

CH 3.2: LEGAL CHALLENGES, HUMAN RIGHTS, AND LAW ENFORCEMENT

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LET'S GROW SOUTH AFRICA TOGETHER

STATUTORY FRAMEWORK AND LEGAL FOUNDATIONS

- THE LOCUS OF POWER
- THE NATIONAL COMMAND COUNCIL
- THE DISASTER MANAGEMENT ACT
- THE MINISTER'S DECLARATION

LEGAL CHALLENGES TO THE REGULATIONS

- RATIONALITY ANALYSIS: THE LOW THRESHOLD
- LIMITATION OF RIGHTS ANALYSIS: THE HIGH THRESHOLD

SPECIFIC HUMAN RIGHTS CHALLENGES

- ACCESS TO SOCIAL ASSISTANCE
- RACE-BASED ACCESS TO FINANCIAL AID
- ENFORCEMENT BRUTALITY DURING THE LOCKDOWN
- POLICE MISCONDUCT
- CORRUPTION

RECOMMENDATIONS

- The building of efficient, responsive, and capable state institutions
- Modernisation and professionalisation of government services
- A thorough overhaul of the functioning of the law enforcement agencies
- Better intergovernmental cooperation
- Non-selective and demonstrable criminal accountability for corrupt activities and abuse of power
- An appreciation of the potential future importance of a fundamental rights analysis (rather than a rationality analysis) in the adoption of disaster management measures.