



RESPONSE

7th December 2021

The National Labour Migration Policy

On 30th November 2021, the Deputy Director General for Public Employment Services in the Department of Labour, Sam Moratoba, told the portfolio committee on tourism that migrants constitute about 4% of South Africa's population and about 7% of the workforce. In this regard he made the point that many undocumented migrants live under the radar, thus making accurate numbers impossible to ascertain. According to his figures, the estimate would be about 2.4m. Most commentators put the number much higher, nearer 3.9-4.1m.

His presentation was part of an update on the critical work being done on the National Labour Migration Policy which has been in process since 2017, and which it is hoped will be put out for public comment in March and April 2022. The tone and eventual provisions of this policy will significantly influence the migration landscape for better or worse, for a long time to come. Earlier in November, the draft was presented to Cabinet and was sent back for further refinement on a number of issues, including the need for greater harmonisation with continental and regional conventions.

A key take-away from the briefing was the clear statement that the National Labour Migration Policy, "should give rise to efficient and effective government leadership and intervention which is supported by social partners and all major stakeholders and allows for safe, orderly and regular migration for employment of highly-, semi- and low-skilled workers to and from South Africa in pursuit of the country's national priorities." He suggested that the way to achieve this is through exploring a sensitive and delicate balance in what is considered to be competing interests.

In the bulk of his speech he pointed to four policy principles that South Africa's labour migration policies should build on. *Firstly*, he underlined the expectation that South Africans have with regard to access to employment. This had to be understood against the background of the worsening rate of unemployment. The most recent figures show that for the third quarter of 2021, the unemployment rate stood at 34.9%, which means that there were some 660 000 fewer people in employment than the quarter before. He added that there was a growing perception that undocumented migrants are "distorting labour market access and are taking jobs from South Africans". He said that since 2000 there had been an influx of undocumented migrants in ever expanding sectors, with most migrants involved in the informal sectors. He added that he found this trend worrying, since this was also the area where most unemployed South Africans tried to find some form of livelihood. Interestingly, he indicated that provinces would have to try and find this balance. This puts one in mind of the controversial Gauteng Township Economic Development Bill, which sought to exclude people without permanent residence from various township economic developments. He acknowledged, *secondly*, however, that South Africa needed several categories of critical skills which are not found here, and that these should be brought into the country. He also mentioned that ways should be found to ensure that South Africans who had trained and studied in South Africa but now lived outside of

its borders should be encouraged to share and pass on those skills to people in the country so that they were not entirely lost to South Africa. This is one area where a sensitive balance needs to be found.

The *third* point he mentioned had to do with South Africa being a signatory to many international protocols and conventions and thus having an obligation to protect migrants and their families in accordance with international standards and guidelines. *Fourthly*, he noted various regional integration and co-operation imperatives.

Mr Moratoba also said quite categorically that “our Constitution protects the rights of foreigners even when they are undocumented,” and he mentioned specifically the right to health and education facilities for the undocumented. It is also interesting that the extension of these rights to families was mentioned. On the broader canvas of a rights based approach to migrants’ security, and especially in foundational texts such as the UN’s International Convention on Migrant Workers, emphasis on family rights, as opposed to merely individual rights, have emerged strongly. The echo of this in the policy is to be welcomed and strengthened.

Touching on the issue of regional integration and co-operation, just a few days before the briefing, on November 15th, the Acting Executive Secretary of SADC stated that SADC was at an advanced stage in developing the Regional Migration Policy Framework designed to co-ordinate and harmonise member states’ efforts on migration. He also commented on the Maputo Diaspora Declaration. The Regional Framework is “designed to maximise the developmental impact of migration and stamp out irregular migration which gives way to insecure borders and increased migrants’ vulnerabilities to trafficking and smuggling.” Finally, he also spoke of a more humanitarian border response especially in the light of climate related disasters. Co-operation in all these areas, if implemented efficiently, will certainly make a contribution to regular, safe and well managed migration.

The draft policy remains ambiguous on many points and much will have to be done to iron out these ambiguities so that it can measure up to its declared aims. One can only but anticipate that the public hearings will be robust and as a result the policy will be a better version of itself.

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