

CENTRE ON  
HOUSING RIGHTS  
AND EVICTIONS



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1 November 2007

Dr Michael Sutcliffe  
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Dear Dr Sutcliffe

Many thanks for your reply to our letter of 3 October 2007. We were very pleased to read that the "Municipality is open to discussion with the movement and deeply sympathetic of their plight." There has been growing international concern about the situation in Durban for some years, so this statement will be widely welcomed. It offers the hope of a major breakthrough.

However it seems to COHRE that the value of this statement is somewhat compromised by comments about refusing to be "held ransom by the Abahlali baseMjondolo movement" and the suggestive reference to a "hidden agendas" approach. COHRE, along with many other human rights organizations has paid close attention to the various memoranda, press releases and other statements produced by Abahlali baseMjondolo. It is true that the language used is often highly charged; however, this comes as no surprise to us given the urgency of the problems faced by the communities concerned. We view the movement's basic demands as legitimate and reasonable requests for urgently needed changes in policies and practice. We conducted a housing rights training workshop with the movement in late 2006 and were impressed with the sincerity and quality of the leadership we encountered.

COHRE is also deeply concerned about two other aspects of your letter. The first is your statement that "it was in fact the unruly behaviour of some of the marchers who provoked the police to respond in the manner that they did." Eleven church leaders, including two Bishops, who witnessed the events of the day issued a statement strongly condemning what they described as "a completely unprovoked violent attack by the SAPS on people gathered to submit their demands to the Mayor of our city." We assume you are by now aware of this statement, given the attention it received in the local and national media. And, indeed, in any event the violent response by the police was disproportionate to any behaviour that may have been exhibited by those presenting their grievances. Consequently, we sincerely hope that you will withdraw your statement and register your official objection to those actions to the police authorities.

COHRE is also concerned about your refusal to declare a moratorium on forced evictions. Our researchers have found evidence that numerous evictions in eThekweni are implemented without court orders and are accompanied by violence and abuse. Such evictions are illegal in terms of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 (PIE Act) of 1998. In addition, as our history has so painfully shown, forced evictions cause undue hardship and irreparable long-term harm for affected communities. It is therefore imperative that mutually

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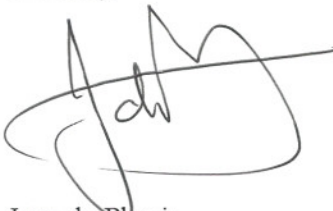
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acceptable solutions are developed in close consultation with communities, through granting of tenure security, *in-situ* upgrading and, in those highly exceptional cases where people might have to move, voluntary relocation based on consultation and development of viable alternatives. In our view, declaration of a moratorium on forced evictions would do much to create an environment conducive to the development of a new approach aimed at achieving such solutions.

In this regard we wish to draw your attention to General Comment No.7 of the Covenant on Economic, Social and Cultural Rights (CESCR) which details what governments, landlords and institutions must do to prevent forced evictions. General Comment No.7 states that evictions should not result in individuals becoming homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State Party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, is available. Also, it states that before considering eviction, States parties must ensure that all feasible alternatives are explored in consultation with the affected persons.

In spite of the above concerns, we are greatly encouraged by your stated commitment to dialogue with Abahlali baseMjondolo and your expression of sympathy for their plight. We agree that a different approach needs to be undertaken, where both Abahlali baseMjondolo and the Municipality are able to present their concerns and grievances honestly and openly in a non-hostile environment. We will communicate this to the organisation and will endeavour to support this process in any way we can.

Sincerely,

A handwritten signature in black ink, appearing to be 'Jean du Plessis', written over a large, loopy scribble.

Jean du Plessis  
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cc. Bishop Rubin Phillip  
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