

KNOW YOUR RIGHTS

THE KHOSA JUDGMENT AND THE USE OF FORCE

COLLINS KHOSA DIED AT THE BEGINNING OF THE LOCKDOWN AFTER AN ALTERCATION WITH MEMBERS OF THE SANDF AND THE JMPD. HIS FAMILY APPROACHED THE JOHANNESBURG HIGH COURT FOR RELIEF.

The judgment, which was handed down on the 15th of May, clarifies that law enforcement have to act within the bounds of the law even in a state of disaster and that they should be held accountable for their actions. It also provides a pathway to justice for Khosa's family and people who may be in a similar position.

WHAT DOES THE JUDGMENT SAY ABOUT CONSTITUTIONAL RIGHTS IN THE TIME OF COVID-19?

EVERYONE in South Africa has the right to dignity, life, and not to be tortured or treated in a cruel, inhumane, or degrading manner. This means that no one has the right to take someone else's life by murder, or treat anyone in a harmful or disrespectful way, regardless of the state of the lockdown.

The SANDF and SAPS cannot under any circumstances torture people by using force or causing any physical harm to enforce lockdown regulations.

HOW WILL THE SANDF AND SAPS BE HELD ACCOUNTABLE FOR TORTURE AND EXCESSIVE USE OF FORCE?

An investigation will be initiated based on existing complaints against individuals, which will then expose them to criminal, civil, and/or disciplinary measures.

HOW CAN THE PUBLIC REPORT SANDF AND SAPS BRUTALITY?

According to the Khosa judgment, freely accessible mechanisms should be made available for civilians to report allegations of torture, cruelty, degrading treatment, or punishment.

By 22 May 2020, these mechanisms should be publicised widely throughout South Africa via television, radio, digital media, and be made available in all eleven official languages.

WHAT ARE THE DUTIES OF THE MINISTER OF POLICE AND MINISTER OF DEFENCE?

According to the Khosa judgment, these ministers must provide The SANDF and SAPS with guidelines on when force may be used, how to conduct themselves under Lockdown Regulations, when a person may be arrested, and information regarding where members of the public may submit complaints.

These must be widely published by 22 May 2020.

IN THE MEANTIME, WHAT CAN I DO IF I SEE OR EXPERIENCE ABUSE BY THE SANDF OR THE SAPS?

If you are a victim of abuse by the police or the military, or you see it happening to someone else, you can lodge a complaint with the **Independent Police Investigative Directorate**, or the **Military Ombud**. Their numbers appear at the end of this pamphlet.

YOU CAN ALSO REPORT ABUSE TO THE PUBLIC INTEREST LEGAL SUPPORT HOTLINE

If your rights are being violated during the lockdown period you can get **free legal assistance** from one of South Africa's public interest legal organisations.

**CALL THE HOTLINE ON
+27 66 076 8845**

ALWAYS TRY TO GATHER THE FOLLOWING INFORMATION BEFORE YOU MAKE A COMPLAINT:

1. Photos or videos of the incident, and any injuries
2. Vehicle registration numbers of officers involved
3. The names and contact information of any other witnesses

MILITARY OMBUD (NATIONWIDE)

076 609 2255 | 012 676 3818 | 081 512 4792 | 086 431 7739

INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE

Eastern Cape | 082 592 9888

Free State | 063 225 6081

Gauteng | 076 745 5718

Limpopo | 078 871 4811

Kwazulu-Natal | 079 895 2741

Mpumalanga | 072 881 4196

Northern Cape | 064 624 8203

North West | 078 163 6874

Western Cape | 073 890 1269

LAWYERS FOR
HUMAN RIGHTS