Media Release: Apartheid tactics used by eThekwini Municipality

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The Freedom of Expression Institute is disgusted by the high-handed, illegal and brutal attitude of the eThekwini Municipality against shack dwellers today.

Early this morning, police invaded both the Foreman Road and Kennedy Road shack settlements in Durban and prevented residents from leaving the settlements. A number of shack dwellers were arrested. We have just received reports that some of the detainees have been beaten up by police at the Sydenham police station.

The military-style operation of police is an attempt to prevent a shack dwellers march from taking place today. The Shack Dwellers Movement, Abahlali Base Mjondolo, had planned to march today in protest against the lack of housing. They were due to hand over a memorandum to the MEC for Housing in the Kwazulu-Natal Province.

Abahlali fulfilled all the requirements necessary under the Regulation of Gatherings Act, which governs demonstrations, marches, protests, etc. In terms of the Gatherings Act, organisers of an event are required to notify local authorities of their intention to hold the gathering seven days before the proposed date of the event. On the 3rd February 2006, Abahlali had notified the municipality of their intention to hold a march on the 20th February – that was 17 days in advance of the event. On the 16th February, four days before the event and after a letter from the FXI to City Manager Mike Sutcliffe pointed out that Abahlali had fulfilled its requirements in terms of the Act and was awaiting a response from the municipality, the organisers were told that some information was missing from their notification. In fact, this was information they had submitted on the 3rd February but which had been returned to them by the police. Abahlali then submitted all the additional information on the 17th February and informed the authorities that three days was not sufficient for them to organise a march and they therefore would hold the march on the 27th February – today. To date, the organisation has received no notification prohibiting the march. Thus, in terms of the Gatherings Act, the Abahlali march today is a legal one – if it took place. The march has now been aborted by the actions of the police.

The violation of basic constitutional rights in this instance is appalling and is a serious threat to our democracy and to the elections due to take place in two days time.

The police, by telling shack dwellers that they have harassed this morning that the march is banned, are lying to citizens and acting completely contrary to the South African constitution and the Gatherings Act. We have received reports that police have informed shack dwellers that the instruction that the march was banned came from the City

Manager, Dr Mike Sutcliffe. If this is true, then it is of great concern to us that a person in such a senior position, 1) does not understand the contents of a law (the Gatherings Act) that is basic to his role and 2) that a person in such a position acts with such impunity in subverting South African legislation and the South African Constitution.

Further, the shack dwellers that have been arrested have done absolutely nothing illegal and there is no reason for them to be arrested. Even if the march was illegal (it isn't), the detainees were arrested without their having been part of any gathering. Such Hollywood-style preemptive arrests of people who have committed no crime set an extremely dangerous precedent for our legal system. Will the police now believe that they are empowered to arrest a person who might be thinking of committing a crime? Such high-handed police action is completely out of tune with a democratic society and is, rather, reminiscent of the days of Apartheid.

We want to remind the eThekwini Metro Police that their ongoing actions in various Durban shack settlements are illegal and unconstitutional.

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