



C/O Foundation for Human Rights
7 th floor, 25 Owl Street, Braamfontein Werf,
Johannesburg, 2017, South Africa

Email: media@kaax.org.za
Web: <https://kaax.org.za>

21 July 2026

ATT: The Acting Minister of Police of South Africa

The Honourable Professor Firoz Cachalia

South African Police Service (SAPS)

Email: MatlalaS3@saps.gov.za

756-7th floor, Wachthuis,

231 Pretorius Street,

Pretoria, 0001

Delivered Electronically

Dear Professor Firoz Cachalia,

Re: Open Letter; Constitutional Policing, Evidence-Based Governance and the Rule of Law in South Africa's Response to Migration

1. Kopanang Africa Against Xenophobia (KAAX) welcomes your recent affirmation that immigration enforcement is exclusively a function of the State and your public rejection of vigilantism. We write in that same constructive spirit, and with respect for the office you hold, to set out a number of concerns that we believe merit your urgent attention.
2. Since the beginning of 2026, South Africa has experienced a marked escalation in vigilante activity directed at foreign nationals, and at South African citizens perceived to be foreign. Human Rights Watch reported in May 2026 on new waves of xenophobic attacks; reporting since late March 2026 has linked vigilante-related violence to at least seven deaths. On 30 June 2026, more than 900 people were arrested during coordinated marches held in roughly 120 locations nationwide, and organisers have since sustained weekly demonstrations through July 2026.¹

¹ Human Rights Watch, "South Africa: New Waves of Xenophobic Attacks," May 2026. <https://www.hrw.org/news/2026/05/20/south-africa-new-waves-of-xenophobic-attacks> (accessed 20 July 2026)

3. In recent weeks, reporting has documented groups conducting unauthorised “labour inspections” — entering workplaces, closing spaza shops, and removing stock from foreign-owned businesses, including an incident in Diepkloof, Soweto on 9 July 2026. In Lephalale, individuals impersonating Home Affairs officials unlawfully ordered the removal of a trader later confirmed to be lawfully documented. These developments have drawn concern from the African Commission on Human and Peoples’ Rights² and the Office of the United Nations Secretary-General.³ We raise these matters not to inflame public debate, but because they illustrate the practical, human cost of any gap between the law as stated and the law as enforced.
4. At the same time that we support lawful immigration enforcement, we call on government, and SAPS in particular, to apply the law consistently and visibly. We ask government to base policy on verifiable evidence rather than unsupported assertions that South Africa faces “a crisis arising out of illegal immigration,” and to resist the selective use of facts in ways that facilitate the scapegoating of migrants. Evidence-based policymaking is, at its core, a matter of constitutional compliance. We refer in particular to section 1 (the rule of law), section 9 (equality), section 10 (human dignity), section 12 (freedom and security of the person), section 33 (just administrative action) and section 205 (the objects of the police service) of the Constitution.
5. Immigration enforcement is a constitutional function reserved to the State. This applies equally to private individuals, organisations, political parties and self-appointed community structures. We welcome your acknowledgement that vigilante conduct is unlawful because it violates multiple constitutional rights and undermines the rule of law. In that same spirit, we would welcome clarity from your office on the operational steps SAPS is taking, and intends to take, to ensure that this understanding translates consistently into practice on the ground.

² ACHPR Statement <https://achpr.au.int/en/news/press-releases/2026-04-27/xenophobic-attacks-and-vigilante-conduct-perpetrated-nationals-other> (accessed 20 July 2026)

³ Office of the United Nations Secretary-General <https://www.un.org/sg/en/content/sg/statements/2026-04-27/statement-attributable-the-spokesperson-for-the-secretary-general-the-situation-south-africa> (accessed 20 July 2026)

6. While we welcome your statement rejecting vigilantism and acknowledgment that it is unlawful because it violates multiple constitutional rights and undermines the rule of law, the question KAAX asks is: If Government has always understood these activities to be unlawful, why has SAPS permitted them to continue for years and why, in the present, does SAPS continue to do the same?

a. **Protest Ends Where Criminal Conduct Begins**

Millions of South Africans fought, sacrificed and many paid the ultimate price-their lives- to establish a constitutional democracy in which the right to assembly and peaceful protest are protected as fundamental freedoms, ensuring that people can hold those in power accountable without fear of repression. Section 17 of the Constitution guarantees everyone the right, peacefully and unarmed, to assemble, demonstrate, picket and present petitions.

But it does not protect criminal conduct and violence committed under the guise of protest or so-called “community” action. This distinction is fundamental to the rule of law and to the proper functioning of a constitutional state. If not enforced as such, then it means that law enforcement is subject to the tyranny of vigilante forces and is manipulated in this instance by anti-right groupings.

This means that the State, and law enforcement must act when the constitutional protection afforded to activities that extend beyond peaceful assembly and protest and involves intimidation, violence, coercion, unlawful searches, assaults, damage to property or the exercise of any power reserved exclusively for the State. The reason being that it no longer is a protected protest and becomes criminal conduct.

The Regulation of Gatherings Act 205 of 1993 was enacted to facilitate the exercise of the constitutional right to assemble while ensuring that public gatherings occur in a manner consistent with public safety and the rights of others. The Act regulates the organisation of gatherings and demonstrations, but it does not authorise participants to assume policing functions or to interfere unlawfully with the rights of other members of the public.

Nothing in the Act permits protesters to any of the following:

- demand identity documents from members of the public;
- establish roadblocks or checkpoints;
- conduct searches of individuals, homes or businesses;

- determine whether a person is lawfully present in South Africa;
- order businesses to close;
- prevent access to schools, hospitals or other public facilities; or
- intimidate or forcibly remove individuals from communities.

Such conduct falls outside the scope of lawful protest and, depending on the circumstances, may constitute offences including assault, intimidation, malicious damage to property, public violence and in the worst case loss of lives.

Similarly, the Criminal Procedure Act 51 of 1977 does not confer policing powers on private individuals or organisations. While section 42 recognises limited circumstances in which a private person may effect a citizen's arrest, these powers are exceptional and narrowly defined. They do not authorise individuals or organised groups to conduct immigration enforcement, verify immigration status, demand identity documents, search premises or carry out investigations into suspected immigration offences.

Citizen's arrest provisions cannot be relied upon to justify organised campaigns in which anti-rights groups patrol communities, enter businesses, inspect documentation or target individuals based on appearance, language or perceived nationality. Such activities are not recognised by South African law and represent an unlawful assumption of powers reserved for duly authorised state officials.

[There have been numerous media reports of South Africans](#) take the law into their own hands. [The South African Human Rights Commission](#) has reported on this as well.

The Constitution assigns responsibility for policing to the South African Police Service (SAPS). Section 205(3) provides that the objects of the police service are to prevent, combat and investigate crime; maintain public order; protect and secure the inhabitants of the Republic and their property; and uphold and enforce the law. Immigration enforcement is likewise governed by legislation and entrusted to designated immigration officers within the framework of the Immigration Act.

This constitutional allocation of public power is deliberate, not discretionary. It ensures that coercive state functions are exercised only by officials who are accountable to the law, subject to constitutional constraints and judicial oversight. It prevents the emergence of parallel systems of law enforcement based on private interests, political affiliation or majoritarian sentiment. We fought a system which saw racial discrimination legalised by the apartheid regime.

The police are constitutionally required to uphold the law. This includes intervening promptly where gatherings and/or demonstrations evolve into intimidation, violence or unlawful attempts to exercise policing or immigration enforcement powers. Failure to act not only permits criminal conduct to continue but risks undermining public confidence in the rule of law and in the State's exclusive authority to enforce the law. It also gives the impression that the Police are performing their duties with bias and prejudice.

7. The State's Due Diligence Obligation

Section 7(2) of the Constitution requires the State to respect, protect, promote and fulfil the rights in the Bill of Rights. This creates not only a duty on the State to refrain from violating rights itself, but a positive, due diligence obligation to prevent foreseeable harm by private actors, to protect those at risk, to investigate credible allegations promptly and impartially, and to prosecute and provide remedy where violations occur. This due diligence standard is well established in international and regional human rights law, including under the African Charter on Human and Peoples' Rights, and is not satisfied merely by the State declining to participate in unlawful conduct itself.

Where a pattern of vigilante conduct is as well documented as it now is — through litigation, independent oversight bodies, and consistent media reporting — the due diligence standard calls for a demonstrable, proactive operational response, and not only public condemnation after the fact. We ask, respectfully and directly: what steps has SAPS taken, and what steps does it intend to take, to close the gap between the acknowledged unlawfulness of vigilante conduct and its continued occurrence? We would welcome the opportunity to discuss this with your office, and would appreciate a written response setting out SAPS's current approach and any operational plan in place.

8. Documented Patterns of Conduct Requiring Consistent Enforcement

Groups operating under various banners, including Operation Dudula and March and March, have described aspects of their activity as “peaceful,” “community action” or “protest.” Courts and independent oversight bodies have, however, documented a consistent pattern of conduct that falls outside constitutionally protected assembly and amounts to criminal conduct under South African law. We set these out below not to single out any individual or organisation unfairly, but because a clear evidentiary record is necessary for an effective and proportionate policing response.

8.1. Access to Healthcare

The judgment in *Kopanang Africa Against Xenophobia and Others v Operation Dudula and Others* (2025) documents a pattern of conduct at public health facilities, including at Kalafong Hospital (August–September 2022),⁴ Hillbrow Community Health Centre (August–September 2022) and Jeppe Clinic (January 2023).⁵ The Court found that “Operation Dudula has also targeted public healthcare facilities, using threats and violence to prevent foreign nationals from accessing healthcare.” The South African Human Rights Commission’s litigation and public statements have separately identified Operation Dudula and March and March as respondents in proceedings concerning the denial of access to public healthcare, recording allegations that these groups blocked entrances, screened patients, prevented non-nationals and undocumented persons from entering, and interfered with constitutional access to healthcare protected under section 27.

8.2. Access to Education

Reports have documented individuals⁶ demanding that schools identify foreign learners, requiring schools to produce admission records, and intimidating educators and parents. Neither political organisations nor community groups have any authority to inspect school records. Depending on the circumstances, such conduct may amount to intimidation, trespassing, public violence, harassment or interference with public administration. Where children are targeted, this engages section 28 (the best interests of the child), section 29 (the right to education) and section 9 (equality). [The Constitutional Court](#) has consistently affirmed that every child in South Africa enjoys constitutional protection regardless of nationality or documentation status.⁷

8.3. Identity Inspections

Members of these groups have demanded identity documents from residents, pedestrians, shoppers, workers, taxi passengers, traders and customers. This amounts to the unlawful exercise of public

⁴ <https://www.citizen.co.za/news/south-africa/police-diffuse-violent-clashes-between-eff-and-operation-dudula-members-outside-kalafong-hospital/?> (accessed 20 July 2026)

⁵ <https://www.saflii.org/za/cases/ZAGPJHC/2025/1102.html> (accessed 20 July 2026)

⁶ Business closures <https://www.facebook.com/reel/966130516384785> (accessed 20 July 2026)

⁷ *Khosa and Others v Minister of Social Development and Others, Mahlaule and Another v Minister of Social Development* (CCT 13/03, CCT 12/03) [2004] ZACC 11; 2004 (6) SA 505 (CC); 2004 (6) BCLR 569 (CC) (4 March 2004)

power and, depending on the circumstances, may constitute assault, intimidation, crimen injuria, kidnapping (where movement is restricted) or harassment.

8.4. *Unauthorised Roadblocks*

[Reports have also documented informal checkpoints](#), the stopping of vehicles, and the questioning of passengers about nationality. Roadblocks may only be established under statutory authority by SAPS, Metro Police or authorised traffic officers; stopping vehicles without legal authority is itself an unlawful interference with freedom of movement, and may give rise to offences including public violence, kidnapping, assault, intimidation, extortion or obstruction of public roads.

8.5. *Home Searches*

Reports, including video content published by these organisations themselves documenting visits to homes, informal settlements and residential areas, describe demands for proof of nationality, searches of occupants, and instructions for people to leave their communities. Only authorised officials acting under legal authority may enter and search homes; forced searches by private groups have no legal basis and engage the constitutional protections of privacy (section 14), dignity (section 10) and property (section 25). Depending on the circumstances, such conduct may constitute trespassing, housebreaking, assault, robbery, intimidation, kidnapping or public violence.

8.6. *Interference with Businesses and Employment*

Businesses owned or operated by foreign nationals have been [ordered to close, threatened](#) with violence, or prevented from trading. South African-owned businesses that employ foreign nationals have also been targeted. Recent reporting, including on an incident in Diepkloof, Soweto on 9 July 2026, documents groups conducting unauthorised “labour inspections” at workplaces, including the closure of spaza shops and the removal of stock. Only regulatory and labour authorities may conduct labour inspections or suspend business operations; private organisations hold no licensing or enforcement power. This conduct engages the constitutional right to choose a trade, occupation or profession (section 22) and property rights (section 25), and may give rise to offences including extortion, intimidation, malicious damage to property, public violence, assault, or the destruction of property.

8.7. *Racial and Ethnic Profiling*

Individuals have been stopped and questioned in public spaces because they are Black African and perceived to be foreign, speak a particular African language, have an accent, have darker skin, hold a particular surname, or wear particular clothing. South African citizens have repeatedly reported being mistaken for foreign nationals and subjected to harassment on this basis. Nationality cannot reliably be determined from race, language or appearance. Profiling of this kind is incompatible with section 9 (equality) and section 10 (human dignity), and may amount to unfair discrimination, hate speech depending on the conduct, crimen injuria, or intimidation.

9. Consistency in Public Messaging

We ask that the same clarity and urgency that government has brought to public statements about migration be matched by equally clear, sustained and public messaging on the unlawfulness of vigilante conduct, so that there is no ambiguity — in the public mind, or among officers on the ground — about where the law stands. We would also welcome government's consideration of how the scale of resources and urgency directed toward immigration enforcement compares with the response to other longstanding and similarly urgent public concerns, including proposals for a wealth tax and a universal basic income grant that civil society has raised for many years.

10. Conclusion and recommendations

As political parties campaign ahead of local government elections on 4 November 2026, the role of the police is to uphold the rule of law without fear, favour or prejudice, to protect all persons within South Africa, and to ensure that no individual or organisation unlawfully assumes policing or immigration enforcement powers. Visible, even-handed enforcement during this period is essential to public confidence in constitutional policing and in the integrity of South Africa's democracy. Continued tolerance of vigilante activity — including clinic blockades, unlawful identity checks, roadblocks, home searches, business intimidation and racial profiling — undermines the rule of law and reflects a due diligence gap that we believe SAPS has both the constitutional mandate and the capacity to close.

KAAX respectfully requests that your office consider the following steps:

- A clear, sustained and consistently repeated public statement affirming that immigration enforcement is an exclusive state function, and that vigilante conduct — regardless of the label under which it is organised — is unlawful.

- A published operational directive to SAPS members setting out how gatherings that cross into unlawful conduct — blockades, unauthorised inspections, roadblocks, home searches, forced business closures — are to be identified and acted upon.
- Prompt, impartial investigation and, where warranted, prosecution of documented incidents, including those already before the courts and the SAHRC, with published timelines.
- Concrete protective measures for healthcare workers, patients, learners, educators, traders and residents at risk, consistent with sections 27, 28 and 29 of the Constitution.
- Regular public reporting — for example, quarterly — on enforcement action taken in response to vigilante conduct, to demonstrate even-handed policing.
- Evidence-based public communication on migration, grounded in verifiable data rather than unsubstantiated claims of a “crisis.”
- Equal urgency applied to the underlying drivers of social instability — unemployment, corruption, hunger and failing public services — that civil society has raised for years.

KAAX reiterates that constitutional rights and the rule of law cannot be applied selectively; unlawful conduct remains unlawful regardless of whether it is presented as “community action” or “protest.” We remain committed to constructive engagement with your office and with SAPS, and would welcome the opportunity to meet and discuss these recommendations further.

Yours sincerely,

Kopanang Africa Against Xenophobia (KAAX)

media@kaax.org.za