



SUBMISSIONS BY ILITHA LABANTU:

**DRAFT REVISED WHITE PAPER ON CITIZENSHIP, IMMIGRATION AND
REFUGEE PROTECTION**

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ATTENTION: SIHLE MTHIYANE and DIKETSO RATAU

Submitted by: ILITHA LABANTU

Email: Admin@Ilithalabantu.org

Research and Preparation by: Simnikiwe Maboe, Ellen Boruwondo

Email: Simnikiwe@Ilithalabantu.org, Ellen@Ilithalabantu.org

With input from: Simnikiwe Maboe, Ellen Boruwondo

Email: Simnikiwe@ilithalabantu.org, Ellen@Ilithalabantu.org

emailed to : Whitepaper@dha.gov.za

INTRODUCTION

Ilitha Labantu, established in 1989, is a social justice community organisation based in Gugulethu township, Cape Town with a specific focus on addressing violence against women, children, vulnerable groups and supporting those affected by it. Its services include psycho-social services, legal and policy advocacy services, educational and outreach services as well as community nutrition and development services. This is accomplished through individual and family counselling, providing emergency accommodation for women and their children, skills training, empowerment and capacity building workshops. The scope of its work is centred around meeting the needs of communities affected by high levels of violence and limited socio-economic opportunities. Located within the residential areas of its target group, Ilitha Labantu provides easily accessible services to Gender-Based Violence and Femicide survivors, victim families and the broader community.

Ilitha Labantu welcomes the opportunity to comment on the Draft White Paper on Immigration, Citizenship and Refugee Protection. As a feminist, community-based organisation working to end gender-based violence and advance women's rights, Ilitha Labantu is particularly concerned with how immigration and refugee policy impacts migrant, asylum-seeking, and refugee women and children, who face disproportionate risks of violence, exploitation, and exclusion from essential services.

This submission assesses the Draft White Paper through a human rights, gender-responsive, and survivor-centred lens, in line with the Constitution of the Republic of South Africa and South Africa's international obligations.

Our submission is as follows:

SECTION/CLAUSE	COMMENTS
OBJECTS AND GUIDING PRINCIPLES OF THE WHITE PAPER	<p>Ilitha Labantu notes that the stated objectives of the White Paper emphasise migration control, administrative efficiency, and system integrity. While these are legitimate state interests, the clause does not sufficiently foreground constitutional supremacy and the binding nature of the Bill of Rights in the governance of migration, asylum, and refugee protection.</p> <p>Section 7(2) of the Constitution imposes a positive obligation on the State to respect, protect, promote, and fulfil rights, including the rights to dignity (section 10), equality (section 9), freedom and security of the person (section 12), and access to courts (section 34). These rights apply to “everyone” within the Republic, irrespective of nationality or legal status.</p> <p>The absence of an explicit rights-based framework creates a risk that subsequent provisions will be interpreted and implemented in a manner that prioritises enforcement efficiency over substantive protection, particularly for women and children experiencing violence.</p> <p>This clause should be amended to:</p> <ul style="list-style-type: none">• Explicitly state that all immigration and asylum measures are subject to the Constitution and the Bill of Rights

	<ul style="list-style-type: none"> • Affirm that migrants, asylum seekers, and refugees are rights-holders under South African law • Incorporate express reference to South Africa’s international obligations, including refugee protection and gender equality instruments
<p>CONCEPTUAL FRAMING OF MIGRATION AND ASYLUM</p>	<p>The White Paper largely conceptualises migration as a phenomenon requiring management, deterrence, and control, with limited recognition of forced displacement, structural inequality, and gender-based drivers of migration.</p> <p>From a human rights perspective, this framing is incomplete. Women often migrate due to:</p> <ul style="list-style-type: none"> • Gender-based violence • Harmful cultural practices • Economic exclusion rooted in gender inequality • Conflict and instability that disproportionately affect women and children <p>Failure to recognise these drivers risks producing policy responses that are blind to protection needs, particularly in asylum and refugee determination processes.</p> <p>Further, language that implicitly associates migration with illegality or insecurity may unintentionally reinforce xenophobic attitudes, undermining social cohesion and access to justice.</p>

	<p>Expand the conceptual framework to explicitly recognise forced migration and gender-based persecution</p> <p>Adopt terminology that is neutral, rights-affirming, and non-criminalising</p> <p>Acknowledge the differentiated experiences of women, children, and gender-diverse persons within migration flows</p>
<p>FIRST SAFE COUNTRY RULE</p>	<p>Ilitha Labantu supports the policy rationale underpinning the First Safe Country rule, particularly its objectives of:</p> <ul style="list-style-type: none"> • Promoting orderly asylum systems • Preventing forum shopping • Encouraging regional responsibility-sharing <p>However, international refugee law and constitutional jurisprudence require that such a rule be applied with safeguards that prevent refoulement and indirect harm, especially to vulnerable groups.</p> <p>This Clause should:</p> <ul style="list-style-type: none"> • Define “safe country” to require effective and accessible protection in practice, not merely formal legal commitments • Retain individualised assessments, allowing applicants to rebut the presumption of safety • Provide explicit exemptions for survivors of gender-based violence, trafficking, and exploitation

	<ul style="list-style-type: none"> • Ensure strict compliance with the principle of non-refoulement, both direct and indirect
<p>ASYLUM PROCEDURES AND STATUS DETERMINATION</p>	<p>The White Paper does not sufficiently address how asylum procedures will accommodate gender-based claims, including those arising from domestic violence, sexual violence, trafficking, or harmful practices.</p> <p>Gender-based persecution often occurs in private spheres and may lack formal documentation. Without gender-sensitive procedures, women may:</p> <ul style="list-style-type: none"> • Be unable to articulate their claims safely • Face inappropriate credibility assessments • Be retraumatised during interviews <p>We therefore recommend as follows:</p> <ul style="list-style-type: none"> • Mandate gender-sensitive and trauma-informed asylum procedures • Require training of decision-makers on gender-based persecution • Recognise gender-based violence as a legitimate basis for international protection • Ensure confidentiality and survivor-centred interviewing practices
<p>DOCUMENTATION AND LEGAL STATUS</p>	<p>Ilitha Labantu is concerned that restrictive documentation regimes may entrench dependency, particularly where women’s legal status is linked to spouses, partners, or employers.</p>

	<p>Such dependency is a well-documented risk factor for:</p> <ul style="list-style-type: none"> • Domestic violence • Economic exploitation • Fear of reporting abuse <p>Where loss of documentation results in detention or deportation, survivors may be forced to remain in abusive situations to preserve legal status.</p> <p>It is our recommendation that the Department should:</p> <ul style="list-style-type: none"> • Introduce temporary or emergency documentation mechanisms for survivors of violence • Ensure that lack of documentation does not result in automatic exclusion from protection
<p>ACCESS TO SERVICES AND PROTECTION MECHANISMS</p>	<p>The White Paper does not clearly guarantee access to essential services for undocumented migrants, asylum seekers, and refugees.</p> <p>In practice, migrant survivors of gender-based violence frequently avoid:</p> <ul style="list-style-type: none"> • Healthcare facilities • Shelters • Police services <p>due to fear that accessing services will result in immigration enforcement.</p> <p>It is our recommendation that the white paper:</p>

	<ul style="list-style-type: none"> • Codify firewall protections separating service provision from immigration enforcement • Explicitly guarantee access to healthcare, shelters, Thuthuzela Care Centres, psychosocial support, and legal aid • Ensure uniform implementation across provinces and service points
<p>LAW ENFORCEMENT AND INTERDEPARTMENTAL COOPERATION</p>	<p>While coordination between SAPS, DHA, and other departments is necessary, the White Paper lacks safeguards against over-policing and misuse of immigration powers.</p> <p>Unregulated information-sharing can deter survivors from reporting violence and compromise trust in public institutions.</p> <p>Recommendation</p> <ul style="list-style-type: none"> • Prohibit the use of GBV reporting or service access as a basis for immigration enforcement • Require mandatory training for officials on rights-based, gender-responsive approaches • Strengthen independent oversight and complaint mechanisms
<p>VULNERABLE AND MARGINALISED GROUPS</p>	<p>The White Paper does not adequately address how intersecting forms of discrimination compound vulnerability.</p> <p>Groups facing heightened risk include:</p> <ul style="list-style-type: none"> • LGBTQIA+ asylum seekers fleeing persecution • Migrant women with disabilities

	<ul style="list-style-type: none"> • Survivors of trafficking • Women and children in informal settlements <p>A failure to adopt an intersectional approach risks systematic exclusion.</p> <p>WE therefore recommend that the white paper:</p> <ul style="list-style-type: none"> • Apply an intersectional framework throughout the policy • Ensure interpretation services, accessible formats, and targeted protections
<p>IMPLEMENTATION, MONITORING, AND OVERSIGHT</p>	<p>The White Paper lacks clear mechanisms to assess its human rights and gendered impacts over time.</p> <p>Without monitoring and accountability, progressive provisions risk inconsistent or ineffective implementation.</p>

CONCLUSION

Ilitha Labantu supports the objective of strengthening South Africa’s immigration and asylum system, including the First Safe Country rule, provided that it is implemented with robust constitutional, gender-responsive, and survivor-centred safeguards.

A system that prioritises administrative efficiency at the expense of women’s safety and dignity would be inconsistent with South Africa’s constitutional values. Parliament is urged to ensure that the final policy framework affirms that migration governance and human rights protection are mutually reinforcing, not mutually exclusive.