



Press Release

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Home Affairs' Asylum Reforms Should Instead Focus on Immigration Policy, Say Rights Groups

The Consortium for Refugees and Migrants in South Africa (CoRMSA) welcomes the recent statements by the Home Affairs Minister and Deputy Minister, made in advance of the department's budget vote in Parliament, acknowledging the need for reform. However, these statements misrepresent the source of the problem, mistakenly pointing to a need to change refugee law. The problems in fact stem from the failure of immigration law and policy to accommodate many economic migrants.

According to Kaajal Ramjathan-Keogh, Chairperson of CoRMSA, "The refugee system is being overwhelmed because South Africa does not provide alternative paths to migration for many economic migrants." She added, "Reforms of the refugee system will not improve the situation until immigration policy is changed to regulate the flows of economic migrants so that they have acceptable alternatives and are not forced to enter the asylum seeker system."

A report released this week by the Forced Migration Studies Programme ("Protection and Pragmatism: Addressing Administrative Failures in South Africa's Refugee Status Determination Decisions") highlights serious deficiencies in the status determination process, in part stemming from the demands being placed on the system by economic migrants. As a result of these deficiencies, individuals with valid asylum claims are being rejected and returned to life threatening situations, in violation of South Africa's international obligation to provide protection to refugees.

According to Roni Amit, a researcher with FMSP and author of the report, "The demands on the system are leading to significant human rights violations. Individuals are being denied refugee status without having their asylum claims properly considered, which is what the system is set up to do, and what it is required to do by law." She added, "In many instances, status determination officers are simply getting the law wrong."

In her remarks, the Minister stated that "there is no separation between a genuine asylum seeker and an economic migrant in the law."

"This statement confuses law with practice," said Gina Snyman, an attorney with Lawyers for Human Rights. "The law very clearly states who qualifies as a refugee and it excludes economic migrants." She added, "At Lawyers for Human Rights we assist numerous asylum seekers who

have fled serious persecution, but whose claims have been denied because they are deemed to be ‘economic migrants’ without having their claims properly considered by Home Affairs officials.”

The Deputy Minister highlighted the “major strides” in efficiency and capacity of the asylum seeker system, pointing to the greater speed with which asylum seeker permits are being issued and asylum applications being processed. CoRMSA acknowledges the improvements but notes that some of these changes have come at a high cost, severely sacrificing the quality of status determination decisions and contributing to the protection failures acknowledged by the Department.

FMSP’s in-depth examination of these decisions found widespread problems, including misapplications of the law, widespread reliance on outdated and inaccurate country information, and cut and pasted decisions, resulting in identical decisions being issued to different claimants, as well as decisions with information on the wrong claimant or the wrong country.

According to Amit, “Reforming immigration law and policies will enable refugee offices to focus on quality as well as quantity in the status determination process, and will ensure that these offices are able to properly implement the law.”

Added Ramjathan-Keogh, “CoRMSA and its member organizations welcome the Department’s efforts to reform and look forward to participating in the stakeholder consultations promised by the Minister.”

For the full FMSP report, please see: www.migration.org.za

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