

Defending the Constitution and the Constitutional Court: urgent security reinforcement needed in KwaZulu-Natal

**Statement by Siyafana Sonke KZN
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Siyafana Sonke Action Campaign unequivocally reaffirms its commitment to the Constitution of the Republic of South Africa and to the Constitutional Court as the final arbiter of constitutional disputes. Recent attacks on the Court and the Constitution by various groups and individuals are not ordinary criticism. They are a direct assault on the rule of law, judicial independence and the constitutional democracy that belongs to all South Africans. Criticism of judgments is legitimate when it is reasoned, lawful and evidence-based. Delegitimisation, threats, intimidation and incitement against the judiciary are not.

We are particularly concerned by the conduct of organised anti-migrant formations and individuals who mobilise around xenophobic narratives, spread misinformation and create an atmosphere of hostility towards foreign nationals and migrants. These groups do not represent the values of the Constitution. They undermine social cohesion and place vulnerable communities at risk. The state has a constitutional duty to protect everyone within its borders, regardless of nationality, and no group may take the law into its own hands.

The Constitutional Court ruling does not automatically approve asylum applications; however, it upholds South Africa's human rights commitments to accept and fairly consider applications from asylum seekers. Applications must be considered and either granted or rejected. In opening its doors for asylum applications in compliance with the Constitutional Court, the Department of Home Affairs simply met its legal obligations.

We further note our serious concern about whether the South African Police Service in KwaZulu-Natal has capacity to provide adequate security in the current circumstances. The situation requires urgent reinforcement, including additional police units and specialised public order policing capacity from other provinces. We therefore support the request by the Provincial Premier for the deployment of the South African National Defence Force in Durban and across KwaZulu-Natal. Such deployment must be lawful, proportionate, time-bound and subject to civilian oversight and human rights compliance. Its purpose must be to protect lives, prevent violence and restore order, not to militarise communities.

We call on national government, SAPS, SANDF and provincial authorities to act with urgency. We call on community leaders, civil society and political actors to reject xenophobia and to defend the Constitution. The Constitution and the Constitutional Court must be protected from all attacks, whether political, rhetorical or physical. South Africa's democracy depends on it.

The ongoing violence targeting migrants is cruel and inhumane. The State is obligated to ensure the safety and security of all who reside within South Africa. Asylum-seekers have fled dangerous circumstances in desperation, with limited resources. South Africa is obligated to meet its legal human rights obligations in granting refuge.

WE ARE CALLING ON THE STATE TO:

- Enforce the law to ensure that asylum seekers receive protection and support in accordance with universal human rights;
- Actively and urgently engage with civil society movements that stand for the rule of law;
- Review the extensive body of evidence of violence perpetrated by vigilante groups;
- Investigate accusations of public protection forces supporting and cooperating with vigilante groups even during illegal activities;
- Investigate the barriers to criminal prosecution of the primary instigators of the violence;
- Act decisively to protect South African society against vigilante violence and intimidation;
- Strengthen public protection forces in hotspots;
- Adapt public protection strategy to be rapidly responsive to any targets of the vigilante groups.

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