



Green Paper on International Migration in South Africa by the South African Department of Home Affairs

Comments from the Democratic Alliance Abroad

28 September 2016

Who is the Democratic Alliance Abroad?

The Democratic Alliance Abroad (DA Abroad) is an ancillary organisation of the Democratic Alliance (DA) and the DA's official overseas network of volunteers. We are making a difference and contributing to the success of our country through projects and campaigns that are aligned with the DA's vision of One Nation with One Future underpinned by Freedom, Fairness and Opportunity for All.

Our role overseas is significant in raising the profile of the DA and its work in government, as well as engaging the South African diaspora to take an interest in our country's future and take part in campaigns that seek to further the prosperity of our country.

Aside from our campaign objectives, the DA Abroad also aims to provide South Africans with an opportunity to be part of a global community of positive and passionate South Africans. No matter where in the world you live you can still play a part in our country's future!

Our interest in the Green Paper on International Migration

As global South Africans who have chosen to work, study, travel and live abroad we are aware of the positive benefits that can be gained through travel – these benefits don't only apply to the individual, but also to all whom we come into contact with as the interaction between cultures develops learning, understanding and tolerance. The countries we immigrate to benefit from our skills, talents and labour, and when we return, South Africa benefits from the knowledge and skills we have gained while abroad. Not all who left do return, but even if we choose to remain abroad we still look for opportunities to continue investing in South African through financial investments and business partnerships.

It is thus with some frustration that we continually experience negative sentiment from those in South Africa who view the diaspora as having "abandoned" their country. This is not always the case, and there are many South Africans abroad who are proud of our heritage and very positive about the future of our country. We are eager to contribute to South Africa, while also gaining the benefits of international travel.

So, it is with some interest that we have read the Green Paper on International Migration in South Africa by the South African Department of Home Affairs (DHA), and subsequently have chosen to submit comment. We are indeed pleased to see that the DHA has identified the potential of the South African diaspora and is open to identifying opportunities to better engage with us, and harness this potential. Our comments not only aim to guide this development, but also input on other areas of the Green Paper.

We look forward to working together with the DHA in furthering these ambitions and as such, have provided the comments below in response to the Green Paper on International Migration as part of a public consultation process.

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General

The intention to take a strategic, holistic approach to international migration that addresses the realities of Apartheid and colonial legacies is welcomed. The positive approach to migration as a potential driver of economic growth and prosperity is also welcomed, as is the commitment to upholding human rights and protecting the most vulnerable (citizen or non-citizen). We welcome the intention to strengthen cooperation and trade with the rest of Africa.

The Green Paper seems to draw a causal link between the “current paradigm” and corruption, human rights abuses and security risks (for example on page 78), but this is not credible. Even under the “new paradigm” these failings and risks are possible if current implementation and institutional problems are not dealt with. The green paper lacks an honest assessment of the failings of the implementation of the current policies and laws. Shortcomings in policy and law are identified but it is important that implementation failures and weaknesses are tackled head on. If not, any new policy and law will be undermined by implementation failures (e.g. failings in asylum system or difficulty in securing work permits for skilled foreigners).

The Green Paper lacks an economic assessment and any assessment of costs. The White Paper will need to move beyond assurances that the costs of the proposed changes will be less than the potential savings and potential economic gains.

The Green Paper acknowledges that the view that ‘foreigners are invading South Africa and stealing jobs’ is grossly exaggerated. But given the sensitivity and charged nature of the discourse on migration (in SA and in other countries) the DHA and other arms of government have a responsibility to avoid language and statements that play into fears and stereotypes. For example, the Green Paper repeatedly refers to threats to national security and public safety posed by migration and migrants. But these threats are not clearly specified or backed up by evidence. Phrases such as “influx of migrants” should be replaced with more precise statements that given the reader a sense of proportion (e.g. the number of migrants in a year relative to the population or relative to other countries). Unsubstantiated threats and stereotypes have played a significant role in shaping public opinion on migration and migrants in the UK, EU and US.

The Green Paper points out that SA has not yet built a consensus on how to manage international migration for development. We agree with this and appreciate that the Green Paper makes the case for migration being fundamentally “beneficial, if it is managed in a way that is efficient, secure and respectful of human rights” (pg15).

Data

The Green Paper acknowledges in Chapter 5 (pg. 75) that there are weaknesses in the data relating to international migration and an urgent need to research migration and generate reliable statistics. The data on migration (legal and illegal) is incomplete and unreliable, making evidence based policy decisions extremely difficult. This is unfortunate given that SA normally has excellent data for decision-making. But it is also not surprising given the complexity and sensitivity of collecting migration data (especially for illegal migrants). The White Paper will need to make concrete proposals on how to improve data for decision making on migration. This effort can draw on both SA and international research centers and international agencies who would be eager to help.



In a number of the places the Green Paper speaks of biometric and other data on citizens and migrants¹. For example, on page 34 the Paper states that the Department should be empowered to “access the magnitude of data available in the travel industry”. There may be a legitimate need to access and store data on travelers and migrants but there is too little attention paid to data security and privacy. Steps to ensure citizen and migrant data security and privacy should be specifically addressed in the White Paper.

Policy Areas

1. Management of admissions and departures

The Green Paper refers to a risk-based approach and “externalizing the borders”, giving examples of visa screening at missions and document inspection at foreign airports (by ALOs). The Paper makes the point that DHA budget is unable to fund ALOs at high-risk airports abroad. If resources are scarce and there are real risks to be managed, then DHA needs to prioritise and avoid poorly targeted policies that will be an unnecessary distraction. One such example was the new requirements introduced for flying to and from SA with children. In our experience, these rules caused significant confusion (amongst officials and travellers) and drew attention and resources away from other potential threats. A differentiated approach with exemptions for low-risk travelers (e.g. South African expatriate parents flying home with their children on holiday or UK tourist families) could have reduced the confusion/burden whilst still safeguarding against child trafficking.

The Green Paper refers to the establishment of the Border Management Authority (BMA). Given the imminent creation of the BMA (March 2017), what steps have been taken to learn from similar authorities/agencies in other countries (e.g. the UK Border Agency was dismantled in 2013 amidst criticism for large immigration case backlogs)? Can the key lessons and evidence be included in the White Paper?

The proposal for One Stop Border Posts is welcomed, alongside other measures that will facilitate trade within the region.

2. Management of residency and naturalisation

We are surprised that when referencing the top 5 countries for permanent residency applications, the Green Paper seems to make a broad assumption that they were largely unskilled - "This suggests that permanent residency and citizenship are, to a large extent, granted to international migrants with relatively low levels of skills and little capital." (pg. 29). Is there evidence to substantiate this suggestion/inference?

We also have a concern about the narrow approach towards those with skills as only being educated at universities. The Green Paper also seems to attribute the same value to graduates of all universities. In reality there is a very large spread in quality amongst universities. For example, a highly skilled artisan or media specialist may not have been university educated but may be more useful to the SA economy than a graduate from a low caliber foreign university. The White Paper should consider using some form of independent university ranking system to prioritize foreign university graduates. It should also include categories for scarce skills not based on a university education.

Additionally, there is also a risk in focusing only on attracting and prioritizing immigrants that are on critical skills lists as those lists rarely include skills in humanities or arts.

¹ Population registers (pg. 39); introduction of biometrics at ports of entry (pg. 39), biometric verification for community border crossings (pg. 38/39)



The proposals around orientation programmes and citizenship ceremonies may be helpful. There is much that can be learnt from other countries which have these programmes, but these programmes need to be realistic and focus on what is most important. For example, many South Africans who have taken the UK citizenship test will tell you that many UK colleagues and friends cannot answer most of the questions asked due to the historical nature of these questions that are arguably not relevant to citizenship in the current century.

Current work permit (and associated family permit) arrangements are a major disincentive for international companies and organisations to have offices/teams based in SA. We are aware of a highly respected international charity that was seriously considering moving its headquarters to Johannesburg, but after consulting similar organisations in SA it decided to move to Nairobi instead because the SA visa process for international staff (non-SA citizens) and their families was unworkable. Johannesburg and SA missed out on tax revenues, new jobs, international events and increased international profile as a result.

3. Management of international migrants with critical skills and capital

Reference is made of “BEE requirements” being considered as part of a points based system (pg. 44). How will black economic empowerment rules interact with the drive to attract more skilled professionals, especially from Africa? Will a skilled foreign worker from another African country be given preference over a skilled South African who is White, Coloured or Indian?

Two options are put forward for dealing with the right to work for international students educated in SA (page 45 and 55). We suggest that there is a third option, to grant a post-graduate visa for 4-5 years with a pathway to permanent residency if conditions are met. This would encourage students to stay and provide sufficient stability.

It is worth noting that some countries with a post-graduate visa system have had to deal with the problem of “bogus colleges” set up purely to facilitate the acquisition of a visa for a fee (e.g. in the UK). This underlines the importance of only granting post-graduate visas for the top tier of educational institutions.

The requirement for skilled migrants to train citizens is fine in principle and could work in some professions (e.g. academia). But doing this through a levy risks it becoming another tax without a clear link to the policy objective and outcome. The important point is that skilled migrants increase overall productivity in an economy, which is good for everyone in the long-run. Taxes/levies or arduous skill transfer requirements could be a significant disincentive.

4. Management of ties with South African expatriates

We appreciate that the Green Paper recognises the potential contribution that South African expatriates can make to SA. Our experience of engaging with our network is that South Africans remain passionate about their home country, even when they have lived abroad for many years. They have strong links to family, friends and communities and are eager to contribute. Many South Africans also wish to return to SA after a period of working abroad.

We welcome the proposal to establish a diaspora institution that perform the functions they mentioned, as the engagement with the diaspora is currently very poor. This is currently managed by the **local South African missions abroad who are generally renowned as being unresponsive and unavailable**, not only by the South African public abroad, but also by other organisations wishing to engage with them. Events are always invite only and rarely open to the general public, or during non-working hours. Representatives from these organisations also rarely engage with other organisations representing South African diaspora,



and where they do, there does seem to be personal bias based on political or cultural links. You have only to do a quick read of reviews on the SA High Commission in London as an example, to get a sense of the sentiment held by many. While these institutions are run by DIRCO and not the DHA, as the matters largely relate to consular services, i.e. passports, ID books, birth certificates, this is also a reflection on the DHA. In the UK for example the following grievances have been shared with the SA High Commission in London, but have not been addressed:

Communication

- Website – the website is not easy to use or updated regularly, and information is not consistent with DHA website. This is common of many SA missions abroad. Some don't even have websites.
- Telephone – takes a very long time for phones to be answered, often not at all. If they are only available during certain hours this should be communicated on your website, or through an answer phone message
- Email – No general email address available for consular service queries
- Tracking of documents should be made available, even if at an extra charge

Information and awareness

- Improved staff training and knowledge on laws, procedures and requirements
- Educating citizens on laws, procedures and requirements - for example, the new travel visa laws were poorly communicated and not even consular staff were able to provide clear guidance

Access to Services

- No longer able to apply for visa's by post
- Difficult/short opening hours for applications/collections make it difficult for those living outside of London
- No weekend (Saturday morning) service
- Difficult to contact in real emergencies
- Shortage of staff to manage capacity required

The engagement with diaspora does not necessarily need to be done by a new government institution. It could be set up as a charity or foundation and could draw on significant volunteer time and private sector contributions. There are many South Africans who would be eager to assist.

There is also the issue around **Retention of South African Citizenship**, and the fact that currently when individuals apply for Foreign Citizenship they also need to first apply for a certificate that allows them to retain their South African citizenship - the process of which is poorly communicated and wieldy, resulting in many unknowingly losing their South African citizenship when applying for Foreign Citizenship. If the DHA would like to engage with the South African diaspora for the benefits they have indicated, then the issue around this loss of citizenship needs to be urgently addressed. No South African should unwillingly and/or unknowingly lose their South African citizenship.

The Green Paper mentions the value of the **Registration of South Africans Abroad (ROSA) system** - to our knowledge, this has been unavailable since October 2015 (See screenshot below taken on 28 September 2016). This is an incredibly important service in supporting and aiding South Africans abroad, and it would be good to see evidence of this put to use. Surprisingly, DIRCO felt that notifying South Africans abroad about how they could vote in the 2014 elections was not a good use of this service - we would disagree as this is something that is incredibly important to our country, and as it only happens every 4 years would not be an annoyance to recipients who are contacted with this information. Those managing ROSA should also send out communication to the members on the database every 2 - 4 years asking them to update their details in order to ensure the data is current and relevant. This would be a service that is appreciated.

Consular Information

What are Consular Services

Contact Details

Travelling Abroad

Current Issues

Deaths Abroad

Arrested Abroad

Consular Notarial Services
(Legalisation of Official (Public)
Documents)

End User Certificates

Registration of South African Citizens (ROSA)

Please note that the ROSA Webpages are currently off-line due to downtime maintenance and upgrade.

ROSA will be down until further notice. The Department regrets any inconvenience in this regard. Your understanding is appreciated.

Please direct all enquiries on ROSA to the following:

E-Mail: rosahelp@dirco.gov.za

To engage with South Africans abroad and ensure that they continue investing in the country, **the South African government should consider allowing for the direct representation of the diaspora in the legislature.** There is currently no parliamentary representation for the diaspora's interests when debates are held in either the NA or the National Council of Provinces (NCOP). Instead, South Africans living abroad are only indirectly represented by the Minister of International Relations and Cooperation. However, the minister is not explicitly elected to either of the parliamentary chambers as a representative of the Diaspora.

Internationally, the rise of global interconnectedness has recently resulted in a new trend of countries providing or debating the merits of direct representation for their increasingly mobile citizenry. 13 countries currently allow for the direct representation of this community in their national legislatures, including Algeria, Cape Verde, Columbia, Croatia, Dominican Republic, Ecuador, France, Italy, Macedonia, Mozambique, Panama, Portugal and Tunisia, while both Lebanon and Brazil are currently considering empowering their overseas communities to elect their own representatives in the lower house of their legislatures. See
ref: https://www.overseasvotefoundation.org/files/Diasporas_Represented_in_their_Home_Country_Parliamentary.pdf

In recognising the value of allowing South Africans to travel abroad and gain vital skills and networks that can be brought back to the country, **the DHA should forge stronger relationships with their counterparts in other countries to facilitate easily international travel for South Africans.** Currently South African citizens only have visa-free or visa on arrival access to 97 countries. The UK for example required a visa for South Africans travelling to the UK since 2008 due to a high number of cases of people smugglers and foreign asylum seekers using South African passports to enter the UK thereby raising the risk of suspected terrorists using this route. South Africa has said that it has taken significant steps to resolve the UK concerns, and in 2013 the South African government approached the UK to negotiate possible reinstatement, however this resulted in no change of policy. What is the DHA doing to address this and facilitating other conversations for visa-free travel?

5. Management of international migration in the African context

The lack of trade between African countries is holding Africa back. The further removal of trade barriers and the reduction of trade frictions at borders will benefit SA. We argue that the emphasis of this policy should be on practical measures that SA can take to ensure the migration policy supports increased trade within Africa.



The Green Paper refers to measures for the free movement of people in the EU but does not have a critical reflection of the lessons that can be learnt from the current challenges facing the EU's system of free movement (and its interaction with migration from outside the EU). SA should learn the lessons (positive and negative) from the EU free movement experiment, as well as from other regional blocs (particularly the EAC). The evidence for the economic benefits of free movement is strong (for example, analysis from LSE Centre for Economic Performance <http://cep.lse.ac.uk>) but the social implications have not been adequately addressed and were a driver for the BREXIT vote in the UK.

The proposal for a long-term work visa for skilled workers from other African countries is positive. But giving preference to workers from the SADC region would undermine the developmental goals of SA. A skilled Kenyan national could do more to improve productivity in SA than a SADC national. Consideration should be given to key trading partners on the continent and to centres of excellence in particular African countries (e.g. mobile money in Kenya).

SA policies on migration, trade and foreign affairs need to work together to address development and migration challenges in SADC. Improved trade and better migration policies alone are insufficient. For example, in the past decade the political and economic crises in Zimbabwe has driven significant numbers of Zimbabweans to seek safety and a livelihood in SA. The migration challenge was never going to be resolved without political and economic engagement in Zimbabwe. SA has to proactively address push factors in the neighboring countries and the wider region.

6. Management of asylum seekers and refugees

The DA Abroad is not best placed to provide detailed comments on the proposals in this section. But we note the concerns raised by groups such as Lawyers for Human Rights, the Consortium for Refugees and Migrants South Africa (CoRMSA), the Scalabrini Centre and the Legal Resources Centre - <http://www.amandla.mobi/asylum-seekers>

In particular, we are concerned that the Refugee Amendment Bill is being passed at the same time as a 'public consultation' on international migration.

South Africa must uphold human rights and its international obligations. The Green Paper and subsequent White Paper need to deal honestly with the deep problems in the current system.

7. Management of the integration process for international migrants

On page 70 the Green Paper states that, "SA has not adopted a clear and coherent integration policy for the integration of foreign national into the country's value system and population". While there is no official policy, the response of the government to outbreaks of xenophobic violence has allowed space for a hostile environment to develop. The government needs to work with other stakeholders to roll back xenophobia and respond emphatically when incidents do occur.