
# “OUR LIVES COUNT FOR NOTHING”

THREATS, ATTACKS, AND KILLINGS OF MEMBERS OF ABAHLALI BASEMJONDOLO (SHACK DWELLERS) MOVEMENT IN SOUTH AFRICA’S KWAZULU-NATAL PROVINCE

SOUTH AFRICA AMNESTY INTERNATIONAL

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***Cover photo:*** *EKHENANA, KWAZULU-NATAL, SOUTH AFRICA – 7 August 2023: The side of the community hall erected by residents in eKhenana.*
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# 1. EXECUTIVE SUMMARY

Human rights defenders (HRDs) in South Africa face a range of challenges to their work, including threats, intimidation, killings, unjust prosecution, and cyberbullying, from both state and non-state actors. There is little to no accountability for the attacks, intimidation, and killing of HRDs, which likely go underreported due to fear of reprisals. HRDs are persons who, individually or in association with others, act to defend and/or promote human rights at local, national, or international levels. South Africa does not have in place a specific domestic legislation or public policy for the protection of HRDs at risk, and the authorities have not created a specific registry to keep track of the number of threats and attacks against HRDs stemming from their work.

Abahlali baseMjondolo (AbM), which loosely translates to 'shack dwellers' in isiZulu, is a movement of more than 150,000 people living in informal settlements in South Africa fighting for land, housing, and dignity. Individually, and in association with the AbM movement, members of AbM advocate for and promote human rights at local level in the communities and settlements in which they live. From its inception, AbM has faced resistance from individuals who are challenged by its activism. This resistance, and the situation of vulnerability of its members, has created an environment prone to threats, attacks, unlawful evictions, trumped-up legal charges, harassment, attempted murders, and killings in response to their activism over the past 18 years.

In 2022, three leaders of AbM from the eKhenana informal settlement in KwaZulu-Natal (KZN), were killed within the space of six months. Their deaths were only the most recent in the settlement. AbM has reported eight killings in eKhenana since its establishment in 2018, five of which AbM members linked to the individual's activism in interviews with Amnesty International.

This report examines the killings and patterns of threats and attacks against AbM members in eKhenana, and the state's failure to adequately respond to it. The report focuses on the eKhenana settlement, as the most recent killings have taken place there, and serves as a representation of the wider risks and challenges experienced by the AbM movement.

## METHODOLOGY

This report is based on desktop and qualitative research carried out between September 2022 and February 2024. Interviews were conducted between June and August 2023. Those interviewed included eight members of AbM (four men and four women), and six external stakeholders, which included academics, activists, researchers, an attorney, and independent violence monitors that have closely monitored the situation of AbM. Participants could choose to conduct the interview in English or isiZulu.

The interviews were conducted using semi-structured open-ended questions to allow researchers to capture AbM members' narratives and experiences. The primary research was supported by the desktop research, including a comprehensive literature review drawing on previous research reports by civil society organizations and independent monitors of the South African Human Rights Commission (SAHRC), press releases, and media articles on AbM; research conducted by the SAHRC on the status of HRDs in South Africa; reports into political killings in South Africa, including by the Global Initiative against Transnational Organized Crime and the Moerane Commission; research by the Human Sciences Research Council and Afrobarometer on public perceptions and trust in police; the South African Police Service's Annual Reports

and official crime statistics; and a legal and policy analysis on the rights of human rights defenders (HRDs) and of the duty of police to investigate killings.

In addition to the desktop research and interviews, Amnesty International received a video and a voice recording as evidence of allegations made by AbM members interviewed. Both pieces of evidence were analyzed and verified by Amnesty International. This video was seen and verified by Amnesty International's Crisis Evidence Lab. The voice recording was analyzed by an independent sound engineer.

The research was limited in focus to the threats and attacks documented in eKhenana, an informal settlement established in eThekwini in 2018, as three AbM leaders were killed there in 2022 alone. It does not set out to identify the perpetrators of the threats, attacks, and killings, nor investigate each of the killings themselves, but focuses on the duty of the state to ensure that HRDs can work in a safe and enabling environment, including by providing effective protection to those at risk and bringing to justice those responsible for the attacks, including for those who have been killed. Findings were shared with relevant authorities, giving them an opportunity to respond to allegations. At the time of publication, no responses had been received.

Given serious security concerns and the sensitive nature of the research, Amnesty International was led by the 'do no harm' obligation throughout the research process and took deliberate measures to ensure the safety and security of those who were interviewed for the research.

# BACKGROUND

In South Africa, informal settlements, also known as slums, are a legacy of the apartheid government's discriminatory policies of land dispossession and forced relocation of Black people to remote areas, hindering their access to economic, social, and educational resources. Due to increasing urbanization, the shortage of affordable housing, and the aftermath of apartheid-era spatial segregation, these informal settlements have grown rapidly after apartheid. Access to human rights like housing, water and sanitation is particularly limited in informal settlements, and the South African government has struggled to address these issues. These conditions, in which millions of people in South Africa continue to live, provide fertile grounds for dissatisfaction, frustration and helplessness due to the failure of the state to provide essential services. This is the context in which AbM works.

AbM advocates for housing, an end to forced evictions, access to education, and the provision of water, electricity, sanitation, health care, and refuse removal. They have spoken out against government corruption, xenophobia in communities, have provided analysis of politics in South Africa and its impact on the human rights of people who live in poverty and are marginalized, and have been critical of leading political parties in South Africa. AbM educates people on their housing rights, uses the courts to resist forced evictions, and has led community development projects, establishing crèches, gardens, sewing collectives, and providing support for people living with HIV and those orphaned by AIDS in some settlements. Their activism has often been met with violence when they protest and speak up.

AbM has a strong presence in KZN, which stands out as the province in South Africa with the most politically motivated killings. Between 2000 and 2021, 418 political killings were recorded nationwide. Of these, 213 took place in the previous seven years, and 118 took place in KZN. Although AbM is not a political party contesting for government positions, it is seen as a threat to those in power because of its organizing, outspokenness on government failures and its exposure of corruption, putting its members at risk of reprisals.

# SILENCING THE DEFENDERS

Since its inception, AbM has reported that 25 of its activists, supporters, members, and leaders have been killed, some of them directly because of their human rights work. This number includes eight people from eKhenana that have been killed since the settlement was established in 2018, three of them in 2022 alone. The killings have been well documented over the years by AbM themselves, journalists, and most recently in detailed reports by the Socio-Economic Rights Institute (SERI) in 2022, and by the Global Initiative against Transnational Organized Crime in 2023. AbM members have reported that at least five of those killed in eKhenana had received threats prior to their killing. Members of the movement and external stakeholders believe that the killings are a direct response to AbM challenging the status quo of the communities in which they reside and operate, denouncing local corruption and organizing themselves independently outside of party politics. They believe the killings are intended to disrupt their organizing and create an environment of fear.

The killing of HRDs across the world are often preceded by threats and criminalization and are fuelled by impunity. According to interviewees, approximately 50 AbM members have been arrested on trumped-up charges from different areas in KZN since the movement's inception. Many of these cases were withdrawn or thrown out of court due to a lack of evidence. Some are still pending. Those from eKhenana who were killed in 2022, were linked to court cases in which they were key witnesses or victims of trumped-up charges.

Death threats directed at members of the eKhenana commune have become commonplace, with the three members killed in 2022 all apparently receiving threats ahead of their killing. The police reportedly did not respond or take any measures to protect these individuals, despite these threats being reported to police according to AbM members Amnesty International interviewed for this report. At the time of publication, the South African Police Service and the Minister of Police had not responded to these allegations.

Allegations of police refusing to open investigations into threats and attacks on members of AbM, failing to collect evidence, and failing to conduct thorough and efficient investigations and make arrests were a common theme in all the interviews conducted for this research. Alleged perpetrators of the killings are said to be known to the community, with claims that evidence exists and has not been collected by police, and ineffective and insufficient investigations taking place. Of those killed in eKhenana, there has only been one conviction, while two suspects for another killing were released reportedly due to the postmortem report going missing according to interviewees. At the time of publication, the South African Police Service, Minister of Police and the National Prosecuting Authority had not responded to these allegations.

A general lack of trust in police was reported by AbM members. This corresponds with research done nationally by the Human Sciences Research Council and Afrobarometer showing a decline in confidence and trust by the public in the police. The South African Police Services' ability to solve murders has also declined by 60% since 2011/12 according to their Annual Reports.

The threats and targeting of HRDs in eKhenana must be seen against the backdrop of a greater pattern of violence and killings against AbM, which invokes the duty of the state to prevent unlawful killings. The right to life is protected by Section 11 of the South African Constitution, Article 3 of the Universal Declaration of Human Rights, Article 6 of the International Covenant on Civil and Political Rights, and Article 4 of the African Charter on Human and People's Rights, among other legal instruments. The right to life imposes an obligation on states and state agents to both refrain from engaging in unlawful killings and to protect people from such threats by non-state actors.

States have an obligation to take reasonable measures to prevent the arbitrary deprivation of life, particularly where state officials know about threats against one or more identified individuals, or where there is a pattern of killings against people linked by common legitimate activities or their identity.

Article 12(2) of the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms – also known as the Declaration on Human Rights Defenders – places an obligation on states to take all necessary measures to ensure protection against any violence, threats, retaliation, adverse discrimination, pressure, or any other arbitrary action related to the exercise of human rights, including the right to defend human rights. Where there is a violation of rights, states have an obligation to provide an effective remedy and adequate reparations. Reparations should include, as appropriate, compensation, rehabilitation, measures of satisfaction, and guarantees of non-repetition.

# CONCLUSION AND RECOMMENDATIONS

This report concludes with recommendations to the Presidency, the Department of Justice and Constitutional Development, the Ministry of Police and bodies under its purview, and the South African Human Rights Commission. The ultimate responsibility to prevent the repression of HRDs, like members of AbM, lies with the state. Not only must it react swiftly and effectively to threats, harassment, and killings of HRDs, but it must also proactively create a safe and enabling environment for HRDs to carry out their important work without fear of reprisals. This includes publicly recognizing, at the highest levels of both local and national authorities, the legitimate work of AbM and all HRDs and the need for their protection; adopting legislation that recognizes, and protects HRDs; and impartially, timeously and effectively investigating cases of threats, harassment, and killings of AbM members to ensure those responsible are brought to justice.

AbM is a critical post-apartheid movement, highlighting serious issues millions of people in South Africa are faced with daily and enacting positive and sustainable change. Their leaders and members should not be met with violence and fear for their lives simply for defending human rights. Credible allegations of a pattern of harassment, threats, and killings have been well documented for years by UN actors, civil society, academic and research organizations, and journalists. It is time for the South African government to publicly

acknowledge what AbM are facing, conduct a formal investigation into the threats and killings, hold the perpetrators accountable in fair trials, and provide the necessary protection of AbM members.

# ACKNOWLEDGEMENTS

Amnesty International wishes to express deep gratitude to all those who participated in this research, particularly AbM members who agreed to share their difficult accounts.

# 2. METHODOLOGY

This report is based on desktop and qualitative research carried out between September 2022 and February 2024. Interviews were conducted between June and August 2023. Those interviewed included eight members of Abahlali baseMjondolo (AbM) (four men and four women), and six external stakeholders which included academics, activists, researchers, an attorney, and independent violence monitors that have closely monitored the situation of AbM. Participants could choose the language (English or isiZulu) in which they wanted the interview to be conducted. A research team member spoke isiZulu and interpreted for those speaking isiZulu.

Given serious security concerns and the sensitive nature of the research, members of AbM were reluctant to participate in research. Amnesty International were led by the 'do no harm' obligation throughout the research process. This included taking the time to build trust with AbM and always centering their security. Risk mitigation included not interviewing authorities for the research report but allowing them to respond to findings ahead of publication (where responses were received, these have been included in the report); interviews with AbM members who felt comfortable and consented to being interviewed were conducted individually and online; the identity of participants are protected and anonymized in this report; and specific dates of interviews are not included when referencing interviews in the report.

The interviews were conducted using semi-structured open-ended questions to allow researchers to capture community members' narratives and experiences. The primary research was supported by the desktop research. This included a comprehensive literature review, drawing on previous research reports by civil society organizations and independent monitors of the South African Human Rights Commission (SAHRC), press releases, and media articles on AbM; research conducted by the SAHRC on the status of HRDs in South Africa; reports into political killings in South Africa, including by the Global Initiative against Transnational Organized Crime and the Moerane Commission; research by the Human Sciences Research Council and Afrobarometer on public perceptions and trust in police; the South African Police Service's Annual Reports and official crime statistics; and a legal and policy analysis on the rights of human rights defenders (HRDs) and of the duty of police to investigate killings.

In addition to the desktop research and interviews, Amnesty International received a video and a voice recording as evidence of allegations made by AbM members interviewed. Both pieces of evidence were analyzed and verified by Amnesty International. This video was seen and verified by Amnesty International's Crisis Evidence Lab. The voice recording was analyzed by an independent sound engineer. Further details of both the video and recording can be found in section 4.1 of this report.

A spate of killings devastated the movement in 2022, with four members killed. Three of them were from eKhenana, an informal settlement in KwaZulu-Natal (KZN). Given the heightened volatility in eKhenana, and that most of the killings have taken place there in recent years, this report focuses on eKhenana, which serves as representation of the risks and challenges experienced by the movement.

The research was limited in focus to the killings in eKhenana occurring between 2018 and 2022. It does not set out to identify the perpetrators of the killings, nor investigate each of the killings themselves. The research report provides context of the risks and challenges within which AbM operates, which has created an environment prone to attacks. It aims to highlight the failure of the state to guarantee a safe and enabling environment for HRDs and to ensure justice and reparations for those killed through thorough, impartial, and independent investigations, to provide effective protection to AbM HRDs at risk, and to create a conducive environment to allow AbM HRDs to do their work. Given this scope, allegations of specific perpetrators are not made in this report.

Amnesty International requested an interview with the South African Human Rights Commission (SAHRC) who stated that they were unable to participate given a current investigation into matters relating to AbM.

Letters were sent to the SAHRC, the Minister of Police, the Durban Central and Cato Manor Police Stations, the Independent Police Investigative Directorate (IPID), and the National Prosecuting Authority (NPA), outlining main findings of the research pertaining to them, and seeking their response to these findings. At the time of publication, no responses had been received.

# 3. BACKGROUND

Nokuthula Mabaso was a leader and human rights defender in the AbM movement. She was one of the first residents of the community now known as eKhenana and was instrumental in developing the community's food sovereignty project, where food is collectively produced and distributed from the poultry farm and garden. Mabaso found a home in the eKhenana commune in 2018 after her previous shack[1] was scheduled to be demolished to make way for a road. Mabaso had been renting that shack "from an old woman" and lived there with her children after leaving an abusive marriage.[2] Like many South Africans, Mabaso did not finish her matric[3] and found it difficult to find a job. She and others at the commune decided that they would pool their knowledge and skills to ensure that no one in the commune goes hungry.[4]

From 2018, the settlement faced violent evictions, arbitrary arrests of residents, and killings.[5] Mabaso was one of 11 residents of eKhenana who were arrested on trumped up charges between March and October 2021.[6] She also witnessed the killing of Ayanda Ngila in 2022, who was an AbM member, eKhenana resident and an activist. On 5 May 2022, Mabaso was shot dead at the commune, in front of her children, whilst tending to a pot of rice.[7] In the lead up to her death, she had been preparing an affidavit against the now-convicted perpetrator of Ngila's killing. Mabaso was killed the day before the bail hearing of the then-suspect.

Mabaso is one of 25 members of AbM that the movement has recorded have been killed in its 18-year fight for land, dignity, and housing in a list shared with Amnesty International and in subsequent email correspondence. While some of these killings occurred during protests, police raids, or evictions, many appear to be targeted killings directly related to their activism.[8] These killings have continued with impunity, from 2009 to 2022. Only two convictions have been secured for two killings, that of Thuli Ndlovu in 2014 and Ayanda Ngila in 2022.[9] A third conviction for the killing of Nqobile Nzuza was later overturned in 2019.[10]

The killings occur in a context of repeated threats and public vilification by public officials of the movement and individuals in the movement, thus creating an environment not conducive for HRDs to do their work safely and without fear of reprisals (as discussed below).[11] As noted by the UN Special Rapporteur on the situation of Human Rights Defenders, "threats and killings often happen when a context of negativity has been created around defenders generally, or around particular defenders. This can make them vulnerable to attacks. Changing how political leaders and the public perceive and speak about the value of the work of

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[1] A small, rudimentary constructed dwelling found largely in informal settlements, or townships, in South Africa.
[2] New Frame, "South Africa: Slain Ekhenana activist Nokuthula Mabaso remembered", 13 May 2022, https://allafrica.com/stories/202205140234.html
[3] Grade 12, the final year of high school.
[4] New Frame, "South Africa: Slain Ekhenana activist Nokuthula Mabaso remembered", 13 May 2022, https://allafrica.com/stories/202205140234.html
[5] Jared Sacks, *The Punishment is the Process: An investigation into the volatile situation at eKhenana Informal Settlement in Cato Manor, Kwa-Zulu Natal*, 27 October 2021, https://libcom.org/article/punishment-process-human-rights-report-repression-ekhenana-commune (Jared Sacks, The Punishment is the Process); Jared Sacks, *State-sanctioned repression continues: Assaults and the assassination of prominent AbM leader at eKhenana*, 17 March 2022 (on source with Amnesty International).
[6] Jared Sacks, The Punishment is the Process (previously cited).
[7] Abahlali baseMjondolo, "Nokuthula Mabaso was assassinated in eKhenana last night", 6 May 2022, abahlali.org/node/17486
[8] For a detailed timeline of AbM's history and repeated forms of violence and rights violations meted out against them since their inception, see the Socio-Economic Rights Institute of South Africa's *Community Practice Note: Abahlali baseMjondolo: Living Politics,* 2022, https://seri-sa.org/images/CPN_Abahlali_Report_FINAL_WEB.pdf (SERI, Community Practice Note)
[9] Abahlali baseMjondolo, "Justice for Thuli Ndlovu!", 20 May 2016, https://abahlali.org/node/15605
[10] Ndlovu vs S (AR126/2018), ZAKZPHC 30, 24 May 2019, http://saflii.org/za/cases/ZAKZPHC/2019/30.html
[11] Amnesty International, "South Africa: Failure to conduct impartial investigation into Kennedy Road violence is leading to further human rights abuses" (AFR 53/011/2009), 16 December 2009, https://www.amnesty.org/en/wp-content/uploads/2021/07/afr530112009en.pdf; Sunday Tribune, "Murder follows MEC's outburst", 30 June 2013, https://abahlali.org/node/9856/; Abahlali baseMjondolo, "Serious threats made against our movement by leaders in the eThekwini ANC", 14 June 2018, https://abahlali.org/node/16593/#more-16593

defenders, and emphasising their positive contributions to society, could reduce the risk of defenders being attacked."[12]

HRDs in South Africa face a range of risks and challenges when doing their work, including threats, intimidation, attacks, unjust prosecutions, and online harassment, from both state and non-state actors. HRDs working on issues concerning land, the environment, and migrant and refugee rights, have been frequent targets in recent times.[13] In some instances, these attacks have followed statements from public officials vilifying the work of non-governmental organizations, enabling an environment ripe for attacks.[14] There is little to no accountability for the attacks, intimidation, and killing of HRDs, which likely go underreported due to fear of reprisals, sending a message that attacks against HRDs are tolerated by the authorities.[15] South Africa does not have in place a specific domestic legislation or public policy for the protection of HRDs at risk,[16] and the authorities have not created a specific registry to keep track of the number of threats and attacks against HRDs stemming from their work.

# 3.1 WHO IS ABAHLALI BASEMJONDOLO?

Abahlali baseMjondolo (AbM), which loosely translates to 'shack dwellers' in isiZulu, is a movement of more than 150,000 people living in informal settlements in South Africa fighting for land, housing, and other human rights.[17] Individually, and in association with the AbM movement, members of AbM advocate for and promote human rights at local level in the communities and settlements in which they live. As said by a community member interviewed by Amnesty International, they are "struggling to build a just and equal society based on respect for all humankind".[18] AbM was formed in eThekwini (formerly known as Durban), in the KZN province, following a road blockade in 2005 where residents of the Kennedy Road informal settlement protested the sale of municipal land promised to the settlement for housing. The group were attacked by armed men that resulted in two deaths, multiple people injured, homes damaged, and people displaced.[19]

The key demands of AbM are for land, housing, and dignity, but the movement has also advocated for an end to forced evictions, access to education, and the provision of water, electricity, sanitation, health care, and refuse removal.[20] AbM has led community development projects, establishing creches, gardens, sewing collectives, and support for people living with HIV and those orphaned by AIDS in some settlements. AbM has spoken out against government corruption,[21] xenophobia in communities,[22] has provided analysis of politics in South Africa and its impact on the human rights of people who live in poverty and are marginalized, and has been critical of leading political parties in South Africa. AbM made allegations against the African National Congress (ANC) during the July unrest that took place in the KZN and Gauteng provinces in 2021[23] which saw violent rioting and looting after the imprisonment of former President Jacob Zuma, and fuelled by socio-economic inequalities worsening.[24]

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[12] UN Special Rapporteur on the situation of human rights defenders, *Final Warning: Death Threats and Killings of Human Rights Defenders,* 24 December 2020, www.ohchr.org/en/calls-for-input/report-killings-human-right-defenders

[13] Asina Loyiko and Southern Africa Human Rights Defenders Network, "Letter: Request for urgent intervention on the closure of civic space and attacks against human rights defenders in South Africa", 12 April 2023, https://hsf.org.za/publications/letters/request-for-urgent-intervention-12-april-2023-docx.pdf

[14] Civil society, "Civil society organisations open letter to President Cyril Ramaphosa about ongoing attacks against the sector", 4 August 2022, https://amnesty.org.za/south-africa-civil-society-organisations-open-letter-to-president-cyril-ramaphosa-about-ongoing-attacks-against-the-sector

[15] Asina Loyiko and Southern Africa Human Rights Defenders Network, "Letter: Request for urgent intervention on the closure of civic space and attacks against human rights defenders in South Africa", 12 April 2023, https://hsf.org.za/publications/letters/request-for-urgent-intervention-12-april-2023-docx.pdf

[16] South African Human Rights Commission, *Research Brief: The Status of Human Rights Defenders in South Africa,* April 2018, https://sahrc.org.za/home/21/files/Human%20Rights%20Defenders%20Publication.pdf

[17] Daily Maverick, "KZN floods: Affected shack dwellers 'don't have clothes, blankets or even food' - Abahlali baseMjondolo", 14 April 2022, https://www.dailymaverick.co.za/article/2022-04-14-kzn-floods-affected-shack-dwellers-dont-have-clothes-blankets-or-even-food-abahlali-basemjondolo

[18] Interview with AbM member H, June 2023.

[19] Kerry Chance, *The Work of Violence: A Timeline of Armed Attacks at Kennedy Road*, School of Development Studies Research, University of KwaZulu-Natal, July 2010, https://abahlali.org/wp-content/uploads/2010/08/Kerry-Chance-The-Work-of-Violence-A-timeline-of-armed-attacks-at-Kennedy-Road.pdf

[20] See AbM's website at https://abahlali.org

[21] GroundUp, "Abahlali leads hundreds in march against corruption in Durban", 20 October 2020, https://groundup.org.za/article/abahlali-leads-hundreds-march-against-corruption-durban

[22] Abahlali baseMjondolo, "Serious concern at escalating state xenophobia", 8 May 2020, https://abahlali.org/node/17112https://abahlali.org/node/17112/

[23] Timeslive, "July unrest 'planned at high political level', says Abahlali baseMjondolo", 29 November 2021, https://www.timeslive.co.za/news/south-africa/2021-11-29-july-unrest-planned-at-high-political-level-says-abahlali-basemjondolo

[24] Amnesty International, "Investigate loss of life during unrest and looting spree and ensure accountability", 22 July 2021, https://amnesty.org.za/south-africa-investigate-loss-of-life-during-unrest-and-looting-spree-and-ensure-accountability

AbM's women's league and youth league were officially established in 2008, "to focus on the specific concerns that affect their members in order to ensure that their perspectives are represented at both the provincial and national levels".[25] AbM's constitution states that the movement works to ensure that "there is good and acceptable representation of women in all committees [with a] minimum of 50% representation of women in each committee".[26] The women's league encourages women to take up leadership positions within their branches, to ensure that the gendered and intersectional nature of social movements, poverty and inequality are addressed.[27] Their constitution further states that youth "play a key role in upholding the constitution of the movement, supporting branch activities and may conduct its own initiatives in harmony with each branch structure".[28]

From its inception, AbM was met with open resistance and vilification from public officials who expressed determination to dissolve the community-based formations and, prior to and in the aftermath of the Kennedy Road violence in 2009, made comments that Amnesty International considered could have the effect of inappropriately criminalizing a whole organization and making its members vulnerable to threats of violence.[29] A former chairperson of the African National Congress (ANC) in eThekwini, told the ANC regional council that AbM was a threat to the party prior to the violence, stating that "The element of these NGO [sic] who are funded by the West to destabilise us; these elements use all forms of media and poor people. We know them very well; we have seen them using their power at Abahlali baseMjondolo".[30] The Department of Transport, Community Safety and Liaison of the KZN provincial government released a media statement following the attacks stating that "the KwaZulu-Natal provincial government has moved swiftly to liberate a Durban community (Kennedy Road)" and making allegations linking the cause of the attacks and violence to AbM. The then-MEC for transport and community safety was also quoted in the statement saying "Criminals, who are holding the Kennedy Road resident's hostage, must be arrested without delay."[31]

According to interviewees for this research, AbM have faced additional pressure over the years from individuals affiliated with political parties,[32] taxi owners who those interviewed believed, favoured the development of the land to increase the number of commuters and in turn their profit,[33] and those with vested business interests in the land on which their communities reside.[34] While Amnesty International is not identifying nor claiming who is specifically behind the attacks against AbM, this intimidation and vilification over the past 18 years, coupled with the situation of risk of AbM members and the state's failure to protect HRDs in a conducive environment where HRDs can do their work safely, has created an environment that has indeed led to threats of violence, assault, injuries, damage to property, unlawful evictions, trumped-up legal charges, targeted harassment, attempted killings, and killings in response to their activism.[35] Yet AbM continues to advocate for their socio-economic rights, despite the risk this brings to them. See section 4 below on the impacts this has had on AbM members.

The current United Nations Special Rapporteur on the situation of HRDs has on a number of occasions made statements, including on social media, calling for the adequate protection of AbM from the "relentless attacks they face".[36] In 2021, Sibusiso Zikode, founder and president of AbM, was awarded the Per Anger Prize by the Swedish government, recognizing AbM's struggle against poverty, landlessness, and inequality.[37] Findings by the Moerane Commission – an independent commission chaired by advocate Marumo Moerane, established in 2016 by former KZN Premier Willies Mchunu to look into politically-motivated killings in KZN – affirmed AbM's submissions that weaknesses in the entire criminal justice system exist including in "general and specialized investigation units", language used by political leaders can incite violence, and that security

[25] SERI, Community Practice Note (previously cited).
[26] The Constitution of AbM (on source with Amnesty International).
[27] SERI, Community Practice Note (previously cited).
[28] The Constitution of AbM (on source with Amnesty International).
[29] Amnesty International, "South Africa: Failure to conduct impartial investigation into Kennedy Road violence is leading to further human rights abuses" (AFR 53/011/2009), 16 December 2009, https://www.amnesty.org/en/wp-content/uploads/2021/07/afr530112009en.pdf
[30] Abahlali baseMjondolo, "The trial for our damages claim from the 2009 attack in Kennedy Road begins at the Durban High Court today", 11 March 2019, https://abahlali.org/node/16895
[31] Department of Transport, Community Safety and Liaison, KZN provincial government, "Police task team for Kennedy Road on cards after weekend killings", 28 September 2009, https://www.gov.za/news/media-statements/police-task-team-kennedy-road-cards-after-weekend-killings-28-sep-2009
[32] Interviews with AbM members A, D, E and G, July 2023.
[33] Interview with AbM members E and H, June and July 2023, and external stakeholder L, July 2023.
[34] Interviews with AbM members A, E, F and H, June and July 2023, and external stakeholders K, L, M, N and Q, July and August 2023.
[35] For a detailed timeline of AbM's history and repeated forms of violence and rights violations meted out against them since their inception, see SERI's Community Practice Note (previously cited).
[36] Mary Lawlor, "Facebook post: I am hearing devastating news that another WHRD from Abahlali baseMjondolo in South Africa has been killed for her work on behalf of shack dwellers", 10 May 2022, https://www.facebook.com/MaryLawlorHRDs/posts/592543619140471
[37] Embassy of Sweden, "The 2021 Per Anger Prize awarded to human rights defender for South Africa's shack settlement", 25 March 2021, https://www.swedenabroad.se/fr/ambassade/south-africa-pretoria/archive/perangerprize2021

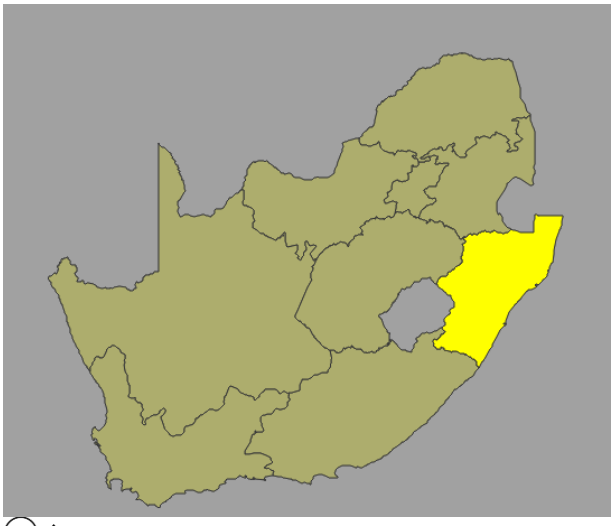
institutions are being "manipulated by politicians for political ends".[38] The commission made several recommendations pertaining to these findings, including that the State must depoliticize the criminal justice system; improve the recruitment, training and deployment of police and that "appropriate police be deployed to appropriate situations"; and that political parties work together with civil society, media, religious organizations, academics and others institutions to reverse the culture of violence and killings, and enforce a code of conduct preventing officials and citizens "from using languages which incites hatred, prejudice, and violence".[39]

# 3.2 A FIGHT FOR SOCIO-ECONOMIC RIGHTS

In the landmark Constitutional Court judgement, *Government of the Republic of South Africa v Grootboom (2000),* the Constitutional Court wrote that "for a person to have access to adequate housing all of these conditions need to be met: there must be land, there must be services, and there must be a dwelling".[40] Yet, for the communities in which AbM is represented, this is far from a reality and provides a backdrop against which the violations experienced by AbM HRDs are taking place.

## 3.2.1 LAND AND HOUSING: A HISTORY OF INFORMAL SETTLEMENTS

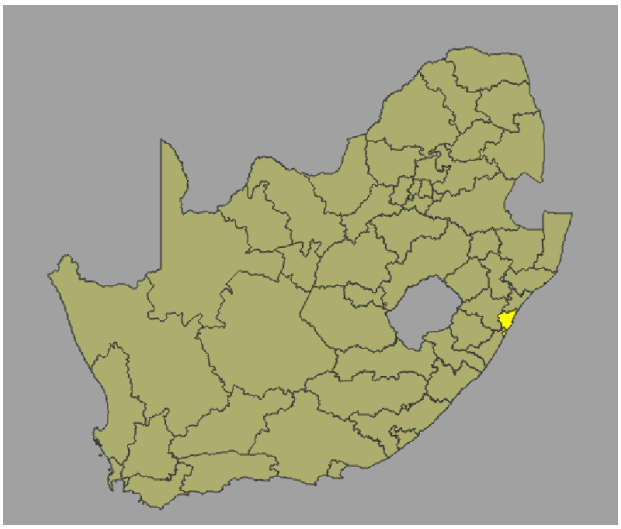
In South Africa, informal settlements, also known as slums, are a legacy of the apartheid government's discriminatory policies of land dispossession and forced relocation of Black people to remote areas, hindering their access to economic, social, and educational resources.[41] Due to increasing urbanization, the shortage of affordable housing, and the aftermath of apartheid-era spatial segregation, these informal settlements have grown rapidly after apartheid and the South African government has struggled to address this issue.[42]



↑ Map of South African provinces highlighting the KwaZulu-Natal Province

[38] Moerane, Marumo, Vasu Gounden, and Cheryl Potgieter, *Report of the Moerane Commission of Enquiry into the Underlying Causes of the Murder of Politicians in KwaZulu-Natal*, 12 June 2018, https://www.kznonline.gov.za/images/Downloads/Publications/MOERANE%20COMMISSION%20OF%20INQUIRY%20REPORT.pdf (Moerane Commission Report), p. 415.
[39] Moerane Commission Report (previously cited), p. 422.
[40] Government of the Republic of South Africa and Others v Grootboom and Others (CCT11/00) [2000] ZACC 19; 2001 (1) SA 46; 2000 (11) BCLR 1169, 4 October 2000, http://saflii.org/za/cases/ZACC/2000/19.html
[41] Socio-Economic Rights Institute of South Africa (SERI), *Submission to the United Nations Special Rapporteur on adequate housing as a component of the right to an adequate standard of living: Informal Settlements and Human Rights in South Africa,* May 2018, https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/InformalSettlements/SERI.pdf
[42] SERI, Submission to the United Nations Special Rapporteur on adequate housing (previously cited).

The 2021 General Household Survey revealed that 11.7% of households across South Africa were in informal settlements. While most households in KZN were in formal dwellings, 5% of households lived in informal settlements.[43] The shortage of housing has now exceeded the levels seen in 1994[44] - the formal end of apartheid - with an estimated backlog of between 2.3 million and 3.7 million households, growing annually by 178,000.[45] The Department of Human Settlements faced a budget reduction of ZAR130.6 million (US$7.3 million) in the 2021/2022 fiscal year and a total budget cut of ZAR486.9 million (US$26 million) over three years (2021/2022 to 2023/2024). This reduction in funding negatively affects the department's ability to uphold the right to adequate housing.[46] eThekwini, one of eight metropolitan areas in South Africa and located on the coast of the KZN province, has 3,942,000 people living in the metro and 1,241,000 households.[47] Of these households, 9.7% are located in informal settlements.[48] The major metros in the country, including eThekwini, have seen an increase in informal settlements over the past decade.[49]



Map of districts in South Africa, highlighting the eThekwini Metropolitan

While progressive plans and policies have been developed to rectify this, millions of people living in South Africa continue to live in conditions in which their socio-economic rights are not fully realized.

[43] Statistics SA, *General Household Survey 2021*, 2022, http://statssa.gov.za/publications/P0318/P03182021.pdf
[44] Republic of South Africa, *National Development Plan*, http://nationalplanningcommission.org.za/assets/Documents/NDP_Chapters/devplan_ch8_0.pdf, Chapter 8.
[45] National Housing Finance Corporation, "Strategic Plan 2020-2025 and APP 2020/21: Presentation to the Portfolio Committee on Human Settlements, Water and Sanitation", 29 April 2021, https://pmg.org.za/files/210429NHFC.PPTX
[46] Department of Human Settlements, "Meeting report: 2021/22 Annual Performance Plan", 28 April 2021, https://pmg.org.za/committee-meeting/32739
[47] Stats SA, *General Household Survey: Selected development indicators – Metros 2021*, 23 June 2022, http://statssa.gov.za/publications/P03183/P031832021.pdf
[48] Stats SA, *General Household Survey: Selected development indicators – Metros 2021*, 23 June 2022, http://statssa.gov.za/publications/P03183/P031832021.pdf
[49] SERI, Community Practice Note (previously cited).

↑ A shack in eKhenana made from tin sheeting

## 3.2.2 FORCED EVICTIONS

The term "forced evictions" is "defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection".[50] Forced evictions are a violation of the right to housing among other human rights. In 2009, AbM successfully challenged the constitutionality of the Slums Act, which made residents of informal settlements more vulnerable to evictions, and lowered the safeguards against forced evictions.[51] The Slums Act was tabled by the KZN provincial legislature, with the view of eradicating informal settlements ahead of the 2010 FIFA World Cup.[52] The Constitutional Court found[53] that section 16 of the Act was inconsistent with section 26(3) of the Constitution[54], which states that "No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions."[55]

Despite this, illegal, and oftentimes violent, evictions in KZN still continued.[56] Over the years, AbM has documented and resisted – both successfully and unsuccessfully at times – people's evictions, through litigation, protest and physical resistance.[57] Some of these instances in eThekwini included, but are not limited to, Motala Heights in Pinetown,[58] Arnett Drive settlement,[59] Siyanda,[60] Kennedy Road settlement,[61]

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[50] UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment Number 7: The right to adequate housing, Article 11.1.
[51] Extraordinary Provincial Gazette of KwaZulu-Natal, *KwaZulu-Natal Elimination and Prevention of Re-emergence of Slums Act*, 2007, https://abahlali.org/files/KZN%20Slums%20Act.pdf
[52] SERI, Community Practice Note (previously cited).
[53] South African Constitutional Court, *Abahlali Basemjondolo Movement SA and Another v Premier of the Province of Kwazulu-Natal and Others* (CCT12/09), 14 October 2009, http://saflii.org/za/cases/ZACC/2009/31.html
[54] Republic of South Africa, *Constitution of the Republic of South Africa,* 1996, https://www.gov.za/documents/constitution/constitution-republic-south-africa-04-feb-1997
[55] South African Constitutional Court, *Abahlali Basemjondolo Movement SA and Another v Premier of the Province of Kwazulu-Natal and Others* (CCT12/09), 14 October 2009, http://saflii.org/za/cases/ZACC/2009/31.html
[56] Tidings Ndhlovu, "Gender, evictions, and relocations during COVID-19 in South Africa: Lessons for programming and practice", *Agenda, 36:2*, 2022, https://www.tandfonline.com/doi/full/10.1080/10130950.2022.2082113, pp. 29-41; SERI, "eKhenana residents defend their rights against illegal evictions during lockdown", 30 April 2020, https://seri-sa.org/index.php/latest-news/1011-litigation-update-ekhenana-residents-defend-their-rights-against-illegal-evictions-during-lockdown-30-april-2020
[57] SERI, Community Practice Note (previously cited).
[58] Abahlali baseMjondolo, "Shacks demolished at Motala Heights, Pinetown", 29 October 2006, https://abahlali.org/node/date/2006/10
[59] Abahlali baseMjondolo, "Evictions and intimidation continue in many shack settlements after the local government elections", 25 May 2011, https://abahlali.org/node/8070/#more-8070
[60] Abahlali baseMjondolo, "Forced relocations in Siyanda to make way for new freeway", 17 September 2008, https://abahlali.org/taxonomy/term/evictions/evictions/page/57
[61] Abahlali baseMjondolo, "Evictions at gun point continue at the Kennedy Road settlement", 14 July 2016, https://abahlali.org/node/15635/#more-15635

Shallcross,[62] Lamontville,[63] eNsimbini,[64] and Cato Crest.[65] Clashes between community members and police, in combination with alleged excessive use of force by police during protests (including service delivery and eviction-related protests), have resulted in injury and in some instances, people have died due to the use of rubber bullets and tear gas.[66] AbM have also had to resort to seeking court interdicts to prevent forced evictions from taking place. According to the Socio-Economic Rights Institute (SERI), in cases where they were successful in obtaining interdicts, the state has at times ignored these interdicts and proceeded to evict and demolish people's houses.[67]

## 3.3 KWAZULU-NATAL: A VOLATILE PROVINCE, RIFE WITH POLITICALLY MOTIVATED KILLINGS

KZN is a hotbed for political killings, standing out as the province in South Africa with the most politically motivated killings.[68] Political violence in KZN stems back to apartheid, with state supported hit-squads becoming widespread during the 1990s. The proportion of statements reporting gross violations of human rights received by the country's Truth and Reconciliation Commission were four times higher in KZN than the rest of the country, illustrating the scale of atrocities in the province during apartheid.[69]

The Global Initiative Against Transnational Organized Crime (GITOC) released a Risk Bulletin[70] in June 2022, highlighting data they collected since 2000. The data shows an increase in killings in the province, especially since 2015 and reaching an all-time high in 2018. Between 2000-2021, 418 political killings were recorded nationwide.[71] Of these, 213 took place in the previous seven years, and 118 took place in KZN. In July 2023, the South African Local Government Association released a media statement expressing shock at the wave of killings in the province.[72] Between 1 September 2022 and 4 July 2023, 17 KZN councillors were assassinated.[73] One of the contributing factors to political violence in KZN is competition over local councillor positions.[74] Councillors have access to political power that can be used to acquire resources – for example, through government tenders – which can lead to corruption. When a councillor loses their position, they not only lose their personal income and status, but the entire patronage network built around them could suffer. These positions are thus hotly contested, and people are willing to use underhanded and violent methods to protect their position, as uncovered by the Moerane Commission of Inquiry.[75] The Commission's report recommended a political overhaul in the province to deal with this matter, yet not much has changed since the report's release in 2018. It has become alarmingly easy to find hitmen in the province, with media reporting some charging as little as ZAR5,000 (US$270).[76] As one external stakeholder noted to Amnesty International:

> **"In KZN the best response [to disputes] it's certainly to kill unfortunately rather than resolving issues in any other better way."[77]**

[62] Abahlali baseMjondolo, "Shallcross: The Tyres are Burning", 26 January 2012, https://abahlali.org/node/8631/#more-8631
[63] Abahlali baseMjondolo, "Another political eviction in Sisonke Village, near Lamontville", 1 October 2014, https://abahlali.org/node/14318/#more-14318
[64] Abahlali baseMjondolo, "Evictions at the Chris Hani (eNsimbini) and Marikana (Cato Crest) Land Occupations", 12 September 2014, https://abahlali.org/node/14256/#more-14256
[65] Abahlali baseMjondolo, "Evictions at the Chris Hani (eNsimbini) and Marikana (Cato Crest) Land Occupations", 12 September 2014, https://abahlali.org/node/14256/#more-14256; For a detailed timeline of AbM's history and repeated forms of violence and rights violations meted out against them since their inception, see Section 4 of SERI's Community Practice Note (previously cited).
[66] Abahlali baseMjondolo, "Baby killed in protest", 30 May 2017, https://abahlali.org/node/15994/
[67] SERI's Community Practice Note (previously cited).
[68] Global Initiative against Transnational Organized Crime, "Risk Bulletin No. 25: Data on assassinations shows stark reality of violence in KwaZulu-Natal", 21 June 2022, https://riskbulletins.globalinitiative.net/esa-obs-025/04-data-on-assassinations-shows-stark-reality-of-violence-in-kwazulu-natal.html (GITOC, Risk Bulletin No. 25).
[69] Truth and Reconciliation Commission of South Africa Report, 1999, Volume 3, Chapter 3, https://justice.gov.za/trc/report/finalreport/volume%203.pdf
[70] GITOC, Risk Bulletin No. 25 (previously cited).
[71] GITOC, Risk Bulletin No. 25 (previously cited).
[72] GITOC, Risk Bulletin No. 25 (previously cited).
[73] South African Local Government Association, " SALGA Chairperson, Cllr Thami Ntuli, Strongly Condemns The Assassinations Of Councillors In Kwazulu-Natal", 4 July 2023 (on source with Amnesty International).
[74] Moerane Commission Report (previously cited).
[75] Moerane Commission Report (previously cited).
[76] eNCA, "Checkpoint: Hitmen", 17 August 2022, http://enca.com/shows/checkpoint-hitmen-17-august-2022
[77] Interview with external stakeholder Q, August 2023.

In 2018, a task team was established by President Cyril Ramaphosa in KZN to decrease politically motivated killings.[78] This is a multi-disciplinary task team which includes the South African Police Service (SAPS), the National Prosecuting Authority (NPA) supported by the State Security Agency and Correctional Services, the KZN premier and KZN MEC for Community Safety and Liaison, and headed by Police Minister Bheki Cele, tasked with investigating politically motived killings. Giving an update on the task team in February 2022, Police Minister Bheki Cele said "intra-political conflicts within the African National Congress (ANC), Inkatha Freedom Party (IFP) and the National Freedom Party (NFP) have resulted in the parties being most affected by political killings".[79] In a security briefing on 6 September 2023, Minister Cele claimed the task team has made significant progress in cases, with 348 suspects arrested "who have already been charged on 233 cases."[80] Yet Mary de Haas, an academic researching violence and politically-linked killings, has strongly criticized the fact that the task team is overseen by the Minister of Police and is thus not independent. In an interview with Amnesty International, de Haas said: "It's completely irregular. It reports to Minister Cele. […] It's completely irregular for a minister to run a task team on political killings in which the suspects are his own colleagues a lot of the time […] I can't get any information. The police [have] been told not to reply to me. […] They say they have had all these successes, […] but [I] only know of one case they've actually solved."[81] In a media article, she also argues that his long-standing political colleagues may be benefitting from his oversight of the task team.[82] "There is no transparency. There's no accountability," she told Amnesty International.[83]

Two AbM members told Amnesty International the task team has not engaged with AbM on the killings the movement has experienced, as it apparently does not consider these killings to be political.[84] One AbM member interviewed by Amnesty International said:

> **"KZN is known for political killings and intolerance. Abahlali baseMjondolo is not a political party but we are seen as a threat because of our own organizing and that we are exposing corruption and those who are corrupt in government see us as a threat and therefore see us as people [that] need to be removed."*[85]***

Yet, the nature of AbM's activism makes this movement political, as described by an interviewee:

> **"I think the narrow misconception which then people do not consider it [political killing] is the obvious reason that Abahlali is not a political party. Now the fact that Abahlali is not a political party doesn't necessarily mean that the killing cannot be political. The issues we are raising are political. We are engaging politicians every day and we are disturbing politicians from their so-called "eating". […] How can you then divorce political killings in the context of such high contestation of land and the struggle for land […] They are trying to de-politicize Abahlali killings so as to get away with the investigation so that again we are excluded from investigation so that the impunity continues."*[86]***

At the time of publication, the Minister of Police had not responded to this claim. This situation in the province, combined with the unfulfilled socio-economic rights of those living in informal settlements, has created conditions rife for the targeting and attack of HRDs including AbM's members.

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[78] SABC News, "Establishment of task team in KZN will help decrease politically motivated killings", 20 October 2021, https://sabcnews.com/sabcnews/establishment-of-task-team-in-kzn-will-help-decrease-politically-motivated-killings
[79] BusinessLive, "Cele says ANC, IFP and NFP affected worst by political killings in KwaZulu-Natal", 2 February 2022, https://www.businesslive.co.za/bd/national/2022-02-02-cele-says-anc-ifp-and-nfp-affected-worst-by-political-killings-in-kwazulu-natal
[80] South African government speeches, "Minister Bheki Cele: Inter-ministerial committee on political killings", 6 September 2023, bit.ly/47Za0Ql
[81] Interview with Mary de Haas, July 2023, consent was granted to use her name.
[82] News24, "No end in sight for KZN political murders because killing has become too easy", 3 December 2022, https://www.news24.com/news24/southafrica/news/sat-am-no-end-in-sight-for-kzn-political-murders-because-killing-has-become-so-easy-20221203
[83] Interview with Mary de Haas, July 2023.
[84] Interviews with AbM members G and H, June and July 2023.
[85] Interview with AbM member H, June 2023.
[86] Interview with AbM member G, July 2023.

# 3.4 EKHENANA: A COOPERATIVE CHALLENGING THE STATUS QUO

AbM is particularly active in eKhenana, an informal settlement that was founded following an eviction from Cato Crest after backyard tenants[87] were excluded from the planned upgrade of the Cato Manor settlement.[88] eKhenana is organized as a cooperative, working commune, where residents have established a communal vegetable garden, communal poultry farm, communal kitchen, a communally run tuck shop, a creche, and even a political school, organizing themselves outside of formal party politics.[89] The settlement was named after the biblical reference to Canaan, the land flowing with milk and honey. eKhenana officially became a branch of AbM in 2019. In 2022, the commune received the Human Rights Defender of the Year award from the Southern Human Rights Defender Network.[90]

← The communal poultry farm in eKhenana

The communal garden in eKhenana →


↑ The political school in eKhenana

[87] Backyard tenants are individuals who rent out backyard structures, or secondary dwellings, on a property. This has largely been neglected in policy.
[88] SERI, Community Practice Note (previously cited).
[89] SERI, Community Practice Note (previously cited).
[90] Abahlali baseMjondolo, "Celebrating an Award for the eKhenana Commune", 02 December 2022, https://abahlali.org/node/17606

eKhenana is situated in Cato Manor, a suburb in eThekwini. It is well located, just six kilometres from the Central Business District and is close to middle class suburbs, offering proximity to key sites of employment.[91] Cato Manor has a complex history of political unrest, racial tension, and forced removals under the apartheid administration.[92] It is well known for being a site of activism and resistance. Cato Manor in post-apartheid South Africa continues to be plagued by housing shortages, forced evictions, contestation over land, poor service delivery, xenophobia, abuses by the police, and a host of other challenges that contribute to violence in the area.[93] It remains dominated by political support for the ANC, causing tension between local ANC structures and organizations that are critical of the party.[94]

Vacant land around Cato Manor has been occupied by people wanting to live close to work, schools, and other essential services. These settlements are generally large. eKhenana, however, is relatively small with households "sandwiched inside a small valley" in between formal houses and a road.[95] The land is owned by the eThekwini municipality.[96]

↑ Some of the shacks in eKhenana situated on a slope inside the small valley

Research by Jared Sacks, a former accredited monitor for the South African Human Rights Commission (SAHRC), shows that most of the residents of eKhenana are economic migrants from rural areas in South Africa who have moved to eThekwini to seek a better life for themselves and their families. Majority of residents are "unemployed, underemployed or informally employed and could not afford the high rental costs of living in the city and its suburbs".[97] Many other settlements are controlled by landlords who illegally rent out shacks. However, residents of eKhenana set out to do things differently. The selling and renting of shacks in the informal settlement has been banned by those who started the settlement, and it is organized as a cooperative. Residents have cleared a section for a cooperatively managed farm that participating residents each work on for a minimum number of hours a week. They grow basic crops such as spinach and cabbage and run chicken coops. The produce from the farm and coop are sold in a spaza shop - an informal convenience shop, often run out of a home - at the entrance of the settlement and the revenue is used to feed all residents who participate in the collective activities.[98] The residents have a communal hall where dinner is served and where meetings and workshops are held. AbM workshops and events are held there too.[99] According to one community member interviewed by Amnesty International, "Everything that is in the

[91] Jared Sacks, The Punishment is the Process (previously cited).
[92] Mphumeleli Ngidi, "Memories of everyday life and forced removals in South Africa: a case study of Cato Manor, Durban, c. 1930-1960", University of KwaZulu-Natal, 2020, https://bit.ly/429tAYB
[93] Rachel Gray and Brij Maharaj, "Poverty, Inequality and Violence: A Case Study of Cato Manor" for the International Development Research Centre, 2017, https://idl-bnc-idrc.dspacedirect.org/items/377bd2c9-e579-459f-bbc4-c29aefca1829
[94] Paula Meth, "Committees, witchdoctors and the 'mother-body': Everyday politics in the township of Cato Manor, South Africa" in *Habitat International, 39,* July 2013, https://www.sciencedirect.com/science/article/abs/pii/S0197397512000768, pp. 269-277.
[95] Jared Sacks, The Punishment is the Process report (previously cited).
[96] Jared Sacks, The Punishment is the Process report (previously cited).
[97] Jared Sacks, The Punishment is the Process report (previously cited).
[98] Jared Sacks, The Punishment is the Process report (previously cited).
[99] Jared Sacks, The Punishment is the Process report (previously cited).

community is owned by the community and democratically shared within the community. That has been a threat [to] those who want to see land being used for profits."[100]

eKhenana started out with 109 informal households, most of which were women-headed households.[101] They were subjected to "a series of brutal and unlawful evictions" as described by one AbM member interviewed for this research[102] and alleged by all AbM members and external stakeholders interviewed. The municipality's anti-land invasion unit would tear and burn down shacks without a court order or legal proceedings.[103] AbM successfully applied for a court interdict in 2018 with the help of SERI.[104] Yet the municipality continued with the evictions, in full violation of the court order. AbM, with SERI's assistance, returned to court in 2019 and 2020, receiving further interdicts against the municipality, with the matter finally settled on 24 April 2020 with the city undertaking to refrain from demolishing and removing informal housing structures.[105] As one AbM member interviewed for this research describes:

> **"There was an agreement between ourselves as Abahlali [...] and its members [...] as well as the city and both lawyers from both sides were there when the 109 families were recorded to make sure they were no longer going to be evicted. And on the side of Abahlali, there was not going to be any further occupation. We all committed to that."*[106]***

eKhenana was suspended as an AbM branch by AbM's national leadership in 2019 following tensions that arose within the community that the national leadership felt did not align to AbM's values. The branch rejoined several months later with an agreement that they would adhere to AbM's Constitution. However, divisions within the commune had deepened during the time of their suspension and not all households rejoined to become AbM members.[107] While the communal and de-commodified nature of life in the commune created a strong sense of solidarity between participating residents, tension arose between those who sought to use the land for communal purposes and those seeking to use the land for individual gain, such as selling and renting plots of land and shacks.[108]

It is against this backdrop of increased tensions that threats, arbitrary arrests, and killings of the branch's leadership ramped up in 2022 with three AbM leaders killed within the space of six months (see section 4 below).

> **"That's basically what makes eKhenana unique – it's blood and violence. It's all the competition. It's all about the lands for business [...] and it's what Abahlali normally say that the social value of land should come before its commercial value. The land [...] Abahlali uses it for social purposes and this is the price they have to pay for that."*[109]***

The repression AbM members face has, according to interviewees, resulted in only approximately 50 individuals remaining in eKhenana, an award winning, best-practice vibrant commune that started out with 109 households and around 201 residents.[110]

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[100] Interview with AbM member H, June 2023.
[101] Socio-Economic Rights Institute > Ethekwini Municipality v Nokuthula Mabaso and Others ('Mabaso'), https://seri-sa.org/index.php/latest-news/1010-interdict-eviction-ekhenana-durban-high-court, accessed 26 July 2023.
[102] Interview with AbM member G, July 2023.
[103] Socio-Economic Rights Institute > Ethekwini Municipality v Nokuthula Mabaso and Others ('Mabaso'), https://seri-sa.org/index.php/latest-news/1010-interdict-eviction-ekhenana-durban-high-court, accessed 26 July 2023.
[104] Socio-Economic Rights Institute > Ethekwini Municipality v Nokuthula Mabaso and Others ('Mabaso'), https://seri-sa.org/index.php/latest-news/1010-interdict-eviction-ekhenana-durban-high-court, accessed 26 July 2023.
[105] Socio-Economic Rights Institute > Ethekwini Municipality v Nokuthula Mabaso and Others ('Mabaso'), https://seri-sa.org/index.php/latest-news/1010-interdict-eviction-ekhenana-durban-high-court, accessed 26 July 2023.
106 Interview with AbM member G, July 2023.
[107] Interview with AbM member G, July 2023.
[108] Jared Sacks, The Punishment is the Process report (previously cited); Interview with AbM member G, July 2023.
[109] Interview with AbM member G, July 2023.
[110] Socio-Economic Rights Institute of South Africa, *eThekwini Municipality v Nokuthula Mabaso and Others*, https://seri-sa.org/index.php?view=article&id=1010:interdict-eviction-ekhenana-durban-high-court&catid=19, accessed 16 October 2023; Interviews with AbM members G and H, June and July 2023.

# 4. SILENCING THE DEFENDERS

> **"'Targeting their [AbM's] leaders with the intention of making sure the rest of the community will fear and stop what they are doing."**
>
> Interview with AbM member A, July 2023.

AbM has reported that 25 of its activists, supporters, members, and leaders have been killed since its inception, some of them directly because of their human rights work.[111] Out of these, eight people killed were from eKhenana since its establishment in 2018.[112] Three of these killings occurred in 2022 alone. Ayanda Ngila, the deputy chairperson of AbM in eKhenana, was shot and killed on 8 March 2022 while fixing an irrigation pipe.[113] Nokuthula Mabaso, a mother of four and a prominent AbM Women's League leader, was shot in front of her children on 5 May 2022. [114] Lindokuhle Mnguni was shot in his home, while sleeping next to his partner on 20 August 2022.[115]

These killings have been well documented over the years by AbM themselves, journalists, and most recently in a detailed report of 24 of the killings by SERI in 2022,[116] and the 2022 killings by the GITOC in 2023.[117]

AbM members interviewed for this research told Amnesty International that they believe that at least five of the eight killings in eKhenana were directly linked to their activism work in the community, as they had reported receiving threats leading up to their killing.[118] Members of the movement and external stakeholders interviewed believe that the targeted killings are a direct response to the movement challenging the status quo of the communities in which they reside and operate by challenging local corruption and organizing themselves independently outside of party politics (see section 3.4). In this sense, they consider that the threats and attacks, including killings, are intended to disrupt their organizing by creating an environment of fear.

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[111] Abahlali baseMjondolo, "We Will Honour our Fallen Leaders on Sunday", 18 August 2023, https://abahlali.org/node/17679/#more-17679
[112] AbM provided Amnesty International with a list of individuals they recorded as having been murdered.
[113] Abahlali baseMjondolo, "Ayanda Ngila has been murdered at eKhenana", 8 March 2022, a https://abahlali.org/node/17449
[114] Abahlali baseMjondolo, "Nokuthula Mabaso was assassinated in eKhenana last night", 6 May 2022, https://abahlali.org/node/17486
[115] Abahlali baseMjondolo, "Lindokuhle has been assassinated", 20 August 2022, https://abahlali.org/node/17543
[116] SERI, Community Practice Note (previously cited).
[117] Global Initiative Against Transnational Organized Crime, *The Business of Killings: Assassinations in South Africa,* 2023, https://globalinitiative.net/analysis/assassinations-targeted-killings-south-africa
[118] Interviews with AbM members D, E, F, G, H in June and July 2023.

**"It's because of our organizing. We are choosing to educate people of their human rights when it comes to evictions and so forth and that has led to us being the enemy".**[119]

**Members and leaders killed in eKhenana believed to be linked to their activism**[120]

| Individual killed | Date of killing | Details of killing |
|---|---|---|
| **Senzo Gumede**<br>29 years old<br>Male | 22 December 2018 | Senzo Gumede was a vocal activist and played a lead role in organizing road blockades to defend the eKhenana occupation. He had reportedly been threatened by the ward councillor in the area on a number of occasions and by taxi owners who said the blockades were hampering their business.<br>He was shot and killed on 22 December 2018 by unknown men in Cato Crest. No arrests have been made. |
| **Odwa Mbana**<br>Early twenties<br>Male | April 2019 | Odwa Mbana was an AbM youth league coordinator in eKhenana. He was shot and killed after reportedly receiving several threats. No arrests have been made. |
| **Ayanda Ngila**<br>29 years old<br>Male | 8 March 2022 | Ayanda Ngila was the deputy chairperson of AbM in eKhenana. He was shot and killed by three men at the commune whilst working on the irrigation piping on 8 March 2022. He had been previously arrested on trumped up charges, received threats, and spent time in a safe house leading up to his killing.<br>In July 2023, Khayalihle Gwabuzela, widely known as Khaya Ngubane, was found guilty of his murder. He was sentenced to 15 years in prison. |
| **Nokuthula Mabaso**<br>40 years old<br>Female | 5 May 2022 | Nokuthula Mabaso was a leader in the eKhenana commune, a prominent AbM Women's League leader, and was instrumental in its food sovereignty projects. She had four children and was one of the first members of the settlement.<br>She was shot five times – four times in the back – in front of |

[119] Interview with AbM member H, June 2023.
[120] AbM members interviewed for this research told Amnesty International that they believe that at least five of the eight killings in eKhenana were directly linked to their activism work in the community, as they had reported to have received threats leading up to their killing.

| | | |
|---|---|---|
| | | her children at the commune in the evening of 5 May 2022. She was a witness to Ngila's murder and was preparing an affidavit. While she was not due to testify yet, Mabaso was killed the day before the bail hearing of Khaya Ngubane was due to take place.<br><br>AbM members have complained that police did not arrive when they were called and that AbM members allegedly had to "fetch" them from the police station to take them to the crime scene.[121]<br><br>The police arrested two individuals two months later, but charges were dropped in 2023 apparently following the disappearance of the postmortem report according to six AbM members and two external stakeholders interviewed. At the time of publication, SAPS, the Minister of Police and the NPA had not responded to this claim. |
| **Lindokuhle Mnguni**<br><br>28 years old<br><br>Male | 20 August 2022 | Lindokuhle Mnguni was the chairperson of the eKhenana commune and youth league, and a witness to Ayanda Ngila's death. He was also targeted on the day Ngila was killed but managed to escape.<br><br>According to interviewees, two men were looking for him in the community hall and community kitchen before shooting him in his house. AbM members have said that the men were captured on CCTV entering the commune, searching for him in the hall and kitchen, and exiting the commune.<br><br>Despite AbM's attempts to hand over this footage, they said the police took several days to collect it. No arrests have been made to date. Amnesty International was unable to obtain this footage to verify its content. At the time of publication, SAPS and the Minister of Police had not responded to this claim. |

[121] Jared Sacks, State-sanctioned repression continues, 29 September 2022 (on source with Amnesty International).

The unlawful killing of HRDs is a direct attack on civil society[122] and a violation of the right to life. Killings of HRDs are part of a wider attempt to intimidate and silence them, undermine social movements, and discourage others from defending human rights.[123] As documented by the UN Special Rapporteur on the situation of HRDs, HRDs exposing corruption, as AbM does, often face severe risks from the people they seek to hold accountable.[124]

It has been well documented that killings of HRDs are often preceded by threats and criminalization, and are fuelled by impunity. These threats are sometimes targeted at specific individuals and at other times are more general. They attempt to instil fear on the targets with the intent of silencing and stopping HRDs from continuing their work. One AbM member interviewed by Amnesty International described this happening to AbM as follows:

> **"They would start with those trumped up charges and once they see that they have failed with those trumped up charges, they then start with the killings. […] They thought that by killing them, the struggle will stop, like they would stop living in that particular land. They thought […] people will be discouraged from continuing staying in that particular area."*[125]***

HRDs from eKhenana who were killed in 2022 were linked to court cases in which they were key witnesses or victims of trumped-up charges. Ngila and Mnguni were among a group of AbM members who were arrested in 2021 and held for six months without bail. The charges were then dropped, and they were released[126] only to be re-arrested again in January 2022 and released a month later due to baseless charges according to the movement.

According to interviewees, approximately 50 AbM members have been arrested on trumped-up charges from different areas in KZN.[127] Many of these cases were withdrawn or thrown out of court due to a lack of evidence and in one incident the person who opened the case admitted they lied, while some members are still in the process of fighting baseless charges brought against them.[128] In March 2022, in a follow up to a 2021 report sent to the SAHRC warning of the situation in eKhenana, Jared Sacks, a former accredited monitor for the SAHRC, noted that "evidence is emerging that these arrests are part of a strategy to punish AbM members through the judicial process."[129] As one AbM member interviewed described:

> **"When it comes to Abahlali, the police would arrest you [first] and then investigate later. They don't investigate, have evidence against you, and then maybe then arrest you[…]. That has been the case with the criminalization of activists but also a clear evidence that we are not equal in the eyes of the law."[130]**

One external stakeholder, who has seen the impact the trumped-up charges have had on AbM members described this as follows, including highlighting the gendered impact thereof:

> **"For those that have been unlawfully arrested for all these years, you know, their lives have stopped. Look at the amount of time [they] have spent in custody compared to the amount of time they [are out]. It is emotionally damaging and taxing on them. And it's worse for [name retracted]. She's a mother [and that] has never been [taken] into consideration…what hopes do [the children] have, what future do they have?"*[131]***

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[122] UN Special Rapporteur on the situation of human rights defenders, *Final Warning: death threats and killings of human rights defenders,* A/HRC/46/35, 10 December 2020, https://www.ohchr.org/en/documents/thematic-reports/ahrc4635-final-warning-death-threats-and-killings-human-rights-defenders

[123] UN Special Rapporteur on the situation of human rights defenders, *Situation of human rights defenders – Note by the Secretary General,* A/74/159, 15 July 2019, https://www.ohchr.org/en/documents/thematic-reports/a74159-situation-human-rights-defenders-note-secretary-general-report

[124] UN Special Rapporteur on the situation of human rights defenders, *At the heart of the struggle: human rights defenders working against corruption – Report of the Special Rapporteur in the situation of human rights defenders,* A/HRC/49/49, 28 December 2021, https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/396/47/PDF/G2139647.pdf?OpenElement

[125] Interview with AbM member E, July 2023.

[126] Daily Maverick, "Abahlali baseMjondolo celebrates release of comrades jailed for six months", 20 September 2021, https://www.dailymaverick.co.za/article/2021-09-30-abahlali-basemjondolo-celebrates-release-of-comrades-jailed-for-six-months

[127] Interview with AbM member H, June 2023.

[128] Interviews with AbM members C, F, G and H, June and July 2023.

[129] Jared Sacks, *State-sanctioned repression continues: Assaults and the assassination of prominent AbM leader in eKhenana,* 2022 (on source with Amnesty International).

[130] Interview with AbM member G, July 2023.

[131] Interview with external stakeholder M, July 2023.

# 4.1 FAILURES BY THE POLICE

Threats directed at members of the eKhenana commune and leading up to killings have become commonplace, with Ayanda Ngila, Nokuthula Mabaso and Lindokuhle Mnguni killed in 2022 all reportedly receiving threats ahead of their killing. One AbM member interviewed gave an example:

> **"Before the murder of Ayanda, there was a launch at our branch where members were attacked. [Attackers] pointed firearms at us and they had knives. We reported to police and they didn't do anything. Two days after that, Ayanda was murdered. We went back to the police, but [they] didn't give any concrete answer why they didn't attend to us the first time around."*[132]***

According to all AbM members interviewed, the police did not respond or take any measures to investigate the threats or to protect these individuals, despite these threats allegedly being reported to police. Amnesty International heard common allegations by all AbM members interviewed for this research that police at times refused to open cases, failed to collect evidence, and failed to conduct thorough and efficient investigations and make arrests.

Two days before Ngila was killed, Khaya Ngubane[133] (who later was convicted for killing Ngila) was recorded in a video where he is seen verbally threatening another AbM member in the eKhenana community in a video that has been seen and verified by Amnesty International's Crisis Evidence Lab.

Other AbM members that have also faced death threats told Amnesty International that they have reported them to the police, but they said that police were reluctant to open cases, and have not followed up on cases that were opened, nor provided any measure of protection. Four AbM members interviewed by Amnesty said that they fear death daily.[134]

> **"You get a case number, that's all."**
>
> Interview with AbM member G, July 2023.

In other cases, all AbM members interviewed said that police at times refused to open cases and sent AbM members away when they tried to open a case of death threats, harassment, or intimidation. AbM members told Amnesty International that police are quick to open cases against people affiliated with AbM, yet if anyone from the movement tries to get a case opened for the threats they received, they are met with multiple challenges, including the refusal to open cases. As described by two AbM members interviewed:

> **"When [we] have issues and go to the police station to open cases or report something, [we are] always turned away. But if [others] goes there, they are attended to and given the support that they need."*[135]***

> **"[Abahlali] would immediately get arrested and taken to court and then they would have to defend themselves in court and eventually in court they would be freed after many, many delays only because there was no evidence. But if Abahlali tried to [...] make the same claims against that side at the police station, the police would just ignore him. [They would be] like "there's no evidence". It's always that one-sided use of technicalities of the law to favour a certain side."[136]**

Amnesty International received a voice recording[137] from an interviewee, which AbM members report they made on a cell phone during an attempt to open a case at the Cato Manor police station in October 2021. In the recording, voices that AbM allege are the police can be heard initially refusing to open a case and instead can be heard calling an individual affiliated with the alleged perpetrator and requesting they and the AbM

[132] Interview with AbM member D, July 2023.
[133] As identified by AbM members.
[134] Interviews with AbM members C, D, G and H, June and July 2023.
[135] Interview with AbM member, D, July 2023.
[136] Interview with external stakeholder K, July 2023.
[137] Amnesty International received a copy of the voice recording in July 2023.

member come back together the following day. The individuals in the recording spoke in both English and isiZulu.[138]

Following the killing of Mnguni in August 2022, an AbM member said it took police several days to collect CCTV footage allegedly showing two men entering the commune, searching for Mnguni in the community hall and kitchen, and exiting the commune.[139] Amnesty International was unable to obtain this footage to verify its contents. AbM are no longer in possession of a copy, external stakeholders who had a copy indicated they no longer do so, and AbM's request to police to obtain it was met with refusal as police do not share evidence from an open investigation. Yet, even with police in possession of the footage, "there are no arrests that [have] happened".[140]

The alleged perpetrators are said to be known to the community, with claims that evidence exists and has not been collected by police and ineffective and insufficient investigations taking place according to all AbM members interviewed. Of those killed in eKhenana, there has only been one conviction for the killing of Ngila, while two suspects for Mabaso's killing were released apparently due to the postmortem report going missing.[141] One AbM member alleges that AbM have a bullet that killed Mabaso in their possession and to this day, police have yet to collect it from them.[142] At the time of publication, SAPS had not responded to these allegations.

All AbM members interviewed expressed that they have generally lost trust and hope in SAPS. While there are individual police officers who do and have supported AbM members, which was recognized and shared with Amnesty International in interviews, the overall lack of trust in SAPS does result in AbM members no longer readily wanting to report cases to police.

> **"We've lost hope and trust in the police."**
>
> Interview with AbM member H, June 2023.

> **"When a poor person, particularly who lives in shacks, has been killed, it's like an animal that's been killed - nothing happens particularly here in KZN. There is no investigation by the police, there is no follow up for the investigation by the police, or the police arrest people and release them."*[143]***

This lack of trust in the police is not isolated to AbM members. Research by the Human Sciences Research Council (HSRC) shows that public confidence in SAPS is generally low, dipping after key moments of intense violence and brutality, like the Marikana massacre[144] in 2013 and the July unrest in 2021 where it dipped to a low of only 27% of interviewees nationally indicating "trust/strongly trust" in confidence in the police.[145] They found that between 1998 and 2021, confidence in police never breached the 50% mark.[146] In KZN specifically, confidence in police sat at an average of 36% between 2004-2021, with only 27% expressing trust in 2021.[147] This lack of trust between the public and law enforcement agencies has also been acknowledged by the country's security cluster, with Defence and Military Veterans Minister, Thandi Modise, noting in February 2022 that they will "endeavour to rebuild trust between officers deployed in communities and community members".[148] An Afrobarometer report assessing perceptions of police across 34 African countries, found that only 19% of those interviewed in South Africa felt that the government was doing "fairly well" or "very well" in fighting crime, and only 26% indicated "somewhat" or "a lot" of trust in police. Of those

[138] The recording is on file with Amnesty International and was verified by a sound engineer that no alternations were made. Two Amnesty International staff members who speak isiZulu confirmed the content of the recording.
[139] Interview with AbM member G, 2023.
[140] Interview with AbM member F, July 2023.
[141] Interviews with AbM members D, F and H, June and July 2023.
[142] Interview with AbM member G, August 2023.
[143] Interview with AbM member H, June 2023.
[144] The Marikana massacre was the killings of 34 miners on 16 August 2012 by the SAPS during a six-week strike at the Lonmin Platinum Mine at Marikana near Rustenburg in the North West Province.
[145] Human Sciences Research Council (HSRC), *Feeling Blue: Changing patterns of trust in the police in South Africa,* March 2022, https://hsrc.ac.za/press-releases/dces/feeling-blue-changing-patterns-of-trust-in-the-police-in-south-africa
[146] HSRC, Feeling Blue (previously cited).
[147] HSRC, Feeling Blue (previously cited).
[148] Defence Web, "SA's safety and security machinery will be restored – Security Cluster", 28 February 2022, https://www.defenceweb.co.za/featured/sas-safety-and-security-machinery-will-be-restored-security-cluster

interviewed who had requested help from police in the previous 12 months, 57% indicated that it was "difficult" or "very difficult" to receive police assistance.[149]

The HSRC found that contributing factors to the lack of trust include experiences of crime and fear; negative police experiences based on "unsatisfactory personal contact" with officers; instances of police abuses and failures that were well-publicized, such as following the July unrest; perceptions that the police are corrupt; instances in which police are seen as treating people unfairly and with disrespect, are not impartial, or "lack transparency in the actions"; and not being seen as effective (namely "unsuccessful in preventing, reducing and responding to crime").[150] The Africa Criminal Justice Reform (ACJR) project at the Dullah Omar Institute has found that the lack of accountability and internal discipline within SAPS also contributes to the lack of "trust in the police and its perceived legitimacy" and "creates conditions for impunity to exist".[151]

Police effectiveness has seen a steady decline in recent years. Since 2012, the murder rate has increased by 76% from 15,609 people murdered in 2011/12[152] to 27,494 people murdered in 2022/23.[153] Despite this increase, the police's ability to solve murders has declined. The detection rate (the proportion of crimes reported that are solved, that is the total number of charges referred to court plus the charges withdrawn before court plus the charges closed as unfounded, divided by the total number of charges investigated) for murder decreased from 31,09% in 2011/2012[154] to 12,48% in 2022/23[155] This is an almost 60% decline in their ability to solve murder.

According to all AbM members interviewed, the threats and targeting of individuals in eKhenana form part of a pattern of repression and instilling fear in leaders and residents of the commune with the intention of driving them off the land. Since perpetrators have noted that forcibly evicting the community has not worked, AbM members believe that "the violence is used to drive people out, [to create] fear and [leave] eKhenana […] that's what the enemy wants."[156]

> **"I don't know when and how I'm going to be killed."**
>
> Interview with AbM member C, July 2023.

The threats and targeting of individuals must further be seen against the backdrop of a greater pattern of violence and killings against AbM, which invokes the duty of the state to prevent and investigate unlawful killings. In 2021, Sacks sent a report to the SAHRC warning that the situation in eKhenana is volatile and "could easily spiral out of control resulting in further victimisation as well as violence and even death".[157] He further states in his report that his "investigation has to conclude that the activity of various officials linked to the police and the justice department are highly irregular and may constitute an abuse of process with the purpose of punishing entirely innocent human rights activists."[158] He recommended that the SAPS institute an investigation into members of the Cato Manor police and the irregular influence of a local ANC politician on the conduct of police at that station, and that the NPA investigate the conduct of the chief magistrate at the Durban Magistrate's Court and whether he is being irregularly influenced.[159] To date, these recommendations have yet to be implemented according to interviewees. At the time of publication, the SAHRC had not responded to this allegation.

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[149] Afrobarometer, *Perceptions are bad, reality is worse: Citizens report widespread predation by African police*, 18 March 2022, https://www.afrobarometer.org/wp-content/uploads/2022/04/AD512-PAP9-Citizens-report-widespread-predation-by-African-police-forces-Afrobarometer-dispatch-20march22.pdf
[150] HSRC, Feeling Blue (previously cited).
[151] Africa Criminal Justice Reform, "Failing to discipline in SAPS: Fostering a culture of impunity", January 2021, https://dullahomarinstitute.org.za/acjr/resource-centre/fact-sheet-9-failing-to-discipline-v-3.pdf/view
[152] SAPS, *An Analysis of the National Crime Statistics*, undated, https://www.saps.gov.za/about/stratframework/annual_report/2011_2012/Addendum.pdf
[153] SAPS, "Police recorded crime statistics: Annual figures April 2022 to March 2023", 2023, https://www.saps.gov.za/services/downloads/2023-2024%20_Annual_WEB.pdf
[154] SAPS, Annual report 2011/12, 2012, https://www.gov.za/sites/default/files/gcis_document/201409/sapsanrep11-12.pdf
[155] SAPS, Annual report 2022/23, 2023, https://www.saps.gov.za/about/stratframework/annual_report/2022_2023/Annual-Report-2022-23-final-draft-2023-10-12.pdf
[156] Interview with AbM member G, July 2023.
[157] Jared Sacks, The Punishment is the Process report (previously cited).
[158] Jared Sacks, The Punishment is the Process report (previously cited), p. 9.
[159] Jared Sacks, The Punishment is the Process report, (previously cited), p. 9.

The duty of the state in this instance arises from, among others, the foreseeable threat of violence and killing in the commune, flagged by Sack's report to the SAHRC in 2021, and the pre-existing pattern of killings that has been well documented by AbM themselves, journalists, and civil society organizations. Yet all AbM members interviewed for this research allege that no investigations took place, and no measures were taken to provide protection for members of AbM in the area. Three leaders of AbM were killed in eKhenana a year after Sack's report. At the time of publication, there had been no responses from SAPS, the Minister of Police nor SAHRC to these allegations.

Despite Sacks' report to the SAHRC in 2021, AbM allege that the SAHRC did not heed warnings and did not intervene until 1 July 2023 when they wrote to President Ramaphosa seeking an intervention on the plight of AbM.[160] Sacks recommended that the SAHRC "use its influence and powers to bring attention to the violations taking place against Abahlali baseMjondolo and the residents of eKhenana [and] if the repression continues [he recommended] further intervention by the South African Human Rights Commission through bringing an urgent interdict against the further harassment and victimisation of the eKhenana community."[161] The SAHRC derives its powers from the South African Constitution, as regulated by the South African Human Rights Commission Act, including: "(a) to investigate and to report on the observance of human rights; (b) to take steps to secure appropriate redress where human rights have been violated; (c) to carry out research and; (d) to educate."[162] At the time of the interviews, AbM and external stakeholders interviewed for this report felt the SAHRC had not done enough to address the risks and challenges faced by the community. While Amnesty International sought to interview the SAHRC for this report, they denied the request citing a case that is currently open related to AbM. [163] On 4 March 2024, the SAHRC announced that following their writing to President Ramaphosa, a task team has been set up in KZN to "investigate the assassinations of the members of the Abahlali baseMjondolo (AbM). The task team has further undertaken to provide regular progress updates to the Commission." [164] Furthermore, in a media interview with Newzroom Afrika following the release of their media statement, Human Rights Commissioner Philile Ntuli noted that the SAHRC has also engaged the eThekwini municipality "on the basis that there is a prima facie deprivation of related rights including the right to water, the right to sanitation, the right to housing, in the informal settlements."[165] Their media statement expands on this, stating that they are engaging with the eThekwini Municipality to address some of the socio-economic challenges faced by AbM, including access to water and sanitation, electricity, and the numbering of dwellings/structures.[166] Amnesty International sought further information from the SAHRC, but at the time of publication, no responses had been received.

According to one AbM member interviewed, AbM have also approached the Independent Police Investigative Directorate (IPID) - a department of the South African government responsible for investigating claims made against SAPS and municipal police services and playing an oversight role over these services - many times over the years to open cases of police harassment, yet alleged that no investigations took place. The interviewee, however, noted that progress was being made on an IPID investigation into the killing of Siyabonga Manqele, an AbM member allegedly killed by police in eNkanini, an informal settlement close to eKhenana, on 11 March 2022. Despite this, the interviewee noted that they do not trust IPID because it is "police investigating police". [167] The body must conduct investigations into any alleged misconduct committed by members of the police service and make recommendations to any findings of their investigation and how officers should be disciplined. Amnesty International sought further information from IPID, but at the time of publication, no responses had been received.

AbM members have also claimed that AbM's president spoke to former Police Minister, Bheki Cele, on two occasions in 2022 requesting his intervention and seeking justice for the threats and attacks faced by the community. Yet these calls for help continued to be ignored, according to two AbM members interviewed. Despite promises allegedly made by former Minister Cele during these phone calls to visit the community and meet with AbM the following week, two AbM members interviewed for this research said that nothing happened after the phone calls.[168] Following the general elections in May 2024, Bheki Cele was succeeded by Minister Senzo Mchunu as the Minister of Police. A response was sought from Minister Mchunu, if, as the new

[160] SAHRC, "The South African Human Rights Commission writes to the President His Excellency Cyril Matamela Ramaphosa on the plight of Abahlali baseMjondolo Movement", 1 July 2023, bit.ly/3NfydKp

[161] Jared Sacks' The Punishment is the Process report (previously cited), p. 9.

[162] Constitution of the Republic of South Africa, Section 184(2).

[163] This was communicated via email correspondence between Amnesty International and the SAHRC.

[164] SAHRC, "The South African Human Rights Commission's progress on the interventions relating to Abahlali baseMjondolo Movement", 4 March 2024, https://bit.ly/495ssXE

[165] Newzroom Afrika, "Police to probe Abahlali baseMjondolo killings", 4 March 2024, https://www.youtube.com/watch?v=NA06N7RR7Z4

[166] SAHRC, "The South African Human Rights Commission's progress on the interventions relating to Abahlali baseMjondolo Movement", 4 March 2024, https://bit.ly/495ssXE

[167] Interview with AbM member H, June 2023.

[168] Interviews with AbM members A and G, July 2023.

Minister of Police, he would establish contact with AbM, visit eKhenana and ensure protection of AbM member. At the time of publication, no response had been received.

All AbM members interviewed for this research spoke about the negative impact the threats, attacks and killings have had on the movement and them personally. As one AbM member interviewed noted:

> **"It has forced some to flee the area to go back to rural areas because of the fear of being killed. [The killings] happen in public…so also the children experience [and witness] such things. Members of the community are traumatized."*[169]***

Another AbM member described the alienating impact this has in that "they feel as AbM, that they don't belong in South Africa."[170]

# 4.2 STATE OBLIGATIONS TO PROTECT HUMAN RIGHTS DEFENDERS

## 4.2.1 DUTY TO PROTECT HUMAN RIGHTS DEFENDERS

International human rights law and standards establish and protect the right to defend human rights as an autonomous and independent right. In particular, the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms – also known as the Declaration on Human Rights Defenders – recognizes the right to promote and strive for the protection of human rights, individually and in association with others.

The Declaration provides a framework for the support and protection of HRDs based on binding international treaties and principles, such as the International Covenant on Civil and Political Rights (ICCPR). The Declaration does not create new rights and obligations but instead articulates existing ones and applies them to the particular role and situation of HRDs. It recognizes the crucial role played by HRDs in the defence and promotion of human rights, which often exposes them to additional and specific risks and thus requires measures explicitly for their protection.

The Declaration also recognizes under Article 2 that states bear the ultimate responsibility to protect HRDs and ensure they can carry out their legitimate work in a safe and enabling environment.[171] This means that states are required to implement measures to prevent and effectively address allegations of human rights violations and abuses committed against HRDs, and to ensure that they can carry out their legitimate work without fear of reprisals.

The African Commission on Human and People's Rights (ACHPR) has also adopted several resolutions regarding HRDs,[172] building on the Organisation of African Unity's *Grand Bay Declaration and its Plan of Action*[173] and the African Union's *Kigali Declaration*[174] enjoining states to protect HRDs and create an enabling environment for their work. The first resolution of the ACHPR on the Protection of HRDs in Africa urges states "to take all the necessary measures to ensure the protection of all human rights defenders and ensure that they have an environment which allows them to carry out their activities safely, without suffering any acts of violence, threats, reprisals, discrimination, pressure and any arbitrary acts by State or non-State actors as a result of their human rights activities," and recommends that states take "specific measures to

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[169] Interview with AbM member A, July 2023.
[170] Interview with AbM member E, July 2023.
[171] UN General Assembly, Resolution 53/144: *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,* adopted on 8 March 1999, UN Doc. A/RES/53/144, Article 2.
[172] African Commission on Human and People's Rights, "Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa", https://achpr.au.int/en/mechanisms/special-rapporteur-human-rights-defenders-and-focal-point-reprisals-africa (accessed on 13 October 2023).
[173] Organisation of African Unity, *Grand Bay (Mauritius) Declaration and Plan of Action,* 1999, available at https://www.pulp.up.ac.za/images/pulp/books/legal_compilations/compendium/Grand%20Bay_Mauritius_Declaration%20and%20Plan%20of%20Action%201999.pdf
[174] African Union, *Kigali Declaration,* 2003, available at https://www.pulp.up.ac.za/images/pulp/books/legal_compilations/compendium/Kigali%20Declaration%202003.pdf

ensure the physical and moral integrity of their peoples, especially those of human rights defenders, to enable the latter to fully play their role in the promotion and protection of human rights".[175]

## 4.2.2 DUTY TO ENSURE THE ENJOYMENT OF THE RIGHT TO LIFE

As noted by the UN Human Rights Committee, the right to life is a "supreme right from which no derogation is permitted" and is a fundamental right from which all other rights flow.[176]

The right to life is recognized under Section 11 of the South African Constitution, Article 3 of the Universal Declaration of Human Rights, Article 6 of the ICCPR, and Article 4 of the African Charter on Human and People's Rights, among other legal instruments binding on South Africa. States are required under international human rights law to respect and protect the right to life of all within their respective jurisdiction. Where they fail to do so, states are also required to provide an effective remedy.[177] The right to life imposes an obligation on states and state-agents to both refrain from engaging in unlawful killings and to protect people from such threats by non-state actors.[178]

In order to protect the right to life, states have an obligation to take reasonable measures to prevent the arbitrary deprivation of life, particularly where state officials know about threats against one or more identified individuals, or where there is a pattern of killings against people linked by common legitimate activities or their identity.[179] Under Article 2 of the ICCPR, states must commit to adopting laws and other necessary measures to give effect to the rights contained in the covenant. Failing to do so could constitute a breach of state obligations under international human rights law.

The UN Human Rights Committee has also reaffirmed the relevance of the right to security of the person and the right to life, and in particular stressed the obligation of states "to take appropriate measures in response to death threats against persons in the public sphere, and more generally to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors", including patterns of violence against certain groups of individuals such as HRDs.[180] Article 12(2) of the Declaration on Human Rights Defenders places an obligation on states to take all necessary measures to ensure protection against any violence, threats, retaliation, adverse discrimination, pressure, or any other arbitrary action related to the exercise of human rights and fundamental freedoms.[181]

This is particularly the case where state officials know or should have known about threats against one or more identified individuals, or where there is a pattern of killings against people linked by common legitimate activities or their identity. This requires taking measures against patterns of violence against certain categories of individuals, such as HRDs.

## 4.2.3 DUTY TO ENSURE ACCESS TO JUSTICE

States are required to ensure that people who face human rights violations can have access to an effective remedy. The right to an effective remedy is a "core tenet of international human rights law",[182] that is

[175] African Commission on Human and People's Rights, *Resolution on the Situation of Human Rights Defenders in Africa - ACHPR/Res.104(XXXXI)07,* 30 May 2007, https://achpr.au.int/en/adopted-resolutions/104-resolution-situation-human-rights-defenders-africa-achprres104
[176] UN Human Rights Committee, General Comment 36: The Right to Life (Article 6), 3 September 2019, UN Doc. CCPR/C/GC/36.
[177] Universal Declaration of Human Rights, Article 3; International Covenant on Civil and Political Rights, Article 6; European Convention on Human Rights, Article 2; American Convention on Human Rights, Article 4; African Charter on Human and Peoples' Rights, Article 4; Arab Charter on Human Rights, Article 5. Furthermore, the right to life has been recognized as a rule of customary international law. *See* Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 9 August 2012, UN Doc. A/67/275, para. 105.
[178] UN Human Rights Council (UNHRC), *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, 10 April 2012, UN Doc. A/HRC/20/22, para. 42.
[179] UN Human Rights Committee, General Comment 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 26 May 2004, UN Doc. CCPR/C/21/Rev.1/Add. 13, para. 17.
[180] UN Human Rights Committee, General Comment 35: Liberty and security of person (Article 9), 16 December 2014, UN Doc. CCPR/C/GC/35, para. 9.
[181] Declaration on HRDs, Article 12(2).
[182] Universal Declaration of Human Rights, Article 8.

protected by various regional and international instruments that South Africa is a party to,[183] and is also enshrined in customary international law.[184]

Article 19(1) of the Declaration on Human Rights Defenders also recognizes the need for states to ensure the right to an effective remedy and to be protected when HRDs face violations of their rights.[185] States are required to ensure that a prompt, thorough and effective investigation takes place through independent and impartial bodies and that those responsible are held accountable.[186]

In cases of unlawful deprivation of life, the investigating body must be independent of those allegedly involved in the killing.[187] When it comes to HRDs, special investigative units can be an important tool for ensuring prompt investigations and avoiding undue influence by other state agents or non-state actors.[188] Investigations into the unlawful killing of HRDs must determine whether the attacks are in connection with their human rights work, and should take into consideration who may benefit from the death of the defender. States have an obligation to identify the material killers and the possible intellectual authors of the killing or attacks.[189] A failure to effectively prosecute and sanction attacks against HRDs sends a message that these acts are tolerated and increases the risks for fellow HRDs and families pursuing justice.

States have an obligation to provide adequate reparations to individuals whose human rights have been violated. Reparations should include, as appropriate, compensation, rehabilitation, measures of satisfaction and guarantees of non-repetition.[190] Guarantees of non-repetition should include a range of measures tailored to address the failings of the state in each situation in order to prevent similar acts from occurring in the future, for example, a public policy for the protection of HRDs.[191] The UN Special Rapporteur on the situation of HRDs has called on states to implement public policies and specific institutional mechanisms to provide effective protection for HRDs at risk.[192]

When developing protection mechanisms, states need to consult HRDs and civil society organizations. Effective protection measures need to be informed by a comprehensive risk analysis that adequately determines the risk and the protection needs of each defender or group. This analysis must be intersectional and speak to the specific needs of HRDs who experience different forms of discrimination and must identify the root causes of the attacks.[193]

It is vital that states work with HRDs to monitor security incidents, assess the threat, and take appropriate action so that risks can be reduced, and further attacks prevented. This includes holding perpetrators of attacks accountable. Given that the killing of HRDs frequently happen following the issuing of threats, it is important for investigating bodies to gather as much information as possible on the sources of threats, the motives, and the context in which they happen.

The International Service for Human Rights published a Model Law for the Recognition and Protection of Human Rights Defenders in 2016,[194] and the Southern Defenders released a Southern African Model Law on the Protection and Promotion of HRDs in 2023.[195] These are important tools for states to develop effective laws and protection mechanisms.

As part of the state's obligation to prevent attacks against HRDs, it is important for states to publicly acknowledge the work of HRDs and recognize the legitimacy of their work. According to the UN Special Rapporteur on the situation of human rights defenders, public acknowledgement from the state could

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[183] For example, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, and the African Charter on Human and People's Rights.
[184] See for example International Criminal Tribunal for Rwanda, *The Prosecutor v. André Rwamakuba*, Case No. ICTR-98- 44C, 20 September 2006, Trial Chamber III judgment, para. 220; International Criminal Tribunal for Rwanda, *André Rwamakuba v. The Prosecutor*, Case No. ICTR-98-44C-A, Appeals Chamber judgment, 13 September 2007; and Inter-American Court of Human Rights, *Cantoral-Benavides v. Perú*, 18 August 2000, para 196.
[185] Declaration on HRDs, Article 19(1).
[186] UN Human Rights Committee, General Comment 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 26 May 2004, UN Doc. CCPR/C/21/Rev.1/Add. 13, para. 15-18.
[187] Office of the High Commissioner for Human Rights (OHCHR), *The Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016)*, 2017, https://www.ohchr.org/sites/default/files/Documents/Publications/MinnesotaProtocol.pdf
[188] UNHRC, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions* (previously cited), para. 113.
[189] Inter-American Court of Human Rights, *Acosta et al vs Nicaragua*, 25 March 2017.
[190] UN Human Rights Committee, General Comment 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 26 May 2004, UN Doc. CCPR/C/21/Rev.1/Add. 13, para. 16; Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, Principle 20; Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Principle 4.
[191] Inter-American Court of Human Rights, Human Rights Defender et al vs. Guatemala, 28 August 2014, para. 263.
[192] Report of the Special Rapporteur on the situation of human rights defenders, 23 December 2013, UN Doc. A/HRC/25/55, para. 84.
[193] International Service for Human Rights (ISHR), *Model Law for the Recognition and Protection of Human Rights Defenders*, 2016, www.ishr.ch/sites/default/files/documents/model_law_full_digital_updated_15june2016.pdf
[194] ISHR, Model Law for the Recognition and Protection of Human Rights Defenders (previously cited).
[195] Southern Defenders, *The Southern Africa Model Law on the Protection and Promotion of Human Rights Defenders,* 2023, http://southerndefenders.africa/2023/04/25/the-southern-africa-model-law-on-the-protection-and-promotion-of-hrds

contribute effectively to decreasing the levels of risk and preventing threats from materializing.[196] This was reiterated by an AbM member interviewed for this research:

> **"Justice would mean first of all there must be an acknowledgement that lives are lost and this is totally unacceptable. That needs to be made very clear because we see violence of this nature and the killing of Abahlali in particular is normalized by both the states and public at large. Killing of poor black people is just normal so that needs to be exposed [and] should not be condoned."**
>
> Interview with AbM member G, July 2023.

[196] Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/25/55, 23 December 2013, para. 86.

# 5. CONCLUSION AND RECOMMENDATIONS

The ultimate responsibility to prevent and address the threats and attacks against HRDs lies with the state. The authorities have an obligation to monitor, investigate, and hold those responsible accountable. Not only must the state react swiftly and effectively to these instances, it must also proactively create a safe and enabling environment for HRDs to carry out their important work.

AbM are a critical post-apartheid movement, highlighting serious issues that millions of people in South Africa are faced with daily and enacting positive and sustainable change. Their leaders and members should not be met with violence and fear for their lives simply for standing up for human rights. Credible allegations painting a pattern of harassment, threats, and killings have been well documented for years by UN mechanisms, civil society organizations, academic and research organizations, and journalists. These allegations can be no longer ignored.

It is time for the South African government to publicly acknowledge the enormous risks and challenges faced by AbM, recognize their work for the advancement of human rights, conduct an effective investigation into the threats and attacks, hold the perpetrators accountable in fair trials, and provide the adequate protection of those at risk.

## AMNESTY INTERNATIONAL THEREFORE MAKES THE FOLLOWING RECOMMENDATIONS:

### TO THE PRESIDENCY:

- Take urgent measures to end impunity for attacks, threats, and killings of AbM members, including by:
    - Recognizing, publicly and at the highest levels the legitimate work of AbM and HRDs more broadly, and the need for their protection.
    - Publicly condemning threats and attacks against HRDs, including against AbM.
- Strengthen national Chapter 9 institutions and provide them with the necessary human and financial resources to carry out their duties effectively.
- Hold relevant government departments and officials in the criminal justice system accountable to their mandate, including the Ministry of Police and SAPS, to ensure that they bring those responsible for attacks, threats, assaults, and unlawful killings of HRDs to justice in fair trials.
- Accept the request by the United Nations Special Rapporteur on the situation of HRDs to conduct a country visit and extend an invitation to the African Commission on Human and Peoples' Rights Special Rapporteur on HRDs for a country visit, and ensure that the visits can be conducted without restrictions on duration or scope to be able to meet with HRDs and civil society organizations without hindrance.

## TO THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT:

- Develop and adopt domestic legislation for the protection of HRDs at risk, using the Model Law for the Recognition of HRDs and the Southern African Model Law on the Protection and Promotion of HRDs as bases for this.
- In consultation with affected HRDs and civil society organizations, establish national protection mechanisms for defenders at risk which incorporate preventative, collective and gender-sensitive approaches.
- Ensure a participatory process for the formulation of legislation and policies for the protection of HRDs, that includes affected individuals and civil society organizations working in rural areas or in community-based settings.
- Provide specific and differentiated protection to women HRDs according to their needs, while recognizing the specific challenges and risks they face.

## TO THE MINISTRY OF POLICE:

- Provide greater oversight and ensure accountability of SAPS officials tasked with investigating cases of threats, harassment, and killings of HRDs, including AbM members, to ensure that they bring those responsible for attacks to justice.
- Ensure that investigations into allegations of threats and attacks against HRDs considers their human rights work as a possible motive for the attack.
- Establish a database to register threats, attacks against, and killings of HRDs, broken down by age, gender identity, sexual orientation, area where they were working, and ethnicity.
- Conduct ongoing analyses of patterns of attacks on HRDs that allow appropriate measures to be taken to mitigate the risks.
- Ensure all police officers act independently and impartially and strengthen their capacity to act in accordance with international human rights standards.

## TO THE SOUTH AFRICAN POLICE SERVICE:

- Initiate prompt, thorough, independent, and impartial investigations into attacks, threats, and assaults against HRDs, including AbM supporters, members, and leaders, and bring those responsible to justice in fair trials.
- Refrain from misusing the justice system to intimidate, harass and discredit HRDs, including AbM members, supporters, and leaders.
- Provide ongoing and continuous training for police officials on the international framework on the right to defend human rights.
- Take the necessary measures in response to state officials who misuse the justice system for their own benefit or who unjustly arrest and prosecute HRDs as a way to silence them.

## TO THE INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE:

- Conduct thorough, efficient and independent investigations into complaints received of police misconduct, including of harassment of AbM members, and provide feedback to the complainant in a timeous manner.

## TO THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION:

- Transparently and timeously, while also ensuring the safety of AbM, share the progress updates received by the task team in KZN tasked by the Presidency with investigating the killings of AbM members.
- Continue to engage the eThekwini municipality on addressing the socio-economic rights that the Commission has found communities are prima facie deprived of, and hold the municipality accountable to their obligations to uphold, and take progressive steps towards realising, these rights.

- Engage directly with AbM, continue to monitor and investigate the threats and harassment AbM members face, and within the Commission's mandate, take necessary steps towards ensuring the protection of AbM members, including by publicly denouncing the threats and harassment they face, and applying pressure on the police to provide necessary protection.

# APPENDIX A: LIST OF MEMBERS ABM RECORD AS HAVING BEEN KILLED

The following is a list of individuals affiliated to, or members of, AbM, who AbM have reported have been killed since the movement's inception. 24 out of the 25 killings were documented in SERI's report in 2022.[197] The list, including the details of each killing, was also shared with Amnesty International by AbM. According to AbM, some of these killings occurred during protests, police raids, or evictions, while some were targeted killings. Amnesty International has not set out to investigate, nor verify, each of these killings, as the purpose of the research report was to highlight the duty, and failures, of the state in protecting AbM HRDs, ensuring justice for those killed, and creating a conducive and safe environment within which HRDs can do their work. The names have been included to show the movement is greater than eKhenana and to acknowledge those who have died.

| Individual killed | Date of killing | Details of killing |
|---|---|---|
| **1. Mthokozisi Thabani Ndlovu** | 26 September 2009 | Stabbed to death when a mob attacked his settlement |
| **2. Ndumiso Thokozani Mnguni** | 26 September 2009 | Stabbed to death when a mob attacked his settlement |
| **3. Thembinkosi Qumbelo** | March 2013 | Shot by unknown men |
| **4. Nkululeko Gwala, 34 years** | 26 June 2013 | Shot 12 times outside his shack |
| **5. Nqobile Nzuza, 17 years** | 30 September 2013 | Shot during an anti-eviction protest |
| **6. Thuli Ndlovu** | 29 September 2014 | Shot in her home |
| **7. Isaac Mabike, 33 years** | 6 February 2016 | Attacked with an axe |
| **8. Jayden Khoza, two weeks** | May 2017 | Allegedly died after inhaling tear gas |
| **9. Samuel Hloele, 29 years** | 13 June 2017 | Allegedly shot by eThekwini's Anti-Land Invasion Unit |
| **10. Sibonelo Patrick Mpeku, 32 years** | 19 November 2017 | Killed following his kidnapping |
| **11. Soyiso Nkqayini, 25 years** | 17 December 2017 | Shot by a unknown men |

[197] Detailed accounts of the killings can be found in SERI's Community Practice Note (previously cited).

| | | |
|---|---|---|
| **12. Sandile Biyela** | 11 January 2018 | Electrocuted by electrical wires while fleeing police during a protest |
| **13. S'fiso Ngcobo, 49 years** | 22 May 2018 | Shot in his home by unknown men |
| **14. Chief Thulani Mjanyelwas, 53 years** | 26 August 2018 | Hacked to death by a mob |
| **15. Senzo Gumede, 29 years** | 22 December 2018 | Shot by unknown men |
| **16. Odwa Mbana** | April 2019 | Shot |
| **17. Sandile Dlamini** | October 2019 | Assaulted by unknown men |
| **18. Xolani Ndlovu** | 1 November 2019 | Shot by two unknown gunmen |
| **19. Bheki Mdluli** | February 2020 | Shot |
| **20. Nkosinathi Mngomezulu** | July 2021 | Died from complications after being shot in 2013 |
| **21. Zamekile Shangase, 33 years** | 29 July 2021 | Shot by police as part of "Operation Show Your Receipt" following the July unrest |
| **22. Ayanda Ngila, 29 years** | 8 March 2022 | Shot by a group of men |
| **23. Siyabonga Manqele, 38 years** | 11 March 2022 | Shot during a raid |
| **24. Nokuthula Mabaso** | 5 May 2022 | Shot in front of her home |
| **25. Lindokuhle Mnguni, 28 years** | 20 August 2022 | Shot inside his home |

# AMNESTY INTERNATIONAL IS A GLOBAL MOVEMENT FOR HUMAN RIGHTS. WHEN INJUSTICE HAPPENS TO ONE PERSON, IT MATTERS TO US ALL.


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# “OUR LIVES COUNT FOR NOTHING”

## THREATS, ATTACKS, AND KILLINGS OF MEMBERS OF THE ABAHLALI BASEMJONDOLO (SHACK DWELLERS) MOVEMENT IN SOUTH AFRICA’S KWAZULU-NATAL PROVINCE

Abahlali baseMjondolo (AbM) (‘shack dwellers’ in isiZulu), is a movement in South Africa fighting for land, housing, and dignity. AbM has faced threats and attacks from individuals who are challenged by its activism. AbM members have faced threats of violence, assault, injuries, damage to property, unlawful evictions, trumped-up charges, harassment, attempted murders, and killings in response to their activism, over the past 18 years. In 2022, three leaders of AbM from the eKhenana commune in KwaZulu-Natal were killed within the space of six months.

This report examines the killings and patterns of threats and attacks against AbM members in eKhenana, and the state’s failure to adequately respond to these. It further highlights the failure of the state to ensure justice for the killings, to effectively protect AbM members under threat, and to create a conducive environment to allow AbM to do their work.

In light of these findings, Amnesty International recommends the state proactively create a safe and enabling environment for human rights defenders (HRDs) in which they can carry out their work without fear of reprisals. This includes publicly recognizing the legitimate work of AbM and all HRDs and the need for their protection; adopting legislation for the protection of HRDs; swiftly, transparently and effectively investigating the allegations of threats, harassment, and killings of AbM members, and ensuring those responsible for attacks are brought to justice in fair trials.

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SOUTH AFRICA AMNESTY INTERNATIONAL