, or obtain medication?
3.5.1 If so, how did you obtain these services? What was your experience in obtaining these services? Were these services equal to the quality that South African nationals receive? Were you required to wait until South African nationals received care before you were granted consultation? Has health staff ever refused to use common language or translators? Have you experienced verbal abuse, insults, or xenophobic statements during a consultation or treatment? Have you had difficulty understanding medication instructions when prescribed?
3.6 Have you been required to present papers of legal status when trying to obtain health services?
3.7 Have you ever had an emergency medical situation?
3.7.1 If so, were you granted immediate treatment?
3.7.2 Did you have to produce papers for free treatment?
3.7.3 What was the quality of the emergency care?
3.7.4 Did you experience any fear of immigration detention for failing to produce proper papers?
3.8 Are you eligible for any government sponsored social grants?
3.8.1 If so, which ones?
3.8.2 How did you go about receiving these grants?
3.8.3 What bureaucratic barriers did you experience when applying for these grants?
3.9 Do you receive any support or guidance from NGOs in the areas?
3.9.1 If so, which ones and how do they help you?
3.10 What ways do you think the South African government can improve your access to health and social services?
3.11 What bureaucratic changes do you feel are necessary to ensure you receive the treatment and care for which you are entitled by national and international law?

I **do** require that my **identity (and name)** be kept secret**.** I understand that, if requested, my name will not be written on any questionnaire and that no one will be able to link my name to the answers I give. If requested, my individual privacy will be maintained in all published and written data resulting from this learnership project.

I **do not** give permission for a **photograph** of me to be used in the writeup of this learnership or for future publication. I understand that the learner will not use or provide any photographs for commercial purposes or publication without my permission.

I understand that I will receive a copy of the final learnership project, which provides information on how individuals can better advocate their rights for health services.

I confirm that the learner has given me the address of the nearest School for International Training Study Abroad Office should I wish to go there for information. (18 Alton Road, Glenmore, Durban).
I know that if I have any questions or complaints about this learnership that I can contact anonymously, if I wish, the Director/s of the SIT South Africa Community Health Program (Zed McGladdery 0846834982).

I agree to participate in this learnership project.

Signature (participant)_____ (Signature Held)_____ Date:_November 14, 2011

Signature (learner)__ *Cathy Kaplan*_____ Date:_November 14, 2011

Appendix 3: Consent Form For Adult Respondents in English

Informant F

I can read English. (If not, but can read Zulu or Afrikaans, please supply). If participant cannot read, the onus is on the researcher to ensure that the quality of consent is nonetheless without reproach.

I have read the information about this learnership project and had it explained to me, and I fully understand what it says. I understand that this learnership is trying to find out (***Learner to state objectives***):

The goal of this learnership is to gain understanding of refugee and asylum seekers' access to health services in Durban, ultimately allowing the development of recommendations of how this specific population can better advocate its rights in the provision of government funded services. The learner will be volunteering with Lawyer's for Human Rights, specifically within its Refugee Program to observe the legal aid process, provide any necessary organizational support, and gain more insight into the services refugees and asylum seekers receive compared to those which they are legally entitled by national and international law. Lawyers for Human Rights' Refugee Program aims to, instruct refugees and asylum seekers on their rights to health and social services in South Africa represent individuals who have experienced violations of their rights when utilizing these services, and providing legal advice for everyday problems this population faces. In addition, the learner will interview experts, refugees and asylum seekers, and lawyers to attain information on personal experiences in the provision of health and social services in Durban, as well as how this population can ensure acceptable provision of services to which they are eligible. This hybrid social and practicum learnership is significant because it will explore the provision of health and social services to an already marginalized population in South Africa. Insights gained into how service provision can be improved for refugees and asylum seekers will help promote a human rights based approach to refugee and asylum seekers absorption and adherence to international conventions on refugee protection

I understand that my participation is voluntary and that I have a right to withdraw my consent to participate at any time without penalty.

I understand and am willing for you to ask me questions about: (***Learner to indicate what questions will be asked***)

Specific Questions to Informants

1 *Biographical Information of Refugees and Asylum Seekers*
2 *Migration to South Africa of Refugees and Asylum Seekers*
- 2.1 When and how did you decide to come to South Africa?
- 2.2 What means of transportation did you use to enter South Africa?
- 2.3 Did any family or friends accompany you to South Africa?
- 2.4 Did you obtain permission from the government to enter South Africa prior to entering the borders?
- 2.5 Where did you live when you first arrived in South Africa?

2.6 How did you generate income when you first arrived in South Africa?
2.7 How did find yourself in Durban and what have been your experiences in Durban compared to other places in South Africa?

3 *Life in South Africa as a Refugee*
3.1Can you describe your positive and negative experiences as a resident in South Africa?
3.2 Do you feel equal to South African nationals and how have South African nationals treated you compared to citizens of your home country?
3.3 Were you given information that you could easily understand on your rights in South Africa and how to advocate for those rights?
3.4 Have you faced bureaucratic challenges since entering South Africa?
3.5 Have you ever had any medical problems in which you wanted to see a community health worker, nurse, doctor, or obtain medication?
3.5.1 If so, how did you obtain these services? What was your experience in obtaining these services? Were these services equal to the quality that South African nationals receive? Were you required to wait until South African nationals received care before you were granted consultation? Has health staff ever refused to use common language or translators? Have you experienced verbal abuse, insults, or xenophobic statements during a consultation or treatment? Have you had difficulty understanding medication instructions when prescribed?
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3.7 Have you ever had an emergency medical situation?
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3.7.3 What was the quality of the emergency care?
3.7.4 Did you experience any fear of immigration detention for failing to produce proper papers?
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3.8.1 If so, which ones?
3.8.2 How did you go about receiving these grants?
3.8.3 What bureaucratic barriers did you experience when applying for these grants?
3.9 Do you receive any support or guidance from NGOs in the areas?
3.9.1 If so, which ones and how do they help you?
3.10 What ways do you think the South African government can improve your access to health and social services?
3.11 What bureaucratic changes do you feel are necessary to ensure you receive the treatment and care for which you are entitled by national and international law?

I **do** require that my **identity (and name)** be kept secret**.** I understand that, if requested, my name will not be written on any questionnaire and that no one will be able to link my name to the answers I give. If requested, my individual privacy will be maintained in all published and written data resulting from this learnership project.

I **do not** give permission for a **photograph** of me to be used in the writeup of this learnership or for future publication. I understand that the learner will not use or provide any photographs for commercial purposes or publication without my permission.

I understand that I will receive a copy of the final learnership project, which provides information on how individuals can better advocate their rights for health services.

I confirm that the learner has given me the address of the nearest School for International Training Study Abroad Office should I wish to go there for information. (18 Alton Road, Glenmore, Durban).
I know that if I have any questions or complaints about this learnership that I can contact anonymously, if I wish, the Director/s of the SIT South Africa Community Health Program (Zed McGladdery 0846834982).

I agree to participate in this learnership project.

Signature (participant)_____ (Signature Held)_____ Date:_November 14, 2011

Signature (learner)__ *Cathy Kaplan*_____ Date:_November 14, 2011

Appendix 3: Consent Form For Adult Respondents in English

Informant G

I can read English. (If not, but can read Zulu or Afrikaans, please supply). If participant cannot read, the onus is on the researcher to ensure that the quality of consent is nonetheless without reproach.

I have read the information about this learnership project and had it explained to me, and I fully understand what it says. I understand that this learnership is trying to find out (***Learner to state objectives***):

The goal of this learnership is to gain understanding of refugee and asylum seekers' access to health services in Durban, ultimately allowing the development of recommendations of how this specific population can better advocate its rights in the provision of government funded services. The learner will be volunteering with Lawyer's for Human Rights, specifically within its Refugee Program to observe the legal aid process, provide any necessary organizational support, and gain more insight into the services refugees and asylum seekers receive compared to those which they are legally entitled by national and international law. Lawyers for Human Rights' Refugee Program aims to, instruct refugees and asylum seekers on their rights to health and social services in South Africa represent individuals who have experienced violations of their rights when utilizing these services, and providing legal advice for everyday problems this population faces. In addition, the learner will interview experts, refugees and asylum seekers, and lawyers to attain information on personal experiences in the provision of health and social services in Durban, as well as how this population can ensure acceptable provision of services to which they are eligible. This hybrid social and practicum learnership is significant because it will explore the provision of health and social services to an already marginalized population in South Africa. Insights gained into how service provision can be improved for refugees and asylum seekers will help promote a human rights based approach to refugee and asylum seekers absorption and adherence to international conventions on refugee protection

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I understand and am willing for you to ask me questions about: (***Learner to indicate what questions will be asked***)

Specific Questions to Informants

1 *Biographical Information of Refugees and Asylum Seekers*
2 *Migration to South Africa of Refugees and Asylum Seekers*
2.1 When and how did you decide to come to South Africa?
2.2 What means of transportation did you use to enter South Africa?
2.3 Did any family or friends accompany you to South Africa?
2.4 Did you obtain permission from the government to enter South Africa prior to entering the borders?
2.5 Where did you live when you first arrived in South Africa?

2.6 How did you generate income when you first arrived in South Africa?
2.7 How did find yourself in Durban and what have been your experiences in Durban compared to other places in South Africa?

3 *Life in South Africa as a Refugee*
3.1Can you describe your positive and negative experiences as a resident in South Africa?
3.2 Do you feel equal to South African nationals and how have South African nationals treated you compared to citizens of your home country?
3.3 Were you given information that you could easily understand on your rights in South Africa and how to advocate for those rights?
3.4 Have you faced bureaucratic challenges since entering South Africa?
3.5 Have you ever had any medical problems in which you wanted to see a community health worker, nurse, doctor, or obtain medication?
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I know that if I have any questions or complaints about this learnership that I can contact anonymously, if I wish, the Director/s of the SIT South Africa Community Health Program (Zed McGladdery 0846834982).

I agree to participate in this learnership project.

Signature (participant)_____ (Signature Held)_____ Date:_November 14, 2011

Signature (learner)__ *Cathy Kaplan*_____ Date:_November 14, 2011

Appendix 3: Consent Form For Adult Respondents in English

Informant H

I can read English. (If not, but can read Zulu or Afrikaans, please supply). If participant cannot read, the onus is on the researcher to ensure that the quality of consent is nonetheless without reproach.

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I understand and am willing for you to ask me questions about: (***Learner to indicate what questions will be asked***)

Specific Questions to Informants

1 *Biographical Information of Refugees and Asylum Seekers*
2 *Migration to South Africa of Refugees and Asylum Seekers*
- 2.1 When and how did you decide to come to South Africa?
- 2.2 What means of transportation did you use to enter South Africa?
- 2.3 Did any family or friends accompany you to South Africa?
- 2.4 Did you obtain permission from the government to enter South Africa prior to entering the borders?
- 2.5 Where did you live when you first arrived in South Africa?

2.6 How did you generate income when you first arrived in South Africa?
2.7 How did find yourself in Durban and what have been your experiences in Durban compared to other places in South Africa?

3 *Life in South Africa as a Refugee*
3.1Can you describe your positive and negative experiences as a resident in South Africa?
3.2 Do you feel equal to South African nationals and how have South African nationals treated you compared to citizens of your home country?
3.3 Were you given information that you could easily understand on your rights in South Africa and how to advocate for those rights?
3.4 Have you faced bureaucratic challenges since entering South Africa?
3.5 Have you ever had any medical problems in which you wanted to see a community health worker, nurse, doctor, or obtain medication?
3.5.1 If so, how did you obtain these services? What was your experience in obtaining these services? Were these services equal to the quality that South African nationals receive? Were you required to wait until South African nationals received care before you were granted consultation? Has health staff ever refused to use common language or translators? Have you experienced verbal abuse, insults, or xenophobic statements during a consultation or treatment? Have you had difficulty understanding medication instructions when prescribed?
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3.8.3 What bureaucratic barriers did you experience when applying for these grants?
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3.11 What bureaucratic changes do you feel are necessary to ensure you receive the treatment and care for which you are entitled by national and international law?

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I agree to participate in this learnership project.

Signature (participant)_____ (Signature Held)_____ Date:_November 14, 2011

Signature (learner)__ *Cathy Kaplan*_____ Date:_November 14, 2011

Appendix 3: Consent Form For Adult Respondents in English

Informant I

I can read English. (If not, but can read Zulu or Afrikaans, please supply). If participant cannot read, the onus is on the researcher to ensure that the quality of consent is nonetheless without reproach.

I have read the information about this learnership project and had it explained to me, and I fully understand what it says. I understand that this learnership is trying to find out (***Learner to state objectives***):

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I understand and am willing for you to ask me questions about: (***Learner to indicate what questions will be asked)***

Specific Questions to Informants

1 *Biographical Information of Refugees and Asylum Seekers*

2 *Migration to South Africa of Refugees and Asylum Seekers*

2.1 When and how did you decide to come to South Africa?

2.2 What means of transportation did you use to enter South Africa?

2.3 Did any family or friends accompany you to South Africa?

2.4 Did you obtain permission from the government to enter South Africa prior to entering the borders?

2.5 Where did you live when you first arrived in South Africa?

2.6 How did you generate income when you first arrived in South Africa?

2.7 How did find yourself in Durban and what have been your experiences in Durban compared to other places in South Africa?

3 *Life in South Africa as a Refugee*

3.1Can you describe your positive and negative experiences as a resident in South Africa?

3.2 Do you feel equal to South African nationals and how have South African nationals treated you compared to citizens of your home country?

3.3 Were you given information that you could easily understand on your rights in South Africa and how to advocate for those rights?

3.4 Have you faced bureaucratic challenges since entering South Africa?

3.5 Have you ever had any medical problems in which you wanted to see a community health worker, nurse, doctor, or obtain medication?

3.5.1 If so, how did you obtain these services? What was your experience in obtaining these services? Were these services equal to the quality that South African nationals receive? Were you required to wait until South African nationals received care before you were granted consultation? Has health staff ever refused to use common language or translators? Have you experienced verbal abuse, insults, or xenophobic statements during a consultation or treatment? Have you had difficulty understanding medication instructions when prescribed?

3.6 Have you been required to present papers of legal status when trying to obtain health services?

3.7 Have you ever had an emergency medical situation?

3.7.1 If so, were you granted immediate treatment?

3.7.2 Did you have to produce papers for free treatment?

3.7.3 What was the quality of the emergency care?

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3.8.1 If so, which ones?

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3.11 What bureaucratic changes do you feel are necessary to ensure you receive the treatment and care for which you are entitled by national and international law?

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I know that if I have any questions or complaints about this learnership that I can contact anonymously, if I wish, the Director/s of the SIT South Africa Community Health Program (Zed McGladdery 0846834982).

I agree to participate in this learnership project.

Signature (participant)_____ (Signature Held)_____ Date:_November 14, 2011

Signature (learner) *Cathy Kaplan* Date: November 14, 2011

Appendix 4: ILP Application for Review of Research with Human Subjects

Fall Semester 2011
School for International Training - Study Abroad
South Africa: Community Health, Program

Student to complete all questions, and anticipate probable issues and interactions before actual research begins. Submit this document and related documents to your Academic Director(s). Should you need to interview subjects that differ from the profile(s) below, you will need to provide details to the Academic Directors for further approval. Please make inserts in **BOLD**, and email to john.mcgladdery@sit.edu

ILP Details

1. Student's Name: **Cathy Kaplan**
2. Student Phone and/or E-mail: **cmkaplan@gwmail.gwu.edu, 083-700-1498**
3. Title of ILP: **Social and Practicum Hybrid**
4. ILP Advisor Name, Title, and Contact Telephone: **Mr. Baruti Amisi,** Researcher **at the Centre for Civil Society at the University of KwaZulu-Natal and Director of KwaZulu-Natal Refugee Commission, Phone: 083-683-8297. Email: amisi@ukzn.ac.za**

Human Subjects Review

1. Brief description of procedures relating to human subjects' participation:

a. Indicate proposed number of persons that may be participating per set
Experts-0
Minors-0
Other – **9 refugee and asylum seekers,. Mr. Baruti Amisi will contact all refugee and asylum seeking interviewees before a formal interview takes place. Mr. Baruti Amisi is the director of the KwaZulu-Natal Refugee Council and a researcher at the Centre for Civil Society at the University of KwaZulu-Natal. His positions allow him to oversee the welfare of twenty-three refugee communities in the Durban area. Mr. Baruti Amisi will arrange all interviewees of refugees and asylum seekers in an effort to aid the learner in gaining trust and confidence of the importance of the learnership to refugees and asylum seekers in**

Durban. Further, a translator will be arranged in the case that an interviewee does not speak English. Finally, Mr. Baruti Amisi's arrangement of interviews will allow for a diverse set of refugee experiences and communities represented in the learnership.

b. Provide details of any cooperative institution? What is it, who is the contact, and how was their permission obtained?

The learner will be volunteering with Lawyers for Human Rights. Lawyers for Human Rights is a legal aid firm in South Africa that provides assistance for detention and deportation, unlawful arrest, resettlement and repatriation, representation at appeals and reviews, and assistance with re-unification. Lawyers for Human Rights represent individuals and have won many monumental legal cases in South Africa to protect the rights of migrants. The contact for the volunteer position is Sherylle Delene Dass, Attorney. The address of LHR is Room S104, Diakonia Centre 20 St Andrews Street Durban 4001 and the telephone is: 031-301-0531. Ms. Dass's permission was obtained for the volunteer position through consultation with Zandile Wanda, the Associate Director of SIT Community Health and Social Policy in Durban, South Africa.

c. What will participants be asked to do, or what information will be gathered? (Append copies of interview guides, instructions, survey instruments, etc. where applicable).

Participants in formal interviews will be asked to answer questions to the extent they feel comfortable about experiences as a refugee or asylum seeker, as well as expert and academic opinion on the provision of health services in South Africa. The learner will explain the purpose, goals, and benefits of the interview and learnership. In addition, interviewees will be asked to sign the consent for adult respondents in English. If necessary, the document will be translated to French for those refugees and asylum speakers that do not speak English. A copy of the interview guide is as follows, but it serves solely as a guide. Questions will be altered or stopped completely in the case of the interviewee becoming uncomfortable or triggering psychological trauma of past experience.

Specific Questions to Informants

1 *Biographical Information of Refugees and Asylum Seekers*
- 1.1 Where were you born and what year?
- 1.2 How many years did you remain in that country?
- 1.3 What circumstances drove you to leave that country?
- 1.4 Did you spend any time in another foreign country as a refugee, illegal migrant, or temporary resident?
  - 1.4.1 If so, what did your stay in that country entail?

2 *Migration to South Africa of Refugees and Asylum Seekers*
- 2.1 When and how did you decide to come to South Africa?
- 2.2 What means of transportation did you use to enter South Africa?
- 2.3 Did any family or friends accompany you to South Africa?
- 2.4 Did you obtain permission from the government to enter South Africa prior to entering the borders?
- 2.5 Where did you live when you first arrived in South Africa?
- 2.6 How did you generate income when you first arrived in South Africa?

2.7 How did find yourself in Durban and what have been your experiences in Durban compared to other places in South Africa?

3 *Life in South Africa as a Refugee*

3.1Can you describe your positive and negative experiences as a resident in South Africa?

3.2 Do you feel equal to South African nationals and how have South African nationals treated you compared to citizens of your home country?

3.3 Were you given information that you could easily understand on your rights in South Africa and how to advocate for those rights?

3.4 Have you faced bureaucratic challenges since entering South Africa?

3.5 Have you ever had any medical problems in which you wanted to see a community health worker, nurse, doctor, or obtain medication?

3.5.1 If so, how did you obtain these services? What was your experience in obtaining these services? Were these services equal to the quality that South African nationals receive? Were you required to wait until South African nationals received care before you were granted consultation? Have health staff ever refused to use common language or translators? Have you experienced verbal abuse, insults, or xenophobic statements during a consultation or treatment? Have you had difficulty understanding medication instructions when prescribed?

3.6 Have you been required to present papers of legal status when trying to obtain health services?

3.7 Have you ever had an emergency medical situation?

3.7.1 If so, were you granted immediate treatment?

3.7.2 Did you have to produce papers for free treatment?

3.7.3 What was the quality of the emergency care?

3.7.4 Did you experience any fear of immigration detention for failing to produce proper papers?

3.8 Are you eligible for any government sponsored social grants?

3.8.1 If so, which ones?

3.8.2 How did you go about receiving these grants?

3.8.3 What bureaucratic barriers did you experience when applying for these grants?

3.9 Do you receive any support or guidance from NGOs in the areas?

3.9.1 If so, which ones and how do they help you?

3.10 What ways do you think the South African government can improve your access to health and social services?

3.11 What bureaucratic changes do you feel are necessary to ensure you receive the treatment and care for which you are entitled by national and international law?

d. Reciprocity – what is being given back to each participant?

Each participant will have the opportunity to participate in a study allowing individuals the opportunity to discuss their personal experience and grievances surrounding provision of health services. Whereas participants may not have other opportunities to air complaints about services received and general access, interviews provide the opportunity to inform others about methods of structural change that participants believe will be most beneficial in achieving more equitable health services for the refugee population in Durban. A copy of the final learnership will be provided to each participant in the study, where they will be able to find a section on how to better gain the resources necessary to better advocate for their rights to health services in South Africa.

2. Protection of human subjects. Before completing this section, you must read and agree to comply with the SIT Study Abroad Statement of Ethics. Even if no research is being done it is encumbent on any person volunteering or learning to ensure no harm might be done.

a. Have you read and do you agree to comply with the World Learning Ethics Statement noted above?
Yes

c. **Identify and indicate whether any participants risk any stress or harm by participating in this Learnership Project? If there is even a slight possibility, should this research go ahead? Why? How will these issues be addressed? What safeguards will minimize the risks? (*Even if you do not anticipate any risks, explain why)***

The learner does not anticipate any stress or harm by participating in this learnership project. Formal interviews conducted will be guided according to individual experience and comfort level. If participants prefer, their comments can be cited anonymously and if for any reason the participant feels uncomfortable after the interview, the learner has explained that the participant has the right to withdraw consent at anytime. In addition, since the research being conducted is not singling out one staff member or health facility or government institution, no specific person or institution will be angry with comments made by participants at any time. Finally, the volunteer position at Lawyers for Human Rights will include an observation component of lawyer and refugee dynamics, but the learner understands that these interactions must remain strictly confidential. In addition, to protect attorney and client privilege, no aspect of the volunteer position will be discussed in the learnership to violate this confidentiality.

d. Who might you need written consent from? ***(If nobody explain why***

The learner will need written consent from refugees and asylum seekers interviewed, experts who are staff at local NGOs and refugee aid organizations that will be interviewed, lawyers consulted, and academics who engage with dialogue on the topic of refugee and asylum seekers' access to health services in Durban.

e. Indicate whether any participants are minors or not likely to understand consequences of participation? If there are, how will they be protected, and who will ensure their rights are protected?

No minors will be interviewed during this learnership as they represent a small proportion of refugees and asylum seekers in Durban and are unlikely to understand and advocate their own right to health services, relying on their adult caregivers to navigate health systems.

e. Will you ask questions of any persons who may appear unable to negotiate freely? How will you protect them from feeling coerced? ***(If no, explain why all are freely abled)***

No. The learner will ensure that all participants' interviews are comfortable and willing to participate. This will be ensured by Mr. Baruti Amisi, who is consulting individuals from refugee and asylum seeking communities and explaining the learnership before the interview takes place, so the individual has ample understanding of the project and opportunity to reject participation. The learner will further protect interview participants from feeling coerced by explaining that the

participant has the right and should stop the learner from asking questions if the individual feels uncomfortable any point of the interview. In addition, the understanding that participants may withdraw their comments at any point in time during or after the interview will help ensure participants have the ability to remove statements from the learner's data set will remove post-interview stress surrounding regret of discussion of a specific issue.

3. **Human Subject Protection Essay**:

The learner will be interviewing eight refugees and asylum seekers, two experts in the refugee aid field, one lawyer, and one academic. This will yield a total of twelve experiential based interviews and provide a diverse data set of refugee experiences in Durban within the allotted time for completion of the learnership project. Interviews will employ methods of standardized open interviews and dialogic interviews of all formal interview participants. Privacy, anonymity, confidentiality and protecting attorney-client privilege and sensitive information at Lawyers for Human Rights remain the most important components of the development of this learnership. If at any time any of these principles are violated, the learnership will be immediately stopped or altered to ensure interview participants and clients utilizing Lawyers for Human Rights' services are protected.

Privacy of all participants interviewed will be protected in a variety of ways throughout the learnership. First, any interview participant who *chooses* to share personal accounts, difficult experiences, or potentially dangerous and compromising information to personal integrity or safety have the option to remain anonymous in the data set, remove specific compromising components from the data set, and all information altogether during or after the interview. No participant should be coerced or pressured to provide information at any time in which they are uncomfortable, and the learner understands the important right to privacy in the time of data collection. In addition, the learner may observe attorney-client interactions during her volunteer position at Lawyers for Human Rights. All observations must respect the client's right to seek legal aid at a confidential level and no observations will be discussed in the learnership without specific consent from the lawyer and client to ensure no components of the care are revealed or personally compromising information for which the client has sough legal aid. To help the learner ensure that participants and clients understand this principle, adult consent forms in a language the participant can read and understand must be signed to further verify that principles of privacy are understood.

The learner will protect anonymity of interview participants and those seeking legal aid services of any individual who does not wish to provide their name in the data set in fear of xenophobic violence, further denial of services, criticisms from family and friends for speaking about experiences as a refugee in South Africa, or any other factor compromising the safety, well being, and happiness of the participant. Anonymity of all participants will be protected by explaining principles of anonymity, allowing participants to choose whether to use their name in citing data, and ensuring no distinguishing personal factors are reported to ensure this anonymity.

The confidentiality of participants in the learnership will be protected by separating the names and information of participants from their comments so that if the notebook containing the data set is found by any individual during the learnership, the anonymity and confidentiality of participants will be maintained, as whoever viewing the data set will not know who made each comment and in what context. Keeping names separate from data during the learnership will ensure that no personal information of participants will be revealed without the consent of the individual

participant. At the conclusion of the learnership, names and data sets will continue to remain separate and unpublished and any information in which the participant asks to be removed from the current or future data set will be immediately destroyed. In addition, the learner will create a separate contact information sheet of all participants throughout the learnership. This contact sheet will include the names, addresses, cell phone numbers, and emails of participants whose experiences were gathered in the data set for this learnership. This contact sheet will be utilized in the event that the learner wishes to further produce any learnership project on the topic of refugee and asylum seekers experiences in Durban. Information obtained will never be used in further studies conducted by the learner without consent from the participant obtained by physical meeting, email, or consent via mobile phone. A new consent form through written or verbal agreement will be created explaining the new objectives, goals, and benefits of further study.

Finally, organizational integrity will be maintained for Lawyers for Human Rights by excluding confidential information observed in the client-attorney interaction, sensitive legal information regarding individual or group status, and protocols aimed at protecting the client from wrongful legal action. In addition, confidence should be maintained about the services in which this law firm provides to the community, promoting the use of legal aid as a method to ensuring the realization of all rights refugees and asylum seekers are entitled and as a method to seek retribution for violations of these rights. No staff member should be singled out as incompetent for the protection of that staff member's integrity, safety, and employment status. Finally, no privacy and confidentiality policy maintained to protect clients utilizing services at Lawyers for Human Rights will be broken at any stage during the learnership. To achieve this, no information about Lawyers for Human Rights, its clients, or staff members will be published in the final written product of the learnership without review from the learner's supervisor at Lawyers for Human Rights to ensure protection of the important policies.

Privacy, anonymity, confidentiality, and protection of organizational integrity remain the highest priorities in the data collection and production of a written product during the learnership on refugee and asylum seekers access to health services in Durban. If any of these principles are violated at any time during the learnership, the project will be immediately stopped or altered, depending on the nature of the issue to protect emotional and physical well-being of all participants. Ultimately, the learnership should benefit participants by empowering them to share their experiences, providing further information of accessing resources in refugee aid and support, and promoting refugees and asylum seekers ability to advocate their own rights to which they are entitled by national and international refugee conventions.

4. **Participant observation situations; Declaration:**

When participating in an organization or community I will:

a. Undertake a bilateral negotiation with the group I am participating with.
b. Work with gatekeepers to assist in that negotiation and draw up a contract with that gatekeeper, defining roles and conditions of access.
c. Work with the gatekeeper to communicate that contract with the group.
d. Refrain from criticizing and intervening unless invited by the gatekeeper in consultation with the group, and even then with due tact and caution.

By signing below I certify that all of the above information is true and correct to the best of my knowledge, and that I agree to fully comply with all of the program's ethical guidelines as noted

above and as presented in the program and/or discussed elsewhere in program materials. I further acknowledge that I will not engage in ILP activities until such a time that both my ILP proposal as well as my Human Subjects Participation application are successful and I have been notified by my Academic Director(s) to this effect.

Cathy Kaplan Cathy Kaplan

Student's name (signature) Student's name (printed)

Date: October 24, 2011

Human Subjects Review Action Form
For Office Use Only

Student Name: _____

Proposed ISP Title: _____

Program: _____

Semester and Year: _____

ACTION TAKEN:

__ Approved by AD(s) and/or ILP Advisor as submitted
__ Approved by AD(s) and/or ILP Advisor pending revisions (revise and resubmit)
__ Disapproved by AD(s) and/or ILP Advisor
__ Requires ERB review

*Please note hard copies of this form, the ILP proposal, and related correspondence are to remain filed in the program office for a duration of (no less than) one semester following completion of the ILP.