

https://dspace.org/

Caught in a gap? An examination and human rights assessment of immigration detention laws and practices in South Africa

Tay, Roanna

2013-03-19
http://hdl.handle.net/10539/12578

Downloaded from a DSpace repository. https://dspace.org/

Caught in a Gap?
An Examination and Human Rights Assessment of Immigration Detention Laws and Practices in South Africa

By Roanna Tay

Submitted in fulfilment of the requirements for the degree of
MASTERS OF LAWS

In the Oliver Schreiner School of Law
Faculty of Commerce, Law & Management
University of the Witwatersrand

October 2012

Thesis title: Caught in a Gap? An Examination and Human Rights Assessment of Immigration Detention Laws and Practices in South Africa

Supervisor: Professor Jonathan Klaaren

School: Law

Abstract: This study examines the laws and practices relating to immigration detention in South Africa. It provides an in-depth examination of the legislation, with reference to known state practices and cases where migrants have been subjected to prolonged and repeated periods of immigration detention. The study highlights gaps in South African law that contribute to certain categories of migrants being especially vulnerable to immigration detention. Four categories are identified: (1) asylum seekers; (2) persons with difficulty obtaining travel documents; (3) stateless person; and (4) persons subject to other prohibitions against refoulement. The study offers recommendations for legislative reforms to fill the gaps in the law that contribute to these migrants' vulnerability to immigration detention.

Key Words: Law, human rights, migration, forced migration, refugee, asylum, deportation, detention, immigration detention, South Africa.