



Submission on the Immigration Amendment Bill [B 8B-2024].

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Submitted by

Consortium for Refugees and Migrants in South Africa (CoRMSA).

To

*Hon. J S Mananiso, MP, Chairperson: Select Committee on Security and Justice  
(National Council of Provinces)*

**By email:** [JABill8B-2024@parliament.gov.za](mailto:JABill8B-2024@parliament.gov.za)

**24 October 2025.**

## **A. Introduction**

1. The Consortium for Refugees and Migrants in South Africa (CoRMSA) is pleased to make this submission on the Immigration Amendment Bill (B 8B-2024), which appeared in the Government Gazette No. 50310 of 19 March 2024.
2. CoRMSA is a national network of organisations working with asylum seekers, refugees, and other international migrants. CoRMSA currently has 33 member organisations across the country. The organisation was established in 1996 as the National Consortium for Refugee Affairs (NCRA) and was later registered as an NPO, and its name changed to the “Consortium for Refugees and Migrants in South Africa” referred as “CoRMSA”.
3. Our members are comprised of public interest legal organisations, social services providers, research institutions, community groups, and refugee/migrant-led organisations. CoRMSA, through its members and partners, works at local, provincial, national, sub-regional, regional, and global levels to promote and protect the human rights of refugees, asylum seekers, and migrants. We ensure that the daily challenges faced by non-nationals are addressed through policy and practices.

## **B. CoRMSA’s concerns and submission to the proposed Immigration Amendment Bill.**

### **4. CoRMSA Submission on Provisions Relating to the Arrest and Detention of Undocumented Foreign Nationals for the Purpose of Deportation**

CoRMSA wishes to draw the Committee’s attention to key considerations regarding the provisions governing the arrest and detention of undocumented (or “illegal”) foreign nationals for deportation purposes. The organisation seeks to ensure that these provisions are fully aligned with constitutional principles, human rights standards, and relevant international obligations.

Accordingly, CoRMSA submits the following comments and recommendations for the Committee’s consideration.

Therefore, CoRMSA make the submissions to **“Amendment of section 34 of Act 13 of 2002, as amended by section 35 of Act 19 of 2004 and section 47 of Act 19 of 2004”**.

5. CoRMSA acknowledges the deletion of paragraphs (b) and (d) in subsection (1) of the principal Act through this proposed amendment. However, CoRMSA proposes the insertion of a new subsection 1(c) (v), to read as follows:

“(v) the right to have an interpreter of his or her language assigned to him or her for the purpose of ensuring a fair arrest process.”

This proposed insertion seeks to align the provisions of the proposed Immigration Amendment Act with Section 35(1) (d) of the Constitution of the Republic of South Africa, 1996, which provides that **“every detained, arrested, or accused person has the right not to be compelled to make any confession or admission that could be used in evidence against them”**. Ensuring the availability of an interpreter will promote procedural fairness and safeguard the rights of detainees who may not understand the language used during the arrest or detention process.

6. **Concerns Regarding the Omission of Provisions on Designated Holding Facilities** - CoRMSA expresses concern that the proposed amendment in section “1(A) — *An immigration officer may arrest and detain an illegal foreigner for purposes of deportation, provided that...*”, does not specify the designated holding facilities where such detainees are to be kept.

CoRMSA submits that the proposed section should explicitly refer to appropriate and designated holding facilities to ensure that the arrest and detention processes are conducted in a lawful, humane, and administratively fair manner. The distinction between immigration detainees and criminal detainees must be clearly maintained, in line with constitutional and human rights standards.

This concern is supported by reports and findings relating to the conditions at existing detention facilities. For instance, during his visit to the Lindela Repatriation Centre in Krugersdorp, Deputy Chief Justice Moseneke of the Constitutional Court of South Africa observed that while the Centre is designed to accommodate approximately 1,000 detainees, it was housing more than twice that number at the time of inspection. This severe overcrowding poses serious health and hygiene risks and highlights systemic mismanagement within existing holding facilities.

The same report also noted significant delays in the processing of detainees’ documentation, with some individuals reportedly held for periods exceeding three months, and, in some cases, more than 120 days. This overstay, raises some serious questions on the detention timeframe (90 calendar days).

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In light of these concerns, CoRMSA **recommends that the proposed amendment explicitly reference designated holding facilities** for immigration detainees, separate from criminal detention facilities, to promote transparency, safeguard detainee welfare, and ensure compliance with constitutional and international human rights obligations.

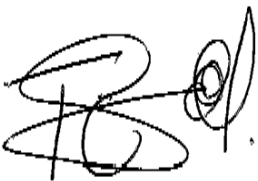
## 7. Conclusion

CoRMSA appreciates the opportunity to make this written submission and to contribute to the important legislative process of aligning immigration law with constitutional and human rights principles. However, CoRMSA wishes to express concern regarding the short notice provided for public comment on the proposed amendments. **The limited timeframe has constrained the ability of civil society organisations and affected communities to engage meaningfully and provide comprehensive input.**

In light of the significance of these amendments and their potential impact on migrants, asylum seekers, and broader governance processes, CoRMSA respectfully requests the opportunity to make an oral presentation before the Committee. Such engagement would enable CoRMSA to elaborate further on the issues raised in this submission and to provide additional evidence-based recommendations aimed at strengthening the Bill and ensuring its consistency with constitutional obligations and international human rights standards.

CoRMSA remains committed to supporting the Committee's work and to contributing constructively toward the development of fair, lawful, and humane migration governance in South Africa.

**End of submission.**



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