

## **Annexure 1 – Summary of Recommendations**

1. **Recommendation#1:**

The SCCT recommends that the Department adopt a pragmatic approach to migration management that emphasizes regional integration and development as the basis of an African-centric migration policy.

2. **Recommendation#2:**

The SCCT recommends that any new immigration legislation include mechanisms that account for and facilitate legal pathways for low to mid-skilled migration within the region as an integral component of a holistic and secure migration policy.

3. **Recommendation#3:**

The SCCT recommends that concurrent to the introduction of an expanded regional visa regime, that the Department implement a regularization programme to allow for SADC migrants currently residing in South Africa to access documentation, and that such a programme is implemented in a secure manner and based on strict criteria. Any regularization programme should be accompanied by a moratorium on deportation for individuals that may qualify to broaden the project's reach and ensure it is effective.

4. **Recommendation#4:**

The SCCT recommends that the Revised White Paper includes the Article I(2) definition from the 1969 OAU Refugee Convention in the definitions section and acknowledging that both definitions apply concurrently and cumulatively, not selectively.

5. **Recommendation#5:**

The SCCT recommends that reference to and application of the first country principle is removed entirely from the Revised White Paper or failing which at the very least includes clear safeguard and a guarantee prohibiting refoulement. The Department, should rather work with relevant government departments, engage within the region to strengthen international protection standards, reinforce the rule of law, and increase cooperation and coordination on the continent to improve refugee and migration policy.

6. **Recommendation#6:**

The SCCT recommends that the Revised White Paper more accurately reflects statistics on the asylum process accounting for review and appeal outcomes and acknowledges the failings in first instance refugee status determination. The Revised White Paper should set out steps to improve this through extensive training for refugee status determination procedures.

7. **Recommendation#7:**

The SCCT recommends that access to asylum is restored. DHA should halt implementation of unconstitutional and invalid asylum barring good cause and exclusion provisions under the Refugees Act sections 4(1)(f), 4(1)(h), 4(1)(i) and 21(1B) and related subsections of the Refugees Act regulations ss8(1)(c)(i), 8(2), 8(3) and 8(4).

8. **Recommendation#8:**

The SCCT recommends the Department adopt a more flexible and adaptable policy position to address refugee protection, using all of the policy options available to it, and that facilities are strategically located in urban areas integrating digital enhancements. These facilities should be complemented by protection-sensitive entry systems at ports of entry to establish a holistic system that is realistic, pragmatic and accounts for the needs of refugees.

9. **Recommendation#9:** The SCCT recommends that asylum seekers continue to receive Section 22 asylum seeker visas endorsed with the right to work and study and that this is not conditional. This is in line with the right to human dignity and equality confirmed in jurisprudence and is beneficial to the state, and to those seeking protection alike.

10. **Recommendation#10:**

The SCCT recommends that Section 4(3) remains in place in accordance with jurisprudence and the clear intention of the legislature avoiding the affront to deny children the right to apply for citizenship in this circumstance. Furthermore, the reduction of the age for application of Section 4(3) proposed in the Revised White Paper is a positive development and is supported

11. **Recommendation#11:**

The SCCT recommends that in terms of the Points Based System, Refugee certificate holders should receive points towards qualifying for permanent residence or citizenship under non-economic pathways based on their vulnerability as refugees.

12. **Recommendation#12:**

The SCCT recommends that permanent residence is granted to long stay refugees and that commencement periods for consideration starts at the moment of receiving a Section 22 asylum seeker visa.

13. **Recommendation#13:**

The SCCT recommends that the humanitarian considerations explanation is amended to: "Humanitarian considerations – individuals who face extraordinary humanitarian crises. This includes unaccompanied and separated children, children unable to acquire nationality of another country and/or children who are separate from their parents for various reasons, including the death of a parent or abandonment."

14. **Recommendation#14:**

The SCCT recommends that to achieve universal birth registration that:

- i. Mobile clinics are established for birth registration assistance with registration of rural and home births;
- ii. The late registration of birth panel requirement is set aside;
- iii. All previous handwritten birth certificates are digitalized;
- iv. Non-penalization of undocumented parents registering their child's birth and;
- v. DNA verification is only required for birth registration as a last resort.

15. **Recommendation#15:**

We recommend that the designation of undertakers be expanded to include non-citizens who meet the appropriate threshold of designation based on competence, compliance, and oversight..

16. **Recommendation#16:**

We recommend that the quota-and-window system is removed entirely, and that the Department's focus is redirected to improve its capabilities and capacity to process permanent resident applications timeously.

17. **Recommendation#17:**

We recommend consideration and implementation of practical straight forward regional visa schemes and dispensations.

18. **Recommendation#18:**

It is imperative that definition should clarify that economic migration does not preclude eligibility for asylum or complementary protection.

19. **Recommendation#19:**

Definition should include recognition of persons at risk of statelessness and link to safeguards for children's right to nationality.

20. **Recommendation#20:**

Definition of non-refoulement should include express prohibition of denied entry.

21. **Recommendation#21:**

It should be explicitly pointed that immigration control must be exercised in compliance with the Constitution and international human rights law.

22. **Recommendation#22:**

The SCCT recommends that any proposal to establish immigration courts or new processes to adjudicate reviews is based on transparent figures relating to cost and function, and that, if this policy direction is followed, that these courts be independent from the Department. In the interim, we strongly recommend that the Department pursue other targeted measures to increase efficiency within the current system.

23. **Recommendation#23:**

The SCCT recommends that Alternatives to Immigration Detention be incorporated into immigration policy and be considered the lens through which issues of immigration detention are approached. We recommend targeted amnesty projects, for those with expired or no documentation, along with increased legal pathways to facilitate legal regional migration as the pillars of our migration policy and law to lessen immigration detention and deportation.