



**Foreign migrants and the South  
African health care system:**  
*Ensuring the right to health is upheld  
for all*

23<sup>rd</sup> June 2008

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<http://migration.org.za/>



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Forced Migration Studies Programme  
Health and Migration Initiative



# International migrants

- Labour migrants: work permits;
  - Refugees and asylum seekers;
  - Other: study permits; visitor permits; and
  - Undocumented migrants.
- 
- Immigration act makes it difficult for lower-skilled workers to legalise their stay in South Africa.

# ● ● ● | An integrative asylum policy

- South Africa has an integrative asylum policy:
  - Refugees and asylum seekers are encouraged to self-settle and integrate;
- A range of rights are afforded:
  - Policies exist that assure the right to health – including ART – for refugees, asylum seekers and other international migrants;
- Key challenges to the effective implementation of these policies:
  - Backlog at Department of Home Affairs; and
  - Lack of awareness of rights: service providers.



# Protective policy – the right to health, including ART

1. South African Constitution;
2. Refugee Act (1998);
3. HIV & AIDS and STI Strategic Plan for South Africa, 2007 – 2011 (NSP);
4. National Department of Health (NDOH) Memo (2006);
5. NDOH Directive (September 2007); and
6. Gauteng DOH Letter (April 2008).

# NDOH Memo (2006)

- Clarifies that possession of a South African identity booklet is NOT a prerequisite for eligibility for ART;
- Important for South African citizens as well as non-citizens.

15-FEB-2007 10:10 FROM: TO: 0333949522 P: 1

DEPARTMENT OF HEALTH  
DEPARTMENT VAN GESONDHEID

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Telephone: 012-312 0127/8 Enquiries: Dr.ND Kalombo  
Fax: 012-3123121/2 Reference: Access to ART

To: Provincial HAST Managers  
Provincial CCMT Project Managers

Dear All


**RE: ACCESS TO COMPREHENSIVE HIV & AIDS CARE INCLUDING ANTI RETROVIRAL TREATMENT**

The Comprehensive HIV & AIDS, Care, Management and Treatment Operational Plan was approved by parliament in November 2003 and implementation commenced in April 2004. The programme has brought challenges in all provinces regarding access to treatment by patients who do not possess a South African Identity Document.

The criteria used to identify patients illegible for ART must be applied to all cases, individually without discrimination. Issues that can affect adherence and hence compromise patient's health must be seriously considered, so that the decision to commence ART is the best for the patient under all circumstances.

Patients should not be denied ART because they do not have an ID if all issues affecting adherence have been addressed and the treatment team is convinced that the patient stands to benefit from the intervention.

Thank you,

  
Dr ND Kalombo  
Project Manager: Comprehensive HIV & AIDS Care, Management and Treatment Plan.  
NDOH.

CC: Dr N Xundu  
Cluster Manager: HIV & AIDS, STI and TB

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# NDOH Directive (September 2007): refugees and asylum seekers *with* *or without* a permit

## **RIGHTS AND OBLIGATIONS OF REFUGEES (Protection and general rights of refugees)**

**27.** A refugee-

(g) Is entitled to the same basic health services and basic primary education which the inhabitants of the Republic receive from time to time.

### **1. Where refugee status have been determined or asylum seekers with or without a permit:**

#### **1.1. Basic Health Care:**

1.1.1 Refugees / asylum seekers **with or without a** permit that do access public health care shall be assessed according to the current MEANS test. (as specified in the Annexure H).

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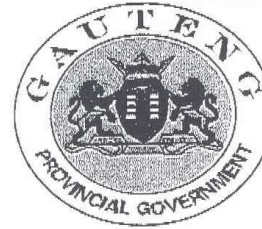
#### **1.2. Anti-retroviral treatment (ART)**

1.2.1 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 institution where these services are rendered. *(Please refer to the ART directive: BI/429/ART dated the 20<sup>th</sup> April 2007).*



# Letter from Gauteng DOH

- April 2008;
- Additional clarification that South African identity documents are not required for health care, including ART.



Department of Health  
Lefapha la Maphelo  
Departement van Gesondheid  
Umnnyango we zeMpilo  
OFFICE OF THE CHIEF DIRECTOR  
JHB-WEST RAND REGION  
ENQUIRIES: MS C KULA  
HEALTH PROGRAMMES  
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## MEMORANDUM

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TO : All HOSPITAL CEO's, DISTRICT FAMILY PHYSICIANS AND DISTRICT MANAGERS.

DATE : 04 APRIL 2008

SUBJECT : ACCESS TO THE COMPREHENSIVE HIV AND AIDS CARE INCLUDING ANTIRETROVIRAL TREATMENT.

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It has come to my notice that some facilities are denying patients that do not have a South African Identity document access to the comprehensive HIV and Aids care, management and treatment plan including antiretrovirals. This practice is not acceptable.

Kindly note that no patient should be denied access to any health care service, including access to antiretrovirals irrespective of whether they have a South African Identification document or not.

For reference please see attached memorandum.

DR. PMH MADUNA  
CHIEF DIRECTOR  
REGION A

# Migrant access to health care

Findings from the Migrant Rights Monitoring Project, 'National Public Service Access Survey'

- Preliminary findings from initial 1,190 respondents (May 2008);
- Under half of all respondents report ever needing healthcare since their arrival in South Africa;
- Zimbabweans are the group least likely to ever need healthcare.

# Migrant access to health care

Findings from the Migrant Rights Monitoring Project, 'Public Service Access Survey'

- 27.5% report having experienced problems when trying to access public health care;
  - Language problem: 28%
  - Denied treatment because of documents: 22%
  - Denied treatment because foreign: 21%

# ● ● ● | Health migrants?

## Findings from ART access study

- Individuals in need of ART do not generally migrate to South Africa in order to access treatment:
  - Discovered their status in South Africa (80%);
  - Mostly first tested for HIV in South Africa (76%);
  - Tested when sick (like South Africans,  $p = 0.122$ );
  - Came to South Africa for other reasons;
  - Have been here for a period of time before discovering their status.



## Continuity of treatment

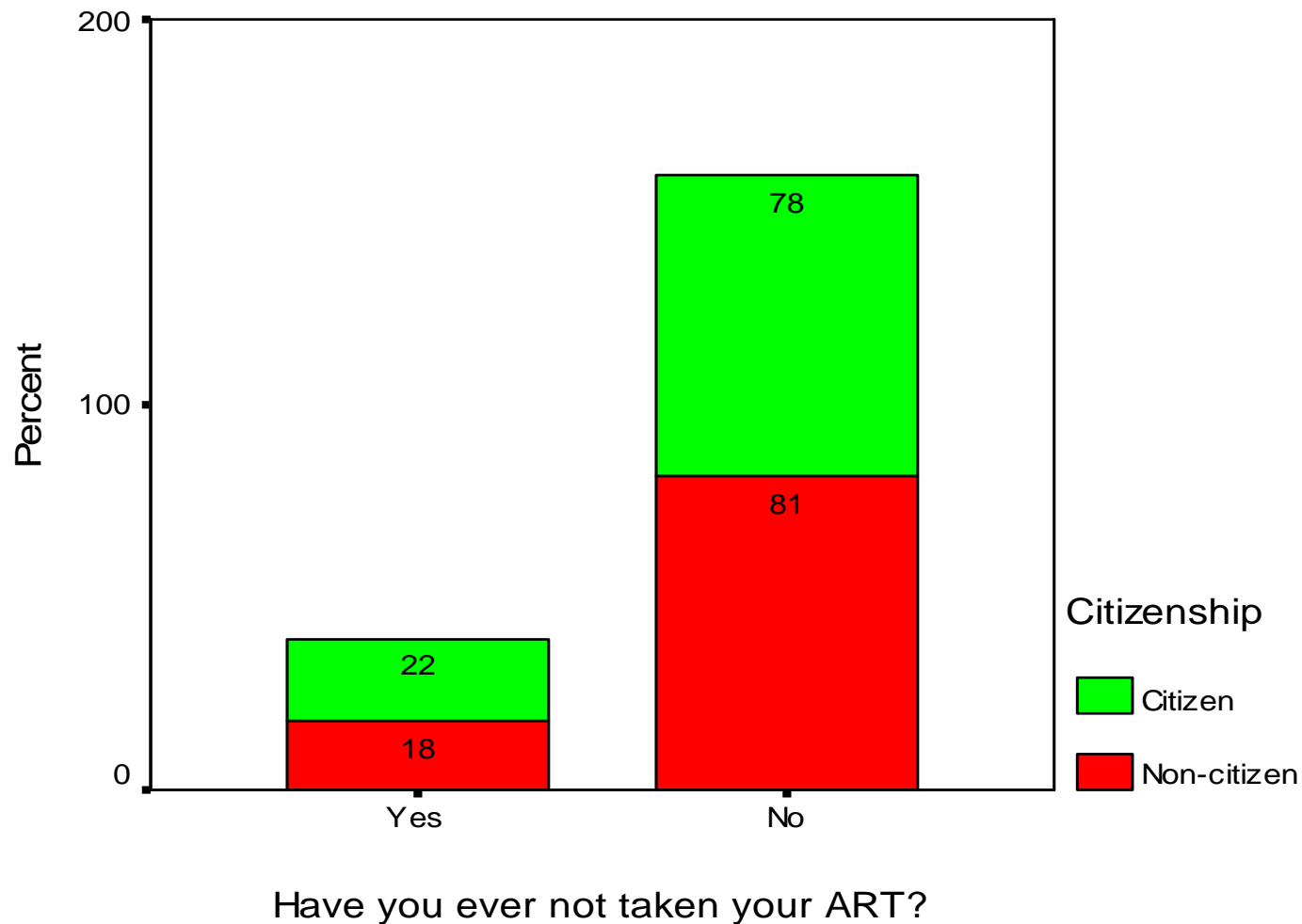
Findings from ART access study

- In this study, 20% of international migrants reported initiating ART in another country.....
  - Appears that other reasons (economic) are the reason for movement;
  - Continuity of treatment.



# International migrant clients are no more likely to not collect or not take their ART

## Findings from ART access study

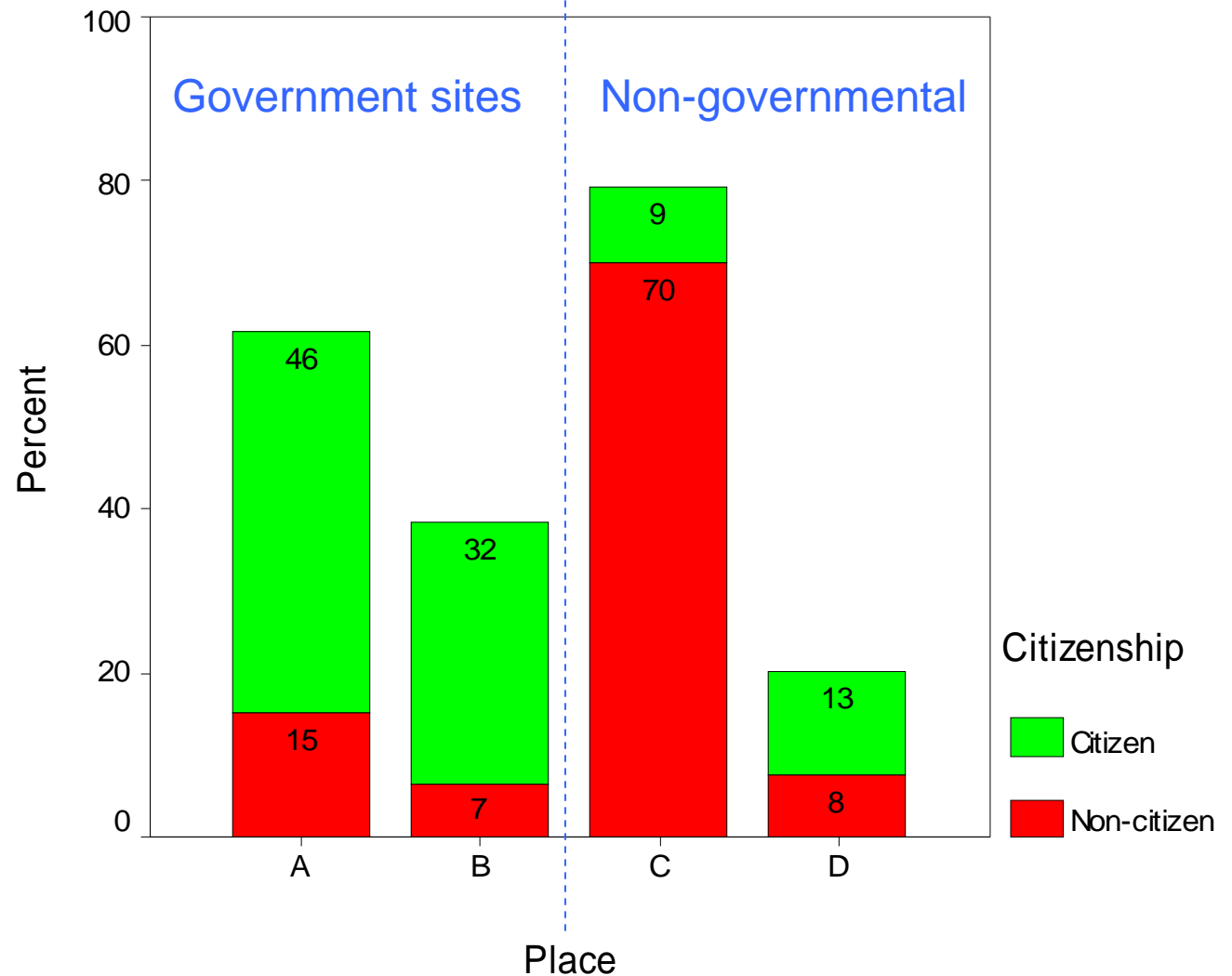


(Chi-squared  
 $p = 0.404$ )

# Migrants are accessing ART in the non-governmental sector

## Findings from ART access study

- Only 22% of all non-citizens interviewed were accessing ART at government sites;
- The difference between the two government sites can be explained by the differences in institutional policy.





# A dual healthcare system

- Non-citizens are referred out of the public sector and into the NGO sector:
  - Reasons for this include not having a South African identity booklet and 'being foreign';
  - This goes against existing legislation.
- A dual healthcare system exists, presenting a range of challenges:
  - Logistical issues: cross-referral, loss to follow up, workload pressure;
  - Falsification of documents... impact on adherence
  - The responsibility of the public sector is being met by NGO providers.



# Summary

1. Whilst the numbers of international migrants in need of healthcare and ART are small, they are significant;
2. Existing protective legislation is not applied uniformly across public institutions;
3. The resultant dual healthcare system presents challenges; and
4. Upholding the right to health for all within South Africa will have a population-level benefit.

<http://migration.org.za/>

# Challenges to the successful implementation of policy to protect the right of access to health for all in South Africa

Report to Dr Patrick Maduna  
Chief of Services: Gauteng Department of Health

3 June 2008



Nazareth House ART Clinic



University of the Witwatersrand  
Forced Migration Studies Programme



University of the Witwatersrand  
Steve Biko Centre for Bioethics



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**CoRMSA**  
Consortium for  
Refugees and Migrants  
in South Africa

## Protecting Refugees, Asylum Seekers and Immigrants in South Africa

Johannesburg  
18 June 2008