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Joint Press Statement: CoRMSA's position on the White Paper

On the 10th of November 2023, The Department of Home Affairs gazetted the White Paper, calling for a “complete overhaul” of the migration system in South Africa with a particular focus on the review and/or withdraw from the 1951 United Nations Refugees Convention (“1951 Convention”) and the 1967 Protocol relating to the Status of Refugees (“1967 Protocol”), The Citizenship Act 88 of 1995, The Immigration Act, which is act number 13 of 2002; and The Refugees Act 130 of 1998. Link: https://www.gov.za/sites/default/files/gcis_document/202311/49690gon4061.pdf

The white paper proposes that South Africa review and withdraw from the 1951 United Nations (UN) Convention Relating to the Status of Refugees and the 1967 UN Protocol relating to the Status of Refugees, with the aim of re-joining these with reservations allowing for the limitation of refugees’ socio-economic rights. It further proposes that the Citizenship Act should be reviewed, including those relating to citizenship by naturalisation, and that the Births and Deaths Registration Act be repealed in its entirety. The draft policy suggests that a register of all people granted citizenship by naturalisation should be kept by the Minister of Home Affairs.

Subsequently, The Department called for public comments until 19 January with a further extension until 31 January 2024.

The Consortium for Refugees and Migrants in South Africa (CoRMSA) and its member organisations note that the period for submissions still does not allow for meaningfully engagement and consultation with communities. However, we welcome the opportunity to make submissions on the Department of Home Affairs (DHA) White Paper.

CoRMSA Members met and intensively discussed the contents of the White Paper and its implications on the rights of asylum seekers, refugees, citizens and migrants in South Africa.

CoRMSA members raised a number of concerns regarding the proposed complete overhaul of the migration system in South Africa as follows:

1. As a policy document, The White Paper itself, has significant flaws. It is very vague and lacks objectivity. It fails to provide an empirical foundation for its proposed policy reform. It does not provide a practical vision for a more holistic and balanced Migration Policy.

2. The White Paper itself, is an attempt to scapegoat migrants for failing to govern migration.
3. The White Paper contradicts the South African Constitution which relates to the rights of migrants, specifically asylum seekers and refugees.
4. Preventing asylum seekers from working makes them more vulnerable to xenophobic attacks and hate speech, while also increasing anti-migrant sentiments. South Africa should recognise the positive impact asylum seekers have on the economy by bringing valuable skills, rather than perceiving them as an economic burden.
5. Withdrawal from the International Conventions will not solve migration issues but rather, it will only damage South Africa's existing relations with other treaty members, causing them to ratify fewer agreements with it in the future.
6. It will also be a serious blemish on South Africa's global reputation as a country that respects human rights and dignity.
7. There will be an increase in undocumented people.

In light of the above, CoRMSA recommends the withdrawal of the White Paper, redrafting and adequate time for consultation and engagement. CoRMSA warns against the establishment and strengthening of the Border Management Authority and calls for a commitment by government to ensure training of all officials in what is fair and constitutional treatment and to address institutionalised xenophobia and transphobia, prevalent amongst law enforcement agents. In the same vein, we recommend the capacitation of Border Management and Refugee Reception Office (RRO) Officials for effective management of border processes and documentation of asylum and refugee permits.

Endorsed by CoRMSA Members.

For more information, contact the Communications and Media Officer (Vimbai Mataruse) on communications@cornsa.org.za / 011 403 7560/ 0845323752