



Street Address: 21<sup>st</sup> Floor Sable Centre  
41 De Korte Street  
Braamfontein, Johannesburg  
Postal Address: PO Box 30668  
Braamfontein 2017  
South Africa  
Tel: +27 11 403-8403  
Fax: +27 11 339-4109  
fxi@fxi.org.za  
<http://www.fxi.org.za>

## Media Release:

### Concern over prohibition of Shack dwellers march

*Issued by the Freedom of Expression Institute*

*23 February 2006*

*15:45*

The Freedom of Expression Institute is deeply concerned over the manner in which the shack dwellers movement in Durban, Abahlali Base Mjondolo, has been treated by the eThekweni Municipality in their attempts to have a march in the city.

Abahlali had handed in the necessary forms to notify the local authorities of their intention to have a march on the 20<sup>th</sup> February. The documents were handed in on the 3<sup>rd</sup> February, way before the 7-day notice period required in terms of the Regulation of Gatherings Act.

After numerous delays by the authorities, Abahlali asked that the march be scheduled for the 27<sup>th</sup> February. By this afternoon, with one working left before the march, the movement has still not been informed by the Municipality whether they can go ahead with the march.

We are appalled at the apparent attempt by the office of the City Manager, Dr Mike Sutcliffe, and the Metro Police to subvert the South African Constitution and the Regulation of Gatherings Act.

The conduct of the officials of eThekweni Municipality in this matter is extremely disturbing and smacks of an arrogance and disdain for the people the municipality should serve. Not to mention that it is unconstitutional and illegal.

The Constitution states, "Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions". The Regulation of Gatherings Act No 205 of 1993 ("Gatherings Act") gives effect to this fundamental right.

It seems that the office of the City Manager and the eThekweni Metro Police do not understand the provisions of the Gatherings Act. The Act does not empower them to "deny permission" for a gathering (or march) to take place. Indeed, all the Act requires of the applicants is "notification", not the seeking of "permission". That the city manager is interpreting the Act in the latter manner violates not only the legislation but also the Constitution. In fact, Abahlali having fulfilled all the requirements required of them in the Act, is now entitled to march on the 27<sup>th</sup> February and its waiting for a response from municipal authorities is simply a courtesy on its part.

Section 5 (1) of the Regulation of Gatherings Act only permits the prohibition of a gathering (or march, in this instance) if there is a "...threat that a proposed gathering will result in serious disruption of vehicular or pedestrian traffic, injury to participants in the gathering or

---

EXECUTIVE COMMITTEE: Mabalane Mfundisi (Chairperson), Na'eem Jeenah (Deputy Chairperson), Andre Keet, Raymond Louw, Graham Bailey, Verne Harris, Kate Skinner, Tawana Kupe

EXECUTIVE DIRECTOR: Jane Duncan ORGANISER MEDIA & ICT'S: Virginia Setshedi FINANCE MANAGER Gail Snyman  
OFFICE ADMINISTRATOR: Pinky Magau RECEPTIONIST & LIBRARIAN: Gertrude Tsoku

other persons, or extensive damage to property, and that the Police and the traffic officers in question will not be able to contain this threat...". Unless municipal authorities can provide written "credible information on oath" (as per the Act) that such threat exists, we believe that Abahlali is legally within its rights to march on Monday, 27<sup>th</sup> February.

We are concerned that an organisation that represents some of the poorest people is so flagrantly denied its right to free expression and with such impunity. Surely the municipality does not expect that the organisation can, in this short space of time, train marshals, brief their members, organise all the logistics, make payments for arrangements, etc. Since this cannot be reasonably expected of the Shack Dwellers Movement, one can only assume that municipal officials are deliberately delaying this process in order to subvert Abahlali's constitutional right to gather and protest. It also seems to us that the Municipality has a vendetta against this particular organisation, having previously prohibited a march by it and its police having opened fire on unarmed peaceful protestors.

The Constitution guarantees everyone the right to administrative action that is lawful, reasonable and procedurally fair. The repeated delays and last minute information that Abahlali is subjected to are both unfair and unreasonable.

It is of extreme concern to us that the officials of a municipality are this disrespectful of our Constitution, laws and citizens. If their intransigence results in violence, it will be the responsibility of municipal officials to accept blame for not allowing sufficient time for preparations. For surely those who have followed the letter of the law cannot be blamed for official disregard.

*For more information, call:*

Na'eem Jeenah (FXI Anti-censorship programme) – 084 574 2674

Simon Delaney (FXI Legal Unit) – 083 397 0057

S'bu Zikode (Abahlali Base Mjondolo) - 083 547 0474