



# African Policing Civilian Oversight Forum

## **NGO observer status number 372**

### **Statement in response to the report of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in South Africa**

#### **81<sup>st</sup> Ordinary Session of the African Commission on Human and Peoples' Rights**

**17 October – 6 November 2024, Kololi, the Gambia**

#### **Item 5: Activity Reports of the Members of the Commission & Special Mechanism**

Honourable Chairperson and Commissioners,

The African Policing Civilian Oversight Forum (APCOF) welcomes this opportunity to make a statement in response to the activity report of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa.

APCOF commends the African Commission for adopting the *Study on the human rights impact of law enforcement on asylum seekers, refugees and migrants in Africa*. This study provides invaluable insights into the factors that shape migration governance across Africa, and how the regional shift towards a securitisation approach influences the role of policing, and the risks posed to the human rights of migrants.

While regional in its scope, the study highlights various sub-regional and national

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challenges facing migrants in Africa, including the continuing challenge of xenophobia and xenophobic violence in South Africa. APCOF has previously made submissions to the African Commission on this issue, urging the Commission to call on South Africa to take a comprehensive and multi-faceted approach to addressing this issue.

From a policy perspective, we are particularly concerned about the draft *White Paper on Citizenship, Immigration and Refugee Protection: Towards a complete overhaul of the migration system in South Africa*. The White Paper seeks to address the current inefficiencies in the immigration and citizenship framework. However, it takes a defensive and securitised view of migration, with the centrepiece being the removal of international legal protections and restricting pathways to migration, asylum and citizenship. It does this by proposing that South Africa withdraw from key international treaties and conventions, and rejoin with reservation. The White Paper also proposes to limit the appeals process available to migrants who are subject to orders of deportation, in contrast to international law protections against non-refoulement. We are also deeply concerned about the White Paper's emphasis on immigration detention as a means of enforcing the law. Our [full submission](#) to the South African Department of Home Affairs on the White Paper is available on our website.

The White Paper signals an approach by South Africa to securitising and penalising migration into the country, and a disregard for human rights protections that exist at the African and international levels. Our [previous research](#) into this issue has confirmed that such approaches fuel xenophobic attitudes against migrants in South Africa, and influences policing attitudes towards migrants in their mandates under both immigration legislation and ordinary criminal law.

**APCOF urges the Special Rapporteur** to engage South Africa on its proposed reforms of the migration system to encourage compliance with international and regional human rights norms. This includes that South Africa:

- Remain a party to relevant regional and international treaties governing migration and the protection of migrants, refugees and asylum seekers in South Africa;
- Reconsider the emphasis in the White Paper on immigration detention, and to rather investigate alternatives to detention for immigration-related enforcement.
- Take urgent steps to fulfil its obligations under treaty law and customary international law to prevent refoulement of migrants, and to provide data and

other evidence on its current practices of deportation, including analysis of the processes for considering applications and appeals for individuals in need of protection under the principle of non-refoulement.

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