

The Upside-Down Logic of No Jurisdiction by Expulsion

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Background

The dispute that now confronts South African football has its origins in a regrettable altercation that occurred during a meeting of the SAFA National Executive Committee (NEC) on 7 March 2026. Following a physical confrontation between certain NEC members, the meeting was adjourned with the understanding that the matter would be addressed at a future meeting of the NEC.

However, before the NEC could consider the incident, the SAFA Emergency Committee convened on 13 March 2026 and resolved to suspend four NEC members whom it considered responsible for instigating the brawl.

The suspended members immediately challenged the legality of the decision, contending that the Emergency Committee acted *ultra vires* the SAFA Statutes and violated the principles of natural justice by imposing a severe sanction without affording them notice or a hearing.

Their request for arbitration was rejected administratively by SAFA without being referred to the Arbitration Tribunal for a determination of admissibility, prompting the members to approach the High Court on an urgent basis on 15 May 2026 to compel SAFA to convene the arbitration panel.

NO RIGHT TO CHALLENGE AN UNLAWFUL ACT CREATED BY THE VERY BODY THAT COMMITTED IT?
SUBSTANCE OVER STATUS. JUSTICE OVER TECHNICALITY.

1 SUSPENSION
Emergency Committee suspends NEC members without constitutional authority.

2 ARBITRATION REQUESTED
NEC members challenge the suspension.

3 ARBITRATION REFUSED
Told it is 'premature'. Must wait for disciplinary proceedings.

4 DISCIPLINARY HEARING SET
Hearing scheduled for 4 June 2026.

5 EXPELLED WITHOUT NOTICE OR HEARING
Congress expels the NEC members on 24 May 2026 before the hearing.

SAFA'S POSITION
"You are no longer members. You fall outside our jurisdiction." The matter is moot."

THE FLAW

- Assumes the validity of the expulsion.
- Relies on its own impugned act to defeat review.
- Creates a jurisdictional obstacle through its own conduct.
- Renders internal remedies unavailable and ineffective.
- Violates natural justice and the rule of law.

THE RIGHT QUESTION
WAS THE EXPULSION LAWFUL?
UNTIL THAT IS DECIDED, JURISDICTION REMAINS.

ULTRA VIRES
Acted beyond constitutional authority.

NATURAL JUSTICE
Procedural Fairness. No Fairness.

DENIAL OF REMEDIES
Access to a court of law.

COURT REVIEW REMAINING
Only affect in law.

SAFA DISPUTE RESOLUTION
ARBITRATION ACCESS DENIED
REMEDIES RENDERED ILLUSORY

ELECTED. SUSPENDED. EXPELLED. DENIED A HEARING. DENIED A REMEDY.

ULTRA VIRES NO POWER TO SUSPEND

AUDI ALTERAM PARTEM IGNORED

PRINCIPLE: NO ONE MAY BENEFIT FROM THEIR OWN WRONG.
Access to justice cannot depend on a status that is itself in dispute.

"A REMEDY THAT CAN NEVER BE USED, IS NOT A REMEDY AT ALL."

After the court proceedings, SAFA issued disciplinary charges requiring the members to appear before a Disciplinary Committee on 4 June 2026. Yet before those hearings could take place, the matter took a dramatic turn.

On 24 May 2026, the SAFA leadership placed the issues of dismissal and expulsion before the SAFA Congress without notifying the affected NEC members or affording them an opportunity to be heard, and secured a vote expelling them from the Association.

The members thereafter amended their request for arbitration to include the expulsion decision, only to be informed on 2 June 2026 that, by virtue of their expulsion, they no longer fell within any category of persons subject to SAFA's jurisdiction and were therefore no longer entitled to access any of the Association's internal dispute-resolution mechanisms.

The controversy that follows is therefore not merely a dispute about discipline or membership; it raises profound questions concerning legality, natural justice, access to remedies, and whether a voluntary association may rely upon a disputed act of expulsion to prevent scrutiny of the very decision whose validity is under challenge.

SAFA's response to the expelled NEC members' request for arbitration is remarkable not only for what it says, but for what it carefully avoids saying.

At first glance, the response appears impressive in its constitutional detail. It methodically traverses the SAFA Statutes, citing definitions of "member", "official", "player", "coach", "match agent", "referee", and a host of other categories that fall within the Association's jurisdiction.

The letter conveys an image of constitutional precision. Every definition appears carefully selected. Every provision seems to point inexorably towards a single conclusion: once the NEC members were expelled, they ceased to fall within any category recognised by the Statutes, and therefore ceased to enjoy access to SAFA's arbitration structures.

Yet beneath this dense jungle of constitutional references lies a glaring omission. The response never truly confronts the central issue raised by the dispute.

The issue was never whether the expelled NEC members currently satisfy the definition of a member.

The issue was whether they lawfully ceased to be members in the first place.

That distinction is not a technicality. It is the entire case.

The dispute placed before SAFA was not a request for an advisory opinion. It was not an abstract constitutional enquiry. It was a direct challenge to the legality of decisions that deprived elected office bearers of their positions, their membership, and their rights within the Association.

The expelled NEC members contended that the Emergency Committee lacked constitutional authority to suspend them, that the suspensions were unlawful, that the subsequent disciplinary process was overtaken by events, and that their expulsion occurred without notice or hearing. Whether those contentions are ultimately correct is a matter for adjudication. But they are unquestionably disputes.

Instead of addressing those disputes, SAFA's response proceeds from the assumption that the expulsions were valid and then uses that

assumption as the basis for denying jurisdiction.

This is where the reasoning becomes circular.

In essence, SAFA's position appears to be:

You are no longer members because you have been expelled.

Because you are no longer members, you no longer fall within our jurisdiction.

Because you no longer fall within our jurisdiction, you cannot challenge your expulsion through our dispute-resolution mechanisms.

The difficulty with this reasoning is that it assumes the very proposition that requires determination. The lawfulness of the expulsion is not an established fact. It is the disputed issue. Yet the response treats it as a settled premise.

The result is a form of constitutional bootstrapping. The Association seeks to derive a jurisdictional advantage from the very conduct whose legality is under challenge.

This is not merely a procedural concern. It strikes at the heart of legality itself.

**the validity of an act
cannot be established
merely because the actor
declares it valid**

Every legal system worthy of the name recognises a simple proposition: the validity of an act cannot be established merely because the actor declares it valid. If that principle were abandoned, every disputed

expulsion could become immune from scrutiny.

An association could simply expel a member and then insist that, because the member has been expelled, no internal mechanism exists to challenge the expulsion. Such a system would render every right of appeal contingent upon the goodwill of the decision-maker whose conduct is under review.

That cannot be what constitutional governance means.

What makes the matter even more troubling is the chronology.

The NEC members sought arbitration while they unquestionably fell within SAFA's jurisdiction. At that stage they were serving officials and elected members of the National Executive Committee. Their request was not entertained.

They were informed that their challenge was premature and that they should await the outcome of disciplinary proceedings.

That response effectively deferred the exercise of the very remedy they sought.

But before those disciplinary proceedings could occur, they were expelled. The disciplinary hearing became irrelevant. The process that was supposedly required before arbitration could be pursued was overtaken by events created by the Association itself.

The consequence is deeply troubling.

When the NEC members sought arbitration as members, they were told it was too early.

When they sought arbitration after expulsion, they were told it was too late.

At no point were they afforded an opportunity to have the merits of their dispute heard.

This is perhaps the most significant feature of the entire affair. It transforms the debate from one about jurisdiction into one about access to justice. A dispute-resolution mechanism that can never actually be invoked is a remedy in name only. It exists on paper but not in practice.

The deeper concern is therefore not whether SAFA correctly interpreted a series of constitutional definitions. It is whether those definitions have been deployed in a manner that defeats the very purpose for which constitutional governance exists.

Constitutions are not merely instruments of exclusion. They are instruments of accountability. They establish powers, but they also limit powers. They create authority, but they also create remedies against the abuse of authority.

When constitutional provisions are interpreted in a way that prevents scrutiny of allegedly unlawful conduct, the constitution ceases to function as a safeguard and becomes a shield.

That is the uncomfortable implication of SAFA's response.

The Association's argument invites the acceptance of a principle that should concern every member of every voluntary organisation: that an institution may first deny access to a remedy, then alter a person's status, and finally rely upon that altered status to contend that no remedy exists.

Such a proposition sits uneasily with the most basic notions of legality, fairness, and natural justice.

If constitutional rights can be extinguished through procedural manoeuvre before they can be exercised, then those rights are not truly rights at all

The question therefore extends far beyond the fate of four expelled NEC members. It touches upon the integrity of governance itself. If constitutional rights can be extinguished through procedural manoeuvre before they can be exercised, then those rights are not truly rights at all. They are privileges granted at the discretion of those who hold power.

That is why this dispute matters.

The real issue is not whether the expelled NEC members presently fall within one of SAFA's carefully defined constitutional categories. The real issue is whether the Association may rely upon the disputed consequences of its own conduct to avoid scrutiny of that conduct.

Until that question is answered, every definition cited in the response remains secondary.

The dispute begins, and ends, with a far simpler principle: no institution should be permitted to become the final judge of the legality of its own actions.

A Minister's Duty to Defend Rights, Not Predetermine Outcomes

Perhaps the most disturbing aspect of this saga is the role played by the Minister of Sport, Arts and Culture. I have listened to an audio recording that reveals that the Minister

did not approach the dispute as a neutral guardian of constitutional values or as a public office bearer concerned with fairness and due process. Instead, he openly aligned himself with the campaign against the four NEC members and advocated for their expulsion and exclusion from football before any disciplinary process had been completed.

This is a remarkable position for a Cabinet Minister to adopt.

The Minister was not present at the NEC meeting of 7 March 2026. He did not witness the altercation. He was not a participant in the events that gave rise to the dispute. He was not called upon to adjudicate the facts. Yet he reached firm conclusions about who was responsible and what punishment should follow.

In doing so, he effectively endorsed the most severe sanction available before the affected individuals had been afforded an opportunity to defend themselves in a properly constituted disciplinary forum.

What makes this particularly troubling is that the Minister's constitutional obligations extend far beyond the administration of sport. As a member of the national executive, he is sworn to uphold the Constitution and the rights contained in the Bill of Rights.

Those rights include the foundational values of fairness, dignity, accountability, legality, and procedural justice. The spirit of constitutional governance demands caution where allegations remain disputed and insists that punishment should follow process, not precede it.

Yet the sequence of events creates a most disturbing impression. The Minister publicly advocated for the removal of the four NEC members. The disciplinary process that was

supposedly intended to determine their fate never reached its conclusion. Instead, the members were expelled before the scheduled hearing could take place. When they attempted to challenge that expulsion through SAFA's internal dispute-resolution structures, they were informed that they no longer fell within the Association's jurisdiction.

The result was that individuals whom the Minister had publicly urged should be removed from football were ultimately removed without the benefit of the very procedural safeguards that are intended to protect members against arbitrary action.

Whether this sequence of events was coincidental or a sign of a broader alignment between the political authority and football administration is a question that needs to be answered after considering the available evidence.

What cannot easily be ignored, however, is the constitutional irony at the heart of the matter: a Minister entrusted with safeguarding the rights of South Africans supported the banning of long-serving football administrators from an organisation without a hearing.

In a constitutional democracy, the measure of leadership is not how vigorously one supports a particular faction, but how steadfastly one defends the principles of fairness when those principles are most inconvenient.

The real concern raised by the Minister's intervention is therefore not political. It is constitutional. It is whether those entrusted with public power remain committed to due process when the individuals affected happen to be their critics.

