

DEALING WITH THE CONSEQUENCES OF DISPLACEMENT:

MEMORANDUM BY CIVIL SOCIETY ORGANISATIONS

1. The displacement created by the xenophobic violence in the Western Cape during May 2008 triggered a humanitarian crisis. That crisis has required a huge effort from all spheres of government, and from civil society organisations.
2. The crisis has also triggered legal obligations which arise from international law and from our own Constitution, which incorporates international law as part of our law by the mechanisms set out in sections 231, 232 and 233.
3. A crisis situation inevitably generates responses which are neither appropriate nor sustainable in the short term, let alone the medium to long term. We believe that we have now reached the point where it is necessary to design and implement short, medium and long term solutions to the crisis.
4. We welcome the declaration of a provincial state of disaster, which in our view was a necessary step in the process of identifying the responsibility of the different spheres of government. It is now clear that it is the provincial government which must take the lead in co-ordinating the response to this humanitarian crisis. However, that fact does not have as the consequence that neither the national government nor the City has any legal or moral obligations in this regard. Those duties arise from the Constitution, including the section 41(1)(h) obligations of co-operative government, and from the relevant statutes dealing particularly with housing, health, transport and water.
5. Similarly, the declaration of a provincial state of disaster does not absolve civil society organisations from their moral obligation to assist in addressing the humanitarian crisis. While it is not sustainable for civil society organisations to continue to carry the burden which has been theirs during the crisis phase, we wish to support the work which is done to address the situation, and to do whatever we can to ensure that the needs and rights of the displaced people are properly addressed.
6. In this spirit of co-operation, we urgently request a meeting with the officials involved in leading the responses of the three spheres of government to this continuing humanitarian crisis. We suggest that a round-table meeting be held with the officials (as opposed to the political office bearers) in an attempt to identify areas of concern and practical areas for co-operation.

7. Against that background, we identify some of the most important matters which we believe need priority attention at such a meeting. While a number of the matters are of general application to the displaced people, some are particularly focused on the position at Soetwater, which in our experience is an area where certain of the problems are particularly acute. The factual foundation for these matters set out in more detail in the documents which are attached.
8. **Physical conditions at Soetwater:** We believe that in a number of respects, the conditions at Soetwater are inconsistent with the requirements of the internationally agreed minimum standards, and our own Constitution. For example:
 - 8.1 **Toilets and sanitation:** The provision of toilets does not meet international norms. There are not enough basins for people to wash their hands after using the toilets. The toilets hardly ever have toilet paper, and are not serviced regularly enough, so many of them are full. The residents sleep close to the toilets, which have a very offensive smell because they are not serviced regularly. Many people find themselves forced to use the area behind the tents, rather than the toilets. There are inadequate showers.
 - 8.2 **The accommodation:** People are sleeping on the floor. This is very cold and wet, because of the rainy weather and the fact that the water table is very high, as the camp is so close to the sea. The tents leak, and water rises from the ground. The mattresses are wet and the blankets are wet. Each person has one blanket that does not cover the whole body. Families are separated, because there is no provision for family accommodation, and men and women are separated.
 - 8.3 **Food:** The food is inadequate in both quality and quantity.
 - 8.4 **Transport:** The residents are entirely dependent on welfare as they cannot get to work as a result of the lack of accessible and affordable transport. They urgently need regular transport which would enable them to go to work, enable the children to go to school, and enable them to find their possessions and visit the areas from which they were displaced, in order that they may consider returning there.
9. **Alternate shelter:** There is an urgent need for the provision of alternate shelter for displaced people who have not gone to the camps, and who find it intolerable to do so. Two clear example of this are the "Caledon Square group" who were temporarily accommodated at the Weizmann School in Sea Point. They are now temporarily accommodated in backpacker accommodation, and desperately need a place where they can live. Another example is the "Salt River group" of 200 people who have been in the Salt River Mosque. It is urgent

that alternate shelter be made available to people such as this. Compelling them to move to the camps is not a viable option for two reasons: first, because the Province has determined that this is not a long term solution (with which we agree), and secondly, and in any event, the people concerned are traumatised, and some have had dreadful experiences in the past of refugee camps, and simply will not go to live there.

10. **Education:** A plan needs to be made to deal with the problems of children who have been displaced. Most of them have been unable to attend school for weeks now, because of the transport problems which arise from their being in the camps.
11. **The United Nations:** Many of the displaced people do not wish to remain in South Africa. Some wish to return to their countries of origin. Others find that option intolerable, because they are in danger in their countries of origin, which is the very reason they sought refuge in the first instance. There is a need for a major operation to enable those people who wish to leave South Africa, to do so. The appropriate agency to provide assistance in this regard is the UNHCR. However, there have been mixed messages as to whether the government has approached the UN for help. According to the UNHCR, it has not been formally invited by the government to assist in this regard. The result is that people who actually wish to leave the country, are not effectively enabled to do so. In our view, it is now essential that the government invite and request the UNHCR to assist in this regard, and with regard to other matters in which it has expertise and experience.
12. We acknowledge the efforts made by very many people, inside and outside government, to deal with the crisis which was precipitated by the violence directed against non-South Africans. We believe now is the time for all of these institutions to co-operate to find sustainable solutions to the continuing problem. We pledge ourselves to assist in this regard, and urgently request a meeting at which we could:
 - (i) discuss the issues which are raised in this memorandum and the attached documents;
 - (ii) identify solutions to these problems;
 - (iii) identify what each of us can do to assist in the achievement of these solutions.
13. We are confident that the recipients of this memorandum will appreciate the urgency of this matter, and will welcome the opportunity to address these problems in a co-operative manner. We ask that we receive a response to this memorandum by not later than.....