

**LAWYERS FOR HUMAN RIGHTS SUBMISSION TO THE DEPARTMENT OF  
HOME AFFAIRS ON THE DRAFT REVISED WHITE PAPER ON CITIZENSHIP,  
IMMIGRATION AND REFUGEE PROTECTION**

**15 FEBRUARY 2026**

**TABLE OF CONTENTS**

**SECTION 1: INTRODUCTION .....3**

**SECTION 2: SCOPE OF SUBMISSION .....3**

**SECTION 3: LEGAL FRAMEWORK AND INTERNATIONAL OBLIGATIONS .....4**

*CONSTITUTIONAL BARRIERS TO “TIERS” OF CITIZENSHIP .....6*

*THE EXTENSION OF RIGHTS TO NON-CITIZENS .....6*

**SECTION 4: ADMINISTRATIVE CHALLENGES - NEW IMMIGRATION COURTS & SINGLE REVIEW/APPEAL BODY .....7**

*ESTABLISHMENT OF SPECIALISED IMMIGRATION COURTS.....7*

**SECTION 5: ESTABLISHMENT OF A SINGLE HOME AFFAIRS REVIEW/APPEALS/WAIVERS/EXEMPTION AUTHORITY .....8**

**SECTION 6: ASYLUM ACCESS AND NON-REFOULEMENT .....10**

*FIRST SAFE COUNTRY PRINCIPLE .....10*

*THE PRINCIPLE AS A DE FACTO WITHDRAWAL FROM INTERNATIONAL PROTECTION OBLIGATIONS .....12*

*PRACTICAL FLAW AND THE “SAFE COUNTRY” FRICTION .....13*

**SECTION 7: ENTRY REQUIREMENT – GOOD CAUSE CONSIDERATION .....13**

**SECTION 8: EXCLUSIONARY CONDITIONS TO SECTION 22 PERMITS .....14**

**SECTION 9: CITIZENSHIP AND NATURALISATION .....15**

*CITIZENSHIP AND NATURALISATION .....15*

*INTRODUCTION OF THE CITIZENSHIP ADVISORY PANEL .....18*

*GRANTING OF CITIZENSHIP BASED ON STATELESSNESS .....19*

**SECTION 10: DIGITAL AND REGISTRATION MEASURES .....20**

**THE INTELLIGENCE POPULATION REGISTER AND DIGITAL IDs .....20**

**VISA & DIGITISATION: EFFICIENCY AT THE COST OF ACCESS.....21**

**DIGITISATION OF THE ASYLUM SYSTEM: A CRITICAL AREA DEMANDING SPECIFIC SAFEGUARDS.....22**

**SECTION 11: ABSENCE OF SAFEGUARDS AGAINST CORRUPTION .....23**

**CONCLUSION .....24**

**FORMAL ENDORSEMENTS .....25**

## SECTION 1: INTRODUCTION

1. Lawyers for Human Rights (“LHR”) hereby submits comments and recommendations in response to the Draft Revised White Paper on Citizenship, Immigration and Refugee Protection. LHR welcomes the opportunity to participate in the public consultation process and commends the responsible authority for initiating a policy review of this nature, which has significant implications for constitutional democracy, human rights protection, and the rule of law in South Africa.
2. LHR is a non-governmental, non-profit organisation dedicated to advancing human rights and social justice. We provide legal aid and support to impoverished, marginalised, and vulnerable individuals and communities across South Africa and the African region. Our mission is to foster a just and equitable society by:
  - i. Supporting the deepening of democratic principles and practices.
  - ii. Ensuring the protection and enforcement of constitutional values like equality, non-discrimination, and respect for human dignity.
  - iii. Advocating for the realisation of economic, social, and cultural rights for all members of society.
3. LHR welcomes the opportunity to participate in the public consultation process and commends the responsible authority for initiating a policy review of this nature, which has significant implications for constitutional democracy, human rights protection, and the rule of law in South Africa.

## SECTION 2: SCOPE OF SUBMISSION

4. This submission provides a human rights–based and practicable analysis of the Draft White Paper, with particular emphasis on its constitutional implications, alignment with South Africa’s international and regional human rights obligations, and its potential impact on vulnerable and marginalised groups. These submissions are limited to issues falling within LHR’s mandate and areas of expertise and do not seek to address every provision of the Draft White Paper in detail.
5. Accordingly, the submission highlights key areas of concern, identifies gaps and risks arising from the proposed policy framework, and advances practical recommendations aimed at strengthening rights protection, promoting accountability, and ensuring that the final White Paper is consistent with constitutional values, the rule of law, and principles of substantive equality.

## SECTION 3: LEGAL FRAMEWORK AND INTERNATIONAL OBLIGATIONS

6. While the extensive media coverage and provincial community engagements, including those conducted online, demonstrate a broad reach, these efforts must meet the threshold of meaningful participation. Under Sections 59 and 72 of the Constitution, the state has a proactive duty to facilitate substantive public involvement. As established in *Doctors for Life International v Speaker of the National Assembly*, this requires providing a "reasonable opportunity" for the public to be heard, ensuring that participation is not a mere formality but a deliberative exercise.<sup>1</sup> Furthermore, the Promotion of Administrative Justice Act (PAJA) mandates that such processes be procedurally fair. For these reforms to achieve legal legitimacy, the Department must ensure that the insights gathered from both provincial and digital platforms are genuinely integrated into the legislative evolution, reflecting a true commitment to an open and democratic society.
7. South Africa's constitutional commitment to internationalism is not merely aspirational but a foundational pillar of its domestic legal order. Chapter 14 of South Africa's Constitution mandates a sophisticated integration of international law.<sup>2</sup> Section 231 governs the binding nature of international agreements, Section 232 adopts customary international law as law in the Republic, and Section 233 serves as a mandatory interpretive lens.
8. The DHA's decision to abandon the previous proposal<sup>3</sup> to withdraw from the 1951 Refugee Convention, its protocol,<sup>4</sup> and the OAU Convention is a commendable step that preserves South Africa's standing in the international community and ensures its immigration policies remain firmly rooted in the global humanitarian consensus.<sup>5</sup>
9. South Africa's international commitments extend far beyond refugee-specific treaties. South Africa is a party to both the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), affirming its dedication to the full spectrum of civil, political, and socio-economic rights.<sup>6</sup>
10. Broad human rights obligations are further entrenched through the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Elimination of All Forms of Discrimination against Women. Under the CAT, South Africa is bound by the absolute prohibition of torture, which complements the principle of *non-refoulement* by forbidding the return of any person to a country where there are

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<sup>1</sup> *Doctors for Life International v Speaker of the National Assembly* [2006] ZACC 11

<sup>2</sup> South African Constitution, 1996.

<sup>3</sup> 2023 White Paper.

<sup>4</sup> 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.

<sup>5</sup> 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

<sup>6</sup> OCHR, Status of Ratification of International Human Rights Treaties: [South Africa](#).

substantial grounds for believing they would be in danger of being subjected to torture (Article 3).

11. Beyond these specific treaties, South Africa's legal framework is anchored by the overarching constitutional imperative of equality and non-discrimination. Section 9 of the Constitution prohibits the state from discriminating directly or indirectly against anyone on grounds including class, race, gender, sex, ethnic or social origin, colour, sexual orientation, religion, conscience, belief, culture, language, and birth. In the context of the DHA's Revised White Paper, this means that any proposed policy on citizenship or immigration must be scrutinised to ensure it does not unfairly target or marginalise specific groups of foreign nationals, as the Constitutional Court has repeatedly affirmed that the protection of the Bill of Rights extends to all persons within our borders, regardless of their nationality or legal status.
12. This domestic commitment mirrors the international obligation found in Article 2 of the ICCPR and Article 2 of the ICESCR, both of which require states to guarantee rights without discrimination of any kind. Furthermore, the International Convention on the Elimination of all forms of Racial Discrimination (CERD) imposes a proactive duty on South Africa to eliminate any policy that has the effect of creating or perpetuating racial or ethnic silos. When developing a revised framework for refugee protection, the state is legally bound to ensure that its administrative processes are applied uniformly and do not introduce arbitrary distinctions that would undermine the inherent dignity of the individual.
13. These obligations are not merely procedural; they are substantive requirements that shape the "reasonableness" of any new legislation. Under Section 233, South African courts are compelled to interpret the proposed reforms in a manner that aligns with global anti-discrimination standards. Consequently, any attempt to implement restrictive measures must be balanced against the constitutional promise of an open and democratic society. By harmonising domestic policy with these international non-discrimination norms, South Africa reinforces its commitment to a legal order where the rule of law and human rights take precedence over exclusionary administrative practices.
14. South Africa's legal framework does not support the "First Safe Country" principle in its current form. The application of this concept may conflict with the constitutional and international prohibition of refoulement. Under the Constitution of the Republic of South Africa, 1996, the State has a duty to respect, protect and promote and fulfil fundamental human rights. Section 11 (Right to Life), Section 10 (Dignity), and Section 12 (Freedom and Security of the Person) are of central importance. These rights apply everyone within the Republic's borders.
15. Domestic legislation reinforces these protections through section 2 of the Refugees Act 130 of 1998, which expressly enshrines the principle of non-refoulement. It provides that no person may be refused entry or expelled if it results in their return to a place of persecution. This prohibition applies

"notwithstanding any provision of this Act or any other law to the contrary." South African courts have consistently prioritised these substantive rights over administrative convenience.

## *Constitutional Barriers to "Tiers" of Citizenship*

16. The proposed "different tiers of citizenship" referred to in the DHA's discourse, which appears to contemplate varying levels of rights or a more restrictive "points-based" path to naturalisation, must be measured against the doctrine of Common Citizenship. Under Section 3(1) of the Constitution, there is a "common South African citizenship," and Section 3(2) explicitly mandates that all citizens are "equally entitled to the rights, privileges and benefits of citizenship."
17. These provisions impose a high legal threshold and preclude the creation of differentiated or "second-class" citizens. Any legislative attempt to dilute the rights of naturalised citizens compared to those born in the Republic would likely be found unconstitutional. The Constitutional Court in *Democratic Alliance v Minister of Home Affairs* recently reaffirmed the sanctity of this status, ruling that the automatic loss of citizenship (for acquiring another nationality) was an unjustifiable infringement on section 20, which states that "no citizen may be deprived of citizenship."<sup>7</sup>

## *The Extension of Rights to Non-Citizens*

18. South African jurisprudence has consistently moved to close the gap between citizens and permanent residents in terms of socio-economic protection. A landmark example is *Khosa v Minister of Social Development*, where the Constitutional Court ruled that excluding permanent residents from access to social grants was a violation of the Right to Equality (Section 9) and the Right to Social Security (Section 27).<sup>8</sup> The Court held that "everyone" in Section 27 includes non-citizens who have made South Africa their home.
19. In *Larbi-Odam v MEC for Education* ), the court found that discriminating against permanent residents in public service employment was unfair, establishing that citizenship is not a valid ground for excluding legally resident foreigners from the labour market.<sup>9</sup>
20. South African law recognises that foreign nationals and stateless individuals are a "vulnerable minority" with no political muscle. This status requires the courts to apply a "strict scrutiny" test to any policy that differentiates between groups based on nationality or birth.

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<sup>7</sup> *Democratic Alliance v Minister of Home Affairs and Others* [2023] ZACC 25.

<sup>8</sup> *Khosa and Others v Minister of Social Development and Others* 2004 (6) BCLR 569 (CC).

<sup>9</sup> *Larbi-Odam and Others v MEC for Education (North West) and Another* 1998 (1) SA 745 (CC).

21. The DHA's revised framework cannot legally sustain a system where certain residents or naturalised citizens hold a diminished legal status. Doing so would not only violate section 9 and section 3 of the Constitution but would also breach the ICCPR (Article 26), which guarantees equal protection of the law to all persons without discrimination

## SECTION 4: ADMINISTRATIVE CHALLENGES - NEW IMMIGRATION COURTS & SINGLE REVIEW/APEAL BODY

### *Establishment of Specialised Immigration Courts*

22. Whilst we welcome the proposed establishment of specialised immigration Court, we would like to note that the reasons advanced for the establishment of the specialised immigration courts as appears on the Revised Draft White Paper as it is, are inaccurate.<sup>10</sup>
23. The main reason provided for the establishment of the specialised immigration Courts is to expedite judicial reviews and appeals. In our view, the High Courts (which currently deal with judicial reviews and most appeals), and probably the Magistrate's Courts for other form of matters, are not the reason why there are Court backlogs and delays with expedition of Court cases.
24. The proper point of departure is to consider why there has been a surge in court cases, particularly those brought by asylum seekers and refugees, against the Department of Home Affairs. The primary cause is systemic poor decision-making within the Department, including decisions taken by Refugee Status Determination Officers ("RSDOs"), appeals determined by the Refugee Appeals Authority of South Africa ("RAASA"), and reviews conducted by the Standing Committee for Refugee Affairs ("SCRA"). These decisions frequently necessitate judicial review proceedings. In addition, the continued closure of Refugee Reception Offices to newly arrived asylum seekers has left such individuals with no effective alternative but to approach the High Court for relief compelling the Department to accept and process their asylum claims.
25. One good example is the case of *Dogiso v Minister of Home Affairs and Others*,<sup>11</sup> where the Durban High Court considered applications by asylum seekers who were not permitted to apply for asylum due to the closure of the Durban Refugee Centre to newcomer asylum seekers. The Court noted that

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<sup>10</sup> Department of Home Affairs 'Revised Draft White Paper on Citizenship, Immigration and Refugee Protection' (2025) 40 - 41 para 3.3.7.3 Specialised Immigration Courts "*The DHA recognizes the need for a dedicated judicial mechanism to handle immigration-related disputes, appeals, and administrative reviews expeditiously and effectively. To address the systemic delays in immigration adjudication, there is merit in establishing specialized Immigration Courts ...*"

<sup>11</sup> *Dogiso v Minister of Home Affairs and Others* (11106/2024 ; 15223/2024 ; 15224/2024 ; D15226/2024 ; D15311/2024 ; D15485/2024 ; D15526/2024) [2025] ZAKZDHC 25 (30 April 2025).

*“An analysis of the rolls which are easily obtainable online for the year 2025 reflects that the Minister of Home Affairs had been the respondent approximately two hundred and fifty times by the middle of April 2025. Some of these matters may be of a different form but the surnames of each of the vast majority of the applicants appear to be Ethiopian in origin.”<sup>12</sup>*

26. The Court went further to comment on how the closure of the Refugee Centres is affecting its operations, and included that:

*“If it is true that a refugee cannot receive assistance from the Department in the absence of a court order, and that they are expressly being turned away without one, then such conduct is to be deprecated. Indeed, such conduct would have to be condemned both because it would be a gross infringement of the rights of the applicants and because it would have the effect of imposing inadequacies in the Department's functioning upon the Court to the detriment of other litigants.”<sup>13</sup>*

27. In its frustration, the Court directed the State Attorney to submit a copy of its judgement in the *Dogiso* matter to the Minister of Home Affairs to reconsider his position to close the Refugee Centres.

28. It is thus clear from the above that the backlogs at the High Court was not caused by the Courts or asylum seekers, but by the conduct and actions (i.e., such as closure of the Refugee Reception Centres) of the Department of Home Affairs, leaving vulnerable asylum seekers with no option but to turn to Court, and ask the Court to basically perform the Department of Home Affairs functions.

29. Therefore, the creation of specialised immigration Courts, in the absence of proper decision making on asylum applications, and continued closure of the Refugee Centres, will not improve the efficiency of the specialised immigration Courts, and will inevitably lead to the same backlogs and inefficiencies.

## **SECTION 5: ESTABLISHMENT OF A SINGLE HOME AFFAIRS REVIEW/APPEALS/WAIVERS/EXEMPTION AUTHORITY**

30. The Draft White Paper proposes the establishment of a single Home Affairs Review/Appeals/Waivers/Exemption Authority (“Single Review and Appeal Authority”) that will be responsible for all forms of internal appeals and reviews emanating from almost all types of decisions within the Department of Home Affairs, ranging from civic, immigration, refugee and detention matters.<sup>14</sup>

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<sup>12</sup> Para 2 of the *Dogiso* judgement.

<sup>13</sup> Para 103 of the *Dogiso* judgement.

<sup>14</sup> Department of Home Affairs ‘Revised Draft White Paper’ (no 9 above) 40 para 3.3.7.2 Establishment of a single Home Affairs Review/Appeals/Waiver/Exemptions Authority.

31. In other words, this Single Review and Appeals Authority will be responsible for reviews and appeals by South African citizens (i.e., civic-related matters), on the one hand, and reviews and appeals by foreign nationals (i.e., immigration and refugee related matters), on the other hand. Furthermore, the RAASA, the SCRA, officials dealing with appeals by prohibited persons (i.e., in terms of section 29 of the Immigration Act, after an unsuccessful application to be declared not a prohibited person) and those dealing with appeals by undesirable persons (i.e., in terms of section 30 of the Immigration Act, after an unsuccessful application to be declared not an undesirable person) are tasked with performing their functions in accordance with the Act..
32. We are particularly concerned that the Refugee Centres, whether virtual or situated at the ports of entry, will be retained and the specialised immigration Courts will be created. This shows that matters connected with refugees and migrants (i.e., for foreign nationals) are very unique and different to civic matters (i.e., for South African citizens).
33. It will therefore be very difficult for the same Department of Home Affairs officials to deal with all the different appeals (i.e., birth registrations, South African ID's, South African passports, travel documents, migrants visas, refugee permits, entry into South refusals, detentions...etc) and applications (i.e., waivers and exemptions).
34. The systemic fragility of South Africa's asylum appellate bodies is most acutely felt by LHR's clients, many of whom remain trapped in a state of limbo for years. Experience on the ground reveals a profound disconnect between the promise of just administrative action and the reality of an overwhelmed bureaucracy. Clients frequently report waiting indefinitely for hearings and decisions from the SCRA and RAASA.
35. First-hand observations of these proceedings suggest that these delays are the direct result of severe under-capacitation within the quasi-judicial bodies. The sheer volume of cases far outstrips the visible human resources available to adjudicate them, a reality often exacerbated by a reliance on external funding to maintain even a skeletal staff. For the individuals behind the files, this resource scarcity translates into a denial of the right to a timely and fair hearing, effectively undermining the protective intent of the Refugees Act.
36. As is evident from the capacity and resource allocation challenges at both the SCRA and RAASA highlighted above, it is clear that the Department of Home Affairs does not prioritise, and has almost completely neglected, refugees and asylum seekers internal appeals and reviews.
37. We are therefore concerned that this proposed Single Review and Appeals Authority will prioritise appeals and reviews made by South African citizens, and neglect those coming from foreign nationals. This neglect has also shown itself through the understaffing and under resourcing of the RAASA and SCRA as shown above.

38. Furthermore, the long delays in the adjudication of immigration visa appeals and overstay appeals cannot be understated. At the moment, it is not clear who is responsible for overstay appeals since the intention to have these appeal hearings through virtual platforms. It is possible that the Department of Home Affairs has not allocated any resources at all to deal with overstay appeals.
39. We are thus worried that without an internal special statutory body or bodies to deal with immigration and refugee and/or asylum appeals there won't be accountability for, and equal consideration of, immigration and refugee and/or asylum appeals and reviews.

## SECTION 6: ASYLUM ACCESS AND NON-REFOULEMENT

### *First Safe Country Principle*

40. An asylum seeker flees a country where they face persecution and ultimately arrives at a country where they hope to receive protection. However, the route taken between the country of persecution and the country offering protection might lead through one or more countries. The "first safe country" principle provides that once a person seeking asylum arrives in a safe country after fleeing persecution, that country is responsible for assessing the asylum claim. Consequently, an asylum seeker is expected to apply for asylum in the "first safe country" where they have an opportunity to apply for asylum. If they first apply for asylum in a subsequent country, that country can return them to the first country in order to adjudicate their asylum claim there.<sup>15</sup>
41. Generally speaking, the "first country of asylum" concept makes access to an asylum procedure more difficult and administratively tedious. International refugee law does not require a refugee to seek asylum in the first country whose territory they reach. It is the country where a refugee applies for asylum which is obliged to consider the application substantively and to ensure that the refugee is not directly or indirectly returned to persecution.
42. The only recognised exception to this principle is when the applicant has already found effective protection in another country and is able to fully enjoy his or her rights as an asylum-seeker and refugee. Simply having been present in a country does not make it a first country of asylum.
43. In the event that the first-country-of asylum principle is applied in the South African context, there would be an administrative burden to determine whether the first country that the asylum seeker presents themselves is, in fact, able to offer sufficient protection.
44. International refugee law recognises that a person becomes a refugee from the moment they leave their country of origin due to a well-founded fear of

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<sup>15</sup> JC Hathaway 'The Rights of Refugees under International Law' 2005, University of Michigan School of Law Repository, 2nd ed., 173–311

persecution, and not only upon formal recognition of refugee status. As the UNHCR Handbook explains, “recognition of refugee status declares that a person is a refugee; it does not create their refugee status.”<sup>16</sup> This principle aligns with the first safe country concept by affirming that the obligation to provide protection arises from the circumstances of flight, irrespective of where formal status is granted.

45. The only recognised exception to the first safe country principle is where an applicant has already found effective protection in another country and is able to fully enjoy their rights as an asylum seeker and refugee. In the South African context, the application of the first-country-of-asylum principle would create an administrative burden to determine whether the first country to which the asylum seeker presented themselves is, in fact, able to provide sufficient protection, including substantive access to asylum procedures and effective remedies.
46. For this reason, LHR is concerned whether that particular assessment of the level of protection in the State considered the “first country of asylum” would actually be effective and enables a legally secure stay, access to efficient asylum procedures and long-term solutions and the ability to live in dignity. There is a risk that the existence of the relevant legal framework in the country will be overemphasised and refugees are returned to a country where their rights are not guaranteed in practice.<sup>17</sup>
47. The European Union encompasses this concept in the safe third party principle. Under this principle, an asylum seeker can be refused asylum and sent to a safe third country if the asylum seeker can be afforded protection in that safe third country. The safe third country rule differs from the “first safe country” principle because an asylum seeker’s claim need not be lodged in the first safe country which they entered *en route* to their final destination.<sup>18</sup> Various countries have adopted safe third country agreements with one another as the revised paper seems to suggest. These agreements provide that once a person fleeing persecution crosses into a country that is party to these agreements, that party will be responsible for assessing refugee status.<sup>19</sup>
48. While acknowledging the need for a managed, secure, and efficient asylum system, the principle as formulated is fundamentally at odds with South Africa’s constitutional obligations, international refugee law, and humanitarian commitments. Its implementation would constitute a regressive policy that effectively outsources our protection responsibilities, introduces unfair

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<sup>16</sup> UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status, para 37, UNHCR, Geneva, 2011.

<sup>17</sup> Amnesty International’s report Turkey: No safe refuge: Asylum-seekers and refugees denied effective protection in Turkey, 3 June 2016, Index number: EUR 44/3825/2016, with highlights such risks in respect of Turkey being regarded as a “first country of asylum” or “safe third country”

<sup>18</sup> Amnesty International Position Paper on Asylum Procedures [https://www.amnesty.eu/wp-content/uploads/2018/10/AI\\_position\\_paper\\_on\\_APR\\_proposal.pdf](https://www.amnesty.eu/wp-content/uploads/2018/10/AI_position_paper_on_APR_proposal.pdf) (accessed 26 January 2026)

<sup>19</sup> *Ibid*,

discrimination, and fails vulnerable groups, including *refugees sur place* claims and vulnerable groups.

## *The Principle as a De Facto Withdrawal from International Protection Obligations*

49. While the White Paper rightly abandons the legally and diplomatically perilous path of formal withdrawal from the 1951 Refugee Convention, the First Safe Country Principle would achieve a similar outcome through policy mechanics. By mandating that asylum claims be made in the first safe country reached, South Africa would virtually eliminate its responsibility towards refugees from anywhere beyond its immediate borders. Geographically, this limits potential claimants to nationals of Lesotho, Eswatini, Mozambique, Zimbabwe, Botswana, and Namibia, the only countries one can reach without transiting another. This reduces South Africa's role in global protection from a continental leader to a localised actor, sheltering refugees from, at most, six of the world's nations.
50. This approach contravenes the cooperative, burden-sharing spirit of the international refugee regime. The UN Global Compact on Refugees, 2018,<sup>20</sup> explicitly calls for "equitable burden and responsibility-sharing" and rejects policies that simply shift responsibilities onto other, often less-resourced, states (see Paragraph 68 on responsibility-sharing). The principle also conflicts with the OAU Refugee Convention of 1969, to which South Africa is a party, which recognises the unique refugee dynamics in Africa, including cross-border movements due to conflict and instability, and does not mandate a "first safe country" rule.
51. Furthermore, in terms of The Refugees Act of 1998, 'no person may be refused entry into the Republic, expelled, extradited or returned to any country or subject to any similar measure, if as a result' of such action the person ends up at a country where they will be subject to persecution on various grounds or their life and liberty are at risk. This provision is consistent with Article 33 of the 1951 Refugee Conventions, which enshrines the principle of non-refoulement. It also prohibits detention exceeding a reasonable and justifiable period. These protections are further underpinned by the principles of human dignity and equality for all as enshrined in South African Constitution.<sup>21</sup> Refugees are entitled to all the rights in the Bill of Rights in terms of s27 of the Refugees Act 130 of 1998 and the right to access social security is guaranteed in s27 (1) (c) of the Constitution.<sup>22</sup> *Inherent and Unfair Discrimination*
52. The principle will systematically and unfairly discriminate against refugees based on their wealth and geographical origin, creating a two-tier asylum system.

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<sup>20</sup> United Nations Global Compact on Refugees <https://www.unhcr.org/about-unhcr/overview/global-compact-refugees> (accessed 26 January 2026)

<sup>21</sup> South African Constitution, 1996

- a. *Discrimination by Wealth/Class*: The principle inherently favours refugees who can afford direct air travel or neighbouring to South Africa. The world's most vulnerable refugees, fleeing with few resources, often travel overland and the countries that they transit often has leakages of the country of origin conflicts. Penalising them for their mode of transport, a direct consequence of their poverty and urgency, is a profound injustice. It makes protection a privilege of the affluent, contrary to the non-discriminatory core of refugee.<sup>23</sup>
- b. *Discrimination by Geography*: Refugees from other African regions or from other continents will be categorically excluded unless they fly directly into South African international airports. This geographic discrimination has no basis in the merit or validity of an individual's fear of persecution. It is arbitrary.

## *Practical Flaw and the "Safe Country" Friction*

53. The operationalisation of the principle relies on the politically fragile and often inaccurate designation of "safe countries," creating serious risks of *refoulement* and administrative chaos. A country's designation as "safe" is a snapshot that can change rapidly due to coup d'états, renewed conflict, or shifting political tides. The White Paper's proposal for annual ministerial review is insufficient; a refugee in transit during a political collapse would be unjustly denied.
54. The UNHCR has repeatedly warned against the automatic application of "safe third country" concepts without rigorous, individualised assessment of protection availability in each case.<sup>24</sup> The principle does not create genuine regional cooperation but unilaterally dumps responsibility onto neighbouring states, many of which have weaker economies and asylum systems. This exacerbates regional tensions and violates the cooperative ethos of the regional mechanisms and frameworks.

## **SECTION 7: ENTRY REQUIREMENT – GOOD CAUSE CONSIDERATION**

55. The proposed entry requirements as appears in the Draft Revised White Paper will require an asylum seeker who might have entered South Africa irregularly to show good cause for unlawful entry and presence in South Africa before being permitted to apply for asylum. According to paragraph 3.4.3. of the Draft Revised White Paper, this is in line with the *Ashebo*<sup>25</sup> judgement. This proposition, which is associated with the *Ashebo* judgement, requires some clarity.

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<sup>23</sup> Article 3 of the 1951 Convention

<sup>24</sup> UNHCR, *note on the "Safe Third Country" Concept*, 1991; and UNHCR's Guidelines on International Protection No. 12: Claims for refugee status related to situations of armed conflict and violence, 2016, which stress the need for a context-specific assessment

<sup>25</sup> *Ashebo v Minister of Home Affairs and Others* (CCT 250/22) [2023] ZACC 16; 2023 (5) SA 382 (CC); 2024 (2) BCLR 217 (CC) (12 June 2023)

56. The *Ashebo* case was about whether a detained asylum seeker who is facing deportation but has indicated his intention to apply for asylum can be deported before being permitted to apply for asylum. The High Court found that such an asylum seeker cannot be summarily deported before being permitted to apply for asylum.
57. The case that dealt with the constitutionality of the *good cause* requirements as outlined in sections 4(1)(h) and 21(1B) of the Refugees Act, read with Regulation 8(3) and (4) of the Immigration Regulations is *Scalabrini Centre of Cape Town and Another v Minister of Home Affairs and Others*<sup>26</sup> (“*Scalabrini good cause* case”) where the High Court found the *good cause* requirements to be unconstitutional, and referred its order to the Constitutional Court for confirmation or otherwise.
58. The application for confirmation was heard on 12 February 2026, and judgement has been reserved. We are concerned that the proposed *good cause* requirements are against the order of the Western Cape High Court in *Scalabrini good cause* case and appear to disregard the pending Constitutional Court decision.
59. It is therefore concerning that the *good cause* requirements as it appears in the current Draft Revised White Paper might be against an order of the Constitutional Court, should the later Court confirm the findings of the High Court in *Scalabrini good cause* case.

## SECTION 8: EXCLUSIONARY CONDITIONS TO SECTION 22 PERMITS

60. The Draft Revised White Paper proposes that asylum seekers who might be lucky to be admitted into South Africa will be issued with blanket restrictions, meaning they will only be permitted to reside in South Africa and will not be allowed to engage in secondary activities such as working, conducting business and studying.
61. If an asylum seeker wishes to conduct any secondary activity, they will have to comply with the provisions of the Immigration Act<sup>27</sup> and immigration Regulations, applicable to those activities.
62. In short, if an asylum seeker wishes to study, they will have to apply for the right to do so and comply with all the requirements for issuance of a study visa issued under the Immigration Act. We are concerned that imposing these requirements on asylum seekers effectively transforms their status into that of migrants, which we submit is unfair, unjustified and unreasonable.

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<sup>26</sup> *Scalabrini Centre of Cape Town and Another v Minister of Home Affairs and Others* (8684/2024) [2025] ZAWCHC 202; [2025] 3 All SA 827 (WCC) (15 May 2025)

<sup>27</sup> 13 of 2002.

63. Even if such asylum seekers wish to apply for the right to engage in a secondary activity, almost all would be unable to meet the relevant requirements. Unlike ordinary migrants, asylum seekers fled their home countries under difficult circumstances, without preparing (i.e., financial planning). Using the study visa as an example (\*as it is not clear if there will be a new study visa with new requirements), according to the Revised Draft White Paper proposal, an asylum seeker wishing to study will have to provide the following, among other things:
- i. Proof of medical cover renewed annually for the period of study with a medical scheme registered in terms of the Medical Schemes Act.<sup>28</sup>
  - ii. Proof of sufficient financial means available to the learner whilst resident in the Republic.<sup>29</sup>
64. Considering that most families have more than one (1) child in school, it is clear that most asylum seeker families will not afford to keep their children in school.
65. An application for business visa (which will enable an asylum seeker to engage in self-employment) will not be for anyone as the proposed Star-Up Visa will be for “*highly skilled persons*”<sup>30</sup>, and not an average person. An application for a general work visa (which will enable an asylum seeker to work) is almost impossible to obtain, with the Department of Home Affairs boasting in 3.3.1. of the Revised Draft White Paper that the stringent measures put in place have resulted in only 1% success rate when one is applying for a general work visa. The proposed new work visa is said to be based on Points Based System which at this stage it is difficult to understand.
66. In short, this is another way of making it impossible for asylum seekers who might be lucky to be admitted into South Africa to survive, as will obviously not fulfil the requirements to be conferred the rights to work, do business or study, unless they convert and become migrants (i.e., apply for an immigration visas). This sophisticated process of converting asylum seekers to migrants, in our view, will be unlawful.

## SECTION 9: CITIZENSHIP AND NATURALISATION

### *Citizenship and Naturalisation*

67. The history surrounding citizenship and inclusion in South Africa holds deeply political roots grounded in bureaucratic processes framed at regulating the movement and mobility of certain demographics of persons, with the legal framework obtaining a colonial position. However, post-apartheid South African

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<sup>28</sup> Regulation 12(1)(f) of the Immigration Regulations 2014 published under GN R413 in *Government Gazette* 37679 of 22 May 2014

<sup>29</sup> Regulation 12(1)(g) of the Immigration Regulations 2014 published under GN R413 in *Government Gazette* 37679 of 22 May 2014

<sup>30</sup> See paragraph 3.3.3.2. of the Revised Draft White Paper.

citizenship laws maintained inclusivity and illustrated sensitivity to the variety of complex situations that oppression, political division and political unrest had resulted in for not only South Africans, but many Southern Africans and others on the continent.<sup>31</sup>

68. Over the years, and particularly with the proposed changes outlined in the White Paper, the pathways to obtaining citizenship in South Africa have shifted away from this inclusive, nuanced and sensitive approach towards foreign nationals and migration within South Africa has been geared towards restricting access as a means of tackling abuse within the immigration system, while creating opportunity for specific types of foreign nationals that will contribute meaningfully to the Republic beyond humanitarian considerations.

69. LHR welcomes the adoption in the draft revised white paper of the recommendations made regarding citizenship rights and issues surrounding statelessness from the last submission made on 31 January 2024, and appreciates the considerations made towards the impact on vulnerable, marginalised groups who would benefit from a comprehensive understanding of citizenship rights and statelessness.

70. The revised draft White Paper reframes citizenship and immigration as both an economic enabler and a security and public interest function. The reforms proposed by the White Paper are designed to be constitutionally sound and operationally modern, using digital systems to improve both security and service efficiency.<sup>32</sup>

The core objectives of the White Paper are the:

- i. attraction and retention of skills and investment;
- ii. regularisation and modernisation of mobility;
- iii. ensuring of universal and accurate civil registration of births and deaths; and
- iv. maintenance of a humane refugee regime aligned with non-refoulement and constitutional guarantees.

71. The paper reaffirms the role of the DHA in safeguarding the national sovereignty and public security of the country and its people while attracting foreign investment, skills, promoting tourism, and providing international protection in accordance with the South African Constitution and international obligations.

72. A points-based system (PBS) is proposed for citizenship applications, which is a shift from the current system where the duration of an individual's stay in South

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<sup>31</sup> C Hobden 'Shrinking South Africa: Hidden Agendas In South African Citizenship Practice' (2020) 47(2) South African Journal Of Political Studies at 161.

<sup>32</sup> Department of Home Affairs 'Revised Draft White Paper' (n 9 above) 19 para 3.1.1 Merit-based Economic Pathways to Citizenship.

Africa is the main qualifier. The PBS will score applicants on factors such as skills and qualifications, economic contribution (investment) and social contribution.

73. It is noted that provisions within the Citizenship Act as pathways to citizenship for youth and children as per section 2(1) and section 4(3) remain with the new system, operating parallel to the existing principle that a child with at least one parent who is a SA citizen at the time of birth automatically becomes a citizen, while a child born to non-South African parents have to apply for naturalization.
74. This new policy is underpinned by principles that are formulated to focus policy and ensure it is in line with key priorities of the State and the transformation and development of the Republic. While it is recognised that the national interests of South Africa should be defined in accordance with principles underpinning the constitution and the promotion of human rights, peace and stability- economic growth considerations should be balanced and not be considered in isolation or as a prioritised factor, with the practice and adjudication of applications complying with international human rights obligations and standards.
75. Borders and boundaries are intrinsically connected to the discourses of nationality and networks related to globalisation and transnationalism, with the ways in which a state is 'imagined' being determined by who is formally included and excluded: Citizenship is the key institutional mechanism for establishing these boundaries.<sup>33</sup> It would be remiss to not highlight the crucial role race, class and nationality will play in the construction of our State and play an influence in the implementation of immigration and citizenship policies.
76. The White Paper introduces a shift from the general principle observed in many countries where the relationship between temporary residence, permanent residence and naturalization is dependent on the type of residence visa/ permit with which a recipient started with. Under the new policy, an objective assessment into the value-add an applicant has in gaining South African citizenship and what benefit they have to the State is considered. This is motivated by mitigating the widespread abuse of the current immigration and naturalization model by persons "who put the nation at risk".<sup>34</sup>
77. The new policy is underpinned by principles that are formulated to focus the policy and ensure it is in line with key priorities of the State, including economic growth and national security.<sup>35</sup> However, economic growth considerations should be balanced and not be considered in isolation, with adjudication of applications complying with human rights obligations and standards.

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<sup>33</sup> Yoon Yung Park, 'Introduction: Identity, Citizenship and Power in South Africa' (2010) 69 (3) African Studies at 380.

<sup>34</sup> Department of Home Affairs 'Revised Draft White Paper' (n 9 above) 19 -22.

<sup>35</sup> Department of Home Affairs. (2024). *White Paper on Citizenship, Immigration and Refugee Protection: Towards a Complete Overhaul of the Migration System in South Africa*. Government Gazette.

78. The introduction of the points-based system for citizenship applications being based on an objective eligibility criteria looks to prioritising individuals who will contribute meaningfully to South Africa's economy and society, with key criteria looking at skills and qualifications, economic contribution through investment and social contribution- a clear shift from the duration of residence being a primary factor in the granting of citizenship.
79. 'Citizenship by investment' programs encourage capital becoming a golden passport to citizenship,<sup>36</sup> allowing those in stable and promising financial positions to benefit from requirements that are more difficult for others to achieve, particularly within an African context whereby migration is characterised frequently by displacement, abandonment alongside economic migration. The idea of earning citizenship takes on a dual meaning of proving one's deservingness'- complying with tightening civic-integration naturalization requirements and demonstrating economic self-sufficiency.<sup>37</sup>

### *Introduction of the Citizenship Advisory Panel*

80. The DHA White Paper introduced the formation of a Citizenship Advisory Panel (CAP) which will provide expert recommendations to advise the Minister in determining the criteria/ score card of applicants while balancing considerations such as national security, economic sustainability and social cohesion.<sup>38</sup> Part of the panels mandate will be being responsible for reviewing and assessing applications for citizenship, conducting due diligence risk assessments to ensure applicant's meet the criteria defined and providing formal recommendations to the Minister for final approval and rejection.
81. The CAP is intended to act as an independent oversight body that will ensure transparency, integrity and accountability in exceptional citizenship cases and the process. The introduction of the CAP is welcome and understood as a progressive step towards the proficient, effective and seamless application process regarding citizenship application and allows for an accountable mechanism for applications to account to and seek relief from.
82. Our recommendation is that the panel of experts is varied between academic, senior DHA officials, civil society and legal experts to ensure that adjudication is not biased and able to strike a balance between upholding national key priorities as well as sensitivity to human rights obligations and humanitarian considerations. Further, that they should not be required to sign non-disclosure agreements ("NDA") but function in a transparent and accountable way. The CAB is intended to be a statutory body, not just an informal group of advisors. Functioning without NDAs aligns the CAB with Section 195 of the Constitution, which requires public administration to be accountable and transparent.

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<sup>36</sup> Ayelet Shachar, 'Unequal access: wealth as a barrier and accelerator to citizenship', (2021) 25 (4) *Citizenship Studies* at 543.

<sup>37</sup> *Ibid* at 549.

<sup>38</sup> Department of Home Affairs 'Revised Draft White Paper' (n 9 above) 20-22 para 3.1.5 Establishment of the Citizenship Advisory Panel.

## *Granting of Citizenship based on Statelessness*

83. The current model of citizenship in South African recognises citizenship by birth within the territory, regardless of parental citizenship. Furthermore, the section 4(3) provision on naturalisation brings in the principle of *jus soli* into our context as citizenship is acquired by birth within the territory of the State, regardless of parental citizenship.
84. The White Paper suggests that the introduction of the new citizenship policies as highlighted above will work parallel to these processes,<sup>39</sup> however the Paper further asserts that legislation must only cater for a child born in SA who has not taken up any nationality or who cannot be eligible to apply for SA citizenship, subject to a formal statelessness determination procedure.
85. As suggested in our previous submissions, the importance of these provisions cannot be overstated. The regressive nature of removing this provision, considering South Africa's history where black South African's were classified as second-class citizens and marginalised, raises several concerns. LHR's clients represent a particularly vulnerable group of children and young persons who are stateless or at risk of statelessness. Their sole legal pathway to secure documentation and legal status in South Africa lies in Section 2(2), 2(3), or 4(3) of the Citizenship Act in its current form.
86. They are children of refugees, asylum seekers, irregular and regular migrants, or stateless persons who were born and raised in South Africa and have no legal and/or social connections to any other country. But they are also the children of other black migrants who were historically excluded from regular immigration processes. South Africa is their home but cannot forge a meaningful existence for themselves without secure documentation and legal status.<sup>40</sup>
87. The introduction of a statelessness determination procedure as well as mechanisms to ensure the protection and documentation of affected persons is a progressive step in alleviating the various legal and practical barriers that exacerbate the issue of statelessness in South Africa. Further, the introduction of a special visa for those that are awaiting the determination of their status is important to ensure that minors do not remain undocumented.

## **Recommendations regarding Section 4(3) – Naturalisation and the New Special Visa**

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<sup>39</sup> Department of Home Affairs 'Draft Revised White Paper on Citizenship, Immigration and Refugee Protection' Government Gazette Notice 53853, 12 December 2025 at para 1.1.2

<sup>40</sup> See Lawyers for Human Rights Submission on the DHA White Paper on Citizenship, Immigration and Refugee Protection: Towards a complete overhaul of the migration system of South Africa, 21 January 2024 at <https://lawyersforhumanrights.b-cdn.net/wp-content/uploads/2024/02/LHR-Submission-on-DHA-White-Paper-2024-01-31.pdf> at page 22.

88. It is LHR's recommendation that the proposed "special visa" for minor applicants under Section 4(3) of the Citizenship Act must explicitly grant uninterrupted rights to education (both basic education and higher education and training) and future employment. The policy should clearly state that holders of this visa are protected from administrative limbo. Ensuring they can continue their schooling or enter the labour market while DHA investigates the status determination.
89. DHA must ensure that the introduction of "statelessness determination" steps and the "special visa" does not inadvertently create new substantive criteria for citizenship. One that exceeds the requirements of Section 4(3). To remain consistent with established South African case law, these steps should be framed strictly as procedural facilitators. Rather than additional hurdles or restrictive conditions for the recognition of citizenship.<sup>41</sup>
90. The forthcoming amendment to the Citizenship Act Regulations should explicitly define the "special visa" as a bridge to naturalisation rather than a temporary immigration category. This will prevent the subversion of the Right of Citizenship for those born in the country to non-citizen parents, as previously affirmed by the courts.<sup>42</sup>

## SECTION 10: DIGITAL AND REGISTRATION MEASURES

91. This section of the submissions focuses on the extensive digital transformation proposals within the Draft Revised White Paper, including the Intelligent Population Register (IPR), universal digital civil registration, the Electronic Travel Authorization (ETA) system, and the digitalisation of asylum processes. While LHR welcomes the imperative to modernise systems for efficiency and security, the White Paper's current approach risks prioritising technical expediency over fundamental rights, potentially exacerbating exclusion and creating new forms of digital injustice.

### The Intelligence Population Register and Digital IDs

92. *Sections 1.1.3, 3.2 of the* White Paper advocates transforming the National Population Register (NPR) into an IPR, a centralised biometric database for all residents, forming the foundation for a Digital ID.

### Critique & Recommendations:

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<sup>41</sup> ***Chisuse and Others v Minister of Home Affairs and Another 2020 (5) SA 1 (CC)*** The Constitutional Court held that citizenship is a constitutional right and that the Citizenship Act must be interpreted in a way that *favours* the recognition of citizenship rather than its denial. ***Ali and Others v Minister of Home Affairs and Another 2020 (2) SA 545 (GP)*** This case specifically dealt with **Section 4(3)** applicants. The High Court (later upheld) slammed the DHA for not having the "systems" or "forms" ready to process these applications, ruling that administrative incapacity or the lack of a specific visa/procedure cannot be used to block a person's statutory right to citizenship.

<sup>42</sup> *Minister of Home Affairs v Ali* (1289/17)[2018] ZASCA 169; 2019 (2) SA 396 (SCA); *Jose v The Minister of Home Affairs* (38981/17) [2019] ZAGPPHC 88; 2019(4) SA 597 (GP).

- *Ambiguous Purpose & Function Creep*: The White Paper lacks clear limitations on how the IPR's data, particularly biometrics, will be used. Without legislative safeguards, there is a high risk of “*function creep*” where data collected for civil registration is repurposed for mass surveillance, predictive policing, or immigration enforcement against vulnerable communities. The Paper's linkage of the IPR to “combating illegal immigration” (Sections 2.1, 3.2.1) is a worrying indication of this trajectory. *Recommendation*: The enabling legislation must strictly define and limit the purposes for which IPR data can be accessed and used, with strong independent oversight as per the Protection of Personal Information Act (POPIA).
- *Exclusion by Design*: A mandatory, biometric-based Digital ID risks excluding those on the margins: the elderly, rural populations, those with disabilities affecting biometric capture, and the undocumented. The White Paper acknowledges the “scandal of invisibility” but proposes a system that could deepen it for those unable to navigate digital portals or provide standard biometrics. *Recommendation*: Any Digital ID system must be supplemented by non-digital, accessible alternatives for essential services, and enrolment must be preceded by extensive, inclusive public outreach and assistance.
- *Lack of Data Protection Framework*: The White Paper mentions privacy, but does not detail how the immense security and privacy risks of a centralised biometric database will be mitigated. *Recommendation*: The DHA must publish some form of a comprehensive data protection impact assessment for public comment before proceeding with the IPR. The system's architecture must adhere to principles of data minimisation and purpose limitation.

## Visa & Digitisation: Efficiency at the Cost of Access

93. *The proposal (Sections 1.1.4, 3.3.2, 3.3.6.2) for a fully digital visa application system via ETA, using automation and machine learning for fraud detection and decision-making.*

## Critique & Recommendations:

- *The Digital Divide as a Barrier to Entry*: A single, mandatory online channel for all visa applications assumes universal access to technology, stable internet, digital literacy, and banking facilities for payments. This systematically disadvantages applicants from low-income countries, rural areas, or those with disabilities, effectively embedding socio-economic discrimination into the immigration gateway. *Recommendation*: The DHA must maintain physical application channels and provide assisted digital application support.
- *Algorithmic Opacity and “Black Box” Decisions*: The use of machine learning for fraud detection and “expedited processing” raises serious concerns about algorithmic bias and the lack of transparency. Applicants may be denied without understanding why, undermining the right to just administrative action.<sup>43</sup>

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<sup>43</sup> Section 33 of the Constitution, 1996

(Section 33 of the Constitution). *Recommendation:* The DHA must commit to algorithmic transparency. Applicants have a right to meaningful explanations for adverse decisions. No fully automated decision-making with legal effect should be permitted without human review.

- *Lack of Integration with Broader Safeguards:* The ETA system is presented in isolation. Its effectiveness and fairness depend on integration with the proposed single Appeals Authority and specialised Immigration Courts (Sections 3.3.7.2, 3.3.7.3). *Recommendation:* The digitisation of applications must be developed in tandem with the digitisation of appeal and court processes to ensure a coherent, accessible justice chain.

## Digitisation of the Asylum System: A Critical Area Demanding Specific Safeguards

94. *The proposal (Sections 3.4.5, 3.4.6) of* Digital and virtual processing of asylum applications at ports of entry, with machine learning, and a streamlined digital appeals process.

## Critique & Recommendations

- *Virtual Interviews and the Credibility Assessment Paradox:* The White Paper proposes virtual asylum interviews. However, a key element of refugee status determination is assessing the *credibility* of an applicant's testimony, which relies heavily on non-verbal cues, demeanour, and the safe, confidential environment of the interview. A virtual process, especially for traumatised individuals or those in noisy, unsafe border environments, can severely compromise this assessment, leading to wrongful rejections. *Recommendation:* Virtual interviews should be an option, not the default, and only proceed with the informed consent of the applicant, who must be informed of the potential limitations. In-person interviews must remain available.<sup>44</sup>
- *Port-of-Entry Focus and the Right to Seek Asylum:* The directive that all initial applications be processed "at designated ports of entry, including virtually" (Section 3.4.5) is highly problematic. It ignores the reality that many refugees cross irregularly to avoid detection and may only feel safe to claim asylum inland. This policy could lead to summary rejections at the border and violate the principle of non-refoulement. *Recommendation:* The legal right to apply for asylum must be explicitly protected irrespective of point of entry. Digital systems should facilitate inland applications, not preclude them.
- *Data Security and Confidentiality:* Asylum seekers are a particularly vulnerable population. Their biometric and personal data, if leaked or improperly shared with their country of origin, can have fatal consequences. The White Paper is silent on the extraordinary data protection protocols needed for the asylum

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<sup>44</sup> Z Cele 'The Impact of Digitisation of Asylum Seeker Systems in South Africa: Challenges and Opportunities' 2024, AfricLaw

database. **Recommendation:** The asylum digitisation project must have the highest possible security standards, with data strictly siloed from other government databases and access heavily audited, in line with UNHCR guidelines on data protection.

## SECTION 11: ABSENCE OF SAFEGUARDS AGAINST CORRUPTION

The White Paper champions the creation of centralised digital systems (Intelligent Population Register, ETA visa platform, digital asylum processing) as solutions to inefficiency and fraud. However, it ignores a fundamental governance principle: centralisation without transparency and accountability centralises corruption risk. The document mentions security but does not specify the technical, administrative, or oversight mechanisms to prevent authorised users from misusing the system. There is no discussion of whistleblower protections for IT staff, or independent external audits of system access.

- I. The proposed digital and port-of-entry-focused asylum system places extremely vulnerable individuals at the mercy of a digital process with life-altering stakes.
  - **Risk Created:** Asylum seekers, fearing deportation, are uniquely susceptible to extortion. Officials could demand bribes to "register" an application in the system, to alter digital interview records, or to prevent a digital flag for deportation. The proposed annual designation of "safe countries" is a political process vulnerable to opaque influence.
  - **Paper's Failure:** It contains no special ethical or security protocols for the asylum database. There are no provisions for double-blind audits, protection for asylum seekers reporting corruption, or an independent multi-stakeholder panel to oversee the "safe country" designation process.
- II. While the Paper proposes new bodies like the Immigration Advisory Board and a single Appeals Authority, their mandates are focused on policy and review, not proactive anti-corruption monitoring.
  - **Risk Created:** Without a specific watchdog function, systemic corrupt practices within the new digital and administrative processes can become normalized and undetected.
  - **Paper's Failure:** It does not establish a dedicated anti-corruption unit that would likely be tasked with investigative powers, direct reporting lines to Parliament, and a mandate to conduct real-time monitoring of the new digital systems.

## CONCLUSION

The Draft Revised White Paper on Citizenship, Immigration and Refugee Protection represents a pivotal moment in South Africa's migration governance framework. While LHR welcomes the Department of Home Affairs' stated commitment to constitutionalism, non-refoulement, and international cooperation, this submission demonstrates that several core proposals, as currently formulated, risk undermining those very commitments in law and in practice. The cumulative effect of restrictive asylum access measures, the proposed First Safe Country Principle, exclusionary permit conditions, centralised appeals structures, and digitally driven decision-making without adequate safeguards is not administrative efficiency, but the erosion of substantive rights, accountability, and dignity.

Parliament and the DHA is constitutionally mandated to ensure that policy reform does not sacrifice human rights at the altar of expediency, securitisation, or economic selectivity. As this submission has shown, many of the systemic challenges facing the immigration and asylum system do not stem from legislative gaps, but from persistent administrative failures, under-resourcing, and unlawful practices that have repeatedly been censured by South African courts. Without addressing these root causes, the creation of new institutions, courts, and digital systems will merely replicate existing dysfunctions at scale.

South Africa's constitutional order rejects hierarchies of belonging. Any attempt to tier citizenship, outsource protection responsibilities, convert asylum seekers into migrants by stealth, or condition survival on economic utility is incompatible with the principles of equality, dignity, and common citizenship. Likewise, digital transformation, while necessary, cannot proceed in the absence of robust data protection, transparency, anti-corruption safeguards, and meaningful access to remedies.

LHR therefore urges the Department of Home Affairs to exercise informed caution over the finalisation of the White Paper and to ensure that it is aligned not only with administrative objectives, but with South Africa's constitutional values, binding international obligations, and hard-won jurisprudence.

## FORMAL ENDORSEMENTS

<b>No.</b>	<b>Organisation/Individual</b>
<b><u>1</u></b>	Sandie Insight Group
<b><u>2</u></b>	Juanita Pandy
<b><u>3</u></b>	Zaid Isaacs
<b><u>4</u></b>	Charlene Houston
<b><u>5</u></b>	Lorna Houston
<b><u>6</u></b>	Nadia Dramat
<b><u>7</u></b>	Bealah Jacobs
<b><u>8</u></b>	Mogamat Ardiel Soeker
<b><u>9</u></b>	Mohammed Qiyaam Patton
<b><u>10</u></b>	Lumumba Nkebih Chia
<b><u>11</u></b>	Congolese Civil Society of South Africa
<b><u>12</u></b>	Chronicles of Refugees and Immigrants

<b><u>13</u></b>	Mothers for Gaza
<b><u>14</u></b>	Layla Dramat
<b><u>15</u></b>	Collective Voices for Health Access
<b><u>16</u></b>	Global Strategic litigation Council for Refugee Rights
<b><u>17</u></b>	Blash Sash
<b><u>18</u></b>	Somali Association of South Africa
<b><u>19</u></b>	South Africa Refugee-Led Network
<b><u>20</u></b>	Kopanang Africa Against Xenophobia
<b><u>21</u></b>	Pax Afrika Network
<b><u>22</u></b>	Southern African Network for Immigrants and Refugees
<b><u>23</u></b>	Refugee Social Services
<b><u>24</u></b>	International Labour Research and Information Group
<b><u>25</u></b>	General Industries Workers Union of South Africa

# LAWYERS FOR HUMAN RIGHTS

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<b><u>26</u></b>	Foundation for Human Rights
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