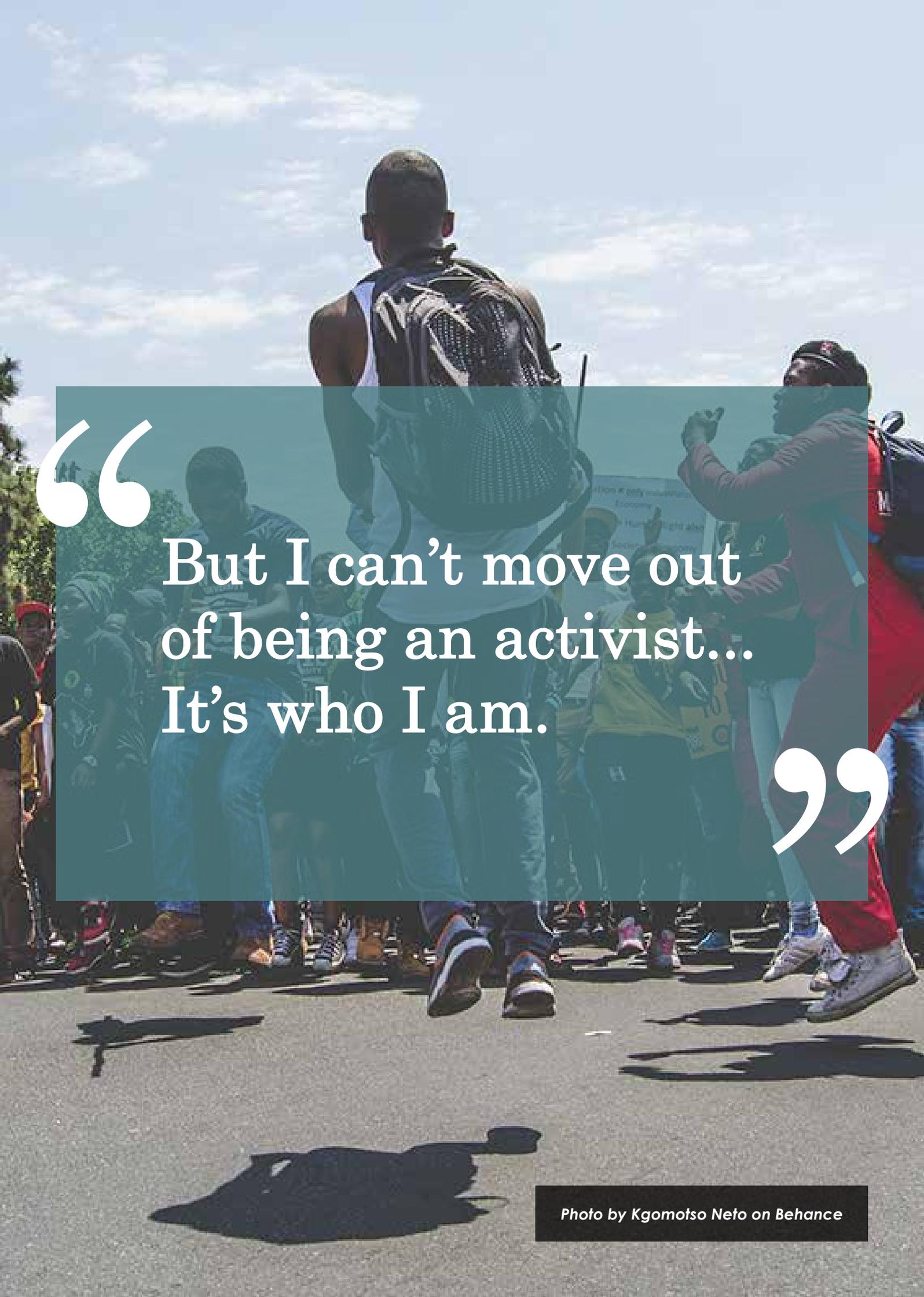




# Victimisation Experiences of Activists in South Africa Second Edition

Centre for Applied Legal Studies

October 2022



“

But I can't move out  
of being an activist...  
It's who I am.

”

# Acknowledgements

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# Glossary

Activist-centric

Places core focus on activists and their activism experiences, not concerned with the views or stories of the opposing party (i.e. perpetrators)

Community activists

Activists whose work is based on local community issues and whose activism is not in mining-affected areas

Cyberbullying

The use of digital technologies such as social media to target a person or persons

Environmental and land activists

Activists whose work is based on addressing issues related to land and environmental concerns and whose activism is based in mining-affected communities

Gender justice activists

Activists whose work is based on advocating for the equality and equity of women and sexual minorities in society

Gender-neutral

Common to or affecting all genders equally

Hyper-masculinity

Exaggerated masculinity, including callous attitudes toward women and sex, and the perception of violence as manly and danger as exciting

Repositories of power

Institutions or parties which hold/exercise power, central holders of power

Student activists

Activists who are / were students themselves and whose advocacy is based on addressing socio-political issues facing students in institutions of higher education

### SLAPP suits

Strategic Litigation Against Public Participation: meritless cases mounted to discourage a party from pursuing or vindicating their rights, often with the intention not necessarily to win the case, but to waste the resources and time of the other party

### Whistleblowing

The act of disclosing information related to any illegal, immoral and illegitimate practices of an organisation. This disclosure is usually by organisation members (former or current) who expose the illegal/illegitimate/immoral practices under the control of their employers to persons, regulatory bodies, state functionaries, Chapter 9 Institutions or any other entity that may be able to effect action or intervene

### Whistleblower

An individual that discloses information related to any illegal, immoral and illegitimate practices within their organisation

A photograph capturing a chaotic scene, likely a riot or a violent protest. In the foreground, a police officer in a blue uniform is seen from behind, holding a riot shield. He is engaged in a struggle with a man wearing a red t-shirt and a red cap. The man is holding a long, yellow baton. In the background, a large crowd of people is visible, some holding sticks or other objects. The scene is set outdoors on a paved area with grass, under a bright blue sky with scattered white clouds. The overall atmosphere is one of conflict and disorder.

“

Our movement  
moves from funeral  
to funeral.

”

# Foreword

More than a quarter of a century after the end of apartheid, millions of poor people remain oppressed. Denied land, housing, work, income, decent education and health care, we are met with contempt by the state in hospitals, schools, and, of course, by the police.

Our dignity is vandalised every day. Our lives cannot flourish. Just surviving is a struggle. The weight of suffering can crush the joy of living. People can turn on each other – and on themselves. Oppression does not only mean that we who were made poor are kept poor. It also means that we are expected to remain in the dark corners of society and to be silent while others speak about us and for us, while others decide for us.

When we challenge the material conditions of our oppression by occupying land, building houses, halls, creches and gardens and developing occupations into communes, we are met with repression, with violence from the state and the ruling party.

Impoverishment, including homelessness, is structural violence. It is a problem suffered by millions of individuals but it is not caused by individuals, it is caused by society at large. It therefore requires a societal solution. That solution will not come from above. It will come from below, by the oppressed building their power. Systems of oppression will try to stop this by repression.

When we challenge the political conditions of oppression by thinking and speaking for ourselves, organising ourselves, disrupting oppression and insisting that we must be able to participate in all spaces where relevant discussions are held and decisions are taken we face slander and violence. The violence comes from the state and ruling party, but we are also undermined by all kinds of elites – including some academics, NGOs and journalists – who do not believe that poor Black people can think for ourselves and believe that democracy should mean the rule of the elites, and not the rule of the people, which in South African can only mean the rule of the poor, of the oppressed.

If you resist oppression by insisting on your humanity, and the humanity of all other people, you will face repression. Repression often starts with slander and then moves to threats, exclusion from what social support the state does offer and then evictions, arrest, imprisonment, assault, torture and murder.

When you insist that the humanity of the oppressed is non-negotiable you must accept that you have chosen to face repression. For many years, most of elite society did not understand this. When we spoke about repression, we were not believed, we were said to be liars. It was thought that if we were attacked by the police, or even the ruling party, that there must be a good reason for this.

These days we are, finally, believed. There has been so much blood that the elites have been forced to accept the truth of what is happening to us, and has been happening for as long as some of our members have been alive.

The politic of blood is no longer denied. It is now clear to everyone. But we continue to be murdered. Many people do not believe that they will survive the struggle. Many people cannot sleep. When people say ‘land or death’ and ‘socialism or death’ they have taken on the responsibility to risk death because life is precious.

Repression does not only undermine all the rights that are enshrined in our Constitution and in international laws and standards. It does not only reverse the gains that our constitutional democracy has achieved over the years. It also attacks our deep sense of ubuhlali (ubuntu) and all its values. It creates frustration, hate, anger and violence. Repression can take away any sense of belonging, passion for one's country and love for one's society.

It was once unimaginable that after more than twenty five years of constitutional democracy under the rule of a Black-led government, a movement of poor Black people could face such a brutal attack from the state and the ruling party, a ruling party that was once a liberation movement. But we are not the only country to suffer this shock. Frantz Fanon warned us about this. It is the same in Zimbabwe.

But although we are not alone in having to suffer repression it has brought shame on us and the rest of the world. It is not just organisations that suffer from repression but also individual people and their families and communities. It has had a devastating impact on children.

Like other militants in our movement I reached a moment in my where I had realised and accepted that death was inevitable. This was after I had already been in several safe homes and survived a number of attempts on my life. At that point I knew I could be killed at any time. This was a moment where I spent sleepless nights thinking about the things that I have not achieved in life. The difficulty was that of thinking about what my children stand to become after my death. No person deserves to go through these nightmares. It cannot be morally right that to stand for justice for your country and the world means to risk the well-being and security of our family. We should be able to do what is right for society and our families at the same time.

If commitment to justice, to one's country and the world – the dignity of all people – means death, then this is the end of our hard-won constitutional democracy. Rights on paper mean nothing when insisting on our humanity means that we can be murdered with impunity.

If the lives of the poor were taken seriously, if democracy was taken seriously, the fact that our movement has lost 24 members, mostly leaders, to murder and assassination, would be declared a state of emergency. And these activists are only from our movement Abahlali baseMjondolo. It does not include other activists and whistle blowers from other organisations who have been killed in the same way. It does not include the people who are not members of our organisations who are murdered by the police during street protests. It does not include traditional leaders and local politicians who are being killed. It does not include the murder of civil servants who are fighting state corruption etc. There have been thousands of political killings in 'democratic' South Africa.

But there is no state of emergency. The President is silent. Most of the churches, NGOs and academics are silent. These days assassinations are reported on in some media but the story is not usually followed for more than one or two days. For as long as there is not a general understanding that political killings are a national crisis they will continue.

Incredibly some people who live in security and comfort are telling us that we deserve to be killed in this way because the state has to maintain law and order. They say this because of our strategy of occupying vacant and unused land for building houses, food sovereignty, communities and developing occupations into communes. They see landlessness and homelessness as a question of law and order. They see land occupations as criminal.

## They do not see that we were made poor because of oppression and that we are kept poor because of oppression.

They see poverty as God's gift to the poor, as something that the poor should just accept. They do not see that putting the commercial value of land before its social value, whether through the market or political corruption, continues to keep people poor. For us, landlessness and homelessness are questions of justice. For us, the systems that made people poor and keep people poor are inhuman and must be challenged and overcome. For us, land occupations are a matter of justice.

We also know that what has put us in trouble is organising outside of the official spaces allowed by the ruling party and the state, as well as NGOs. Elites of various kinds find the political autonomy of the oppressed to be threatening. They often treat it as criminal.

Building the autonomous power of the impoverished from below has threatened political elites of various kinds. Building communes and food sovereignty has offended those who want the majority of Black people in this country to continue to live on handouts and social grants.

## We are paying a price for exposing corrupt politicians.

To begin to end oppression, to begin to share land, wealth and power fairly, we need to move as quickly as we can to ensure the rapid release of land to the landless. Participatory upgrading of shack settlements and providing collective security of tenure is also urgent. Every person needs a decent income. Building an inclusive economy that ensures no one is left behind is essential. We need homes, neighbourhoods, parks, schools, hospitals, universities, media, cultural spaces and more to affirm the dignity of us all.

No one should go hungry. No one should have to live in the mud and fire of the shacks. No one should be denied medical care, the right to study, and the right to flourish. No one should have their home destroyed by the state. No one should be met by the state with armed force when they stand up for their dignity.

To end repression, I call on all progressive individuals and organised democratic formations in South Africa to act against repression. I call for a clear rejection of any form of violence and repression and a clear commitment to be in solidarity with those who are facing repression. In this moment silence is not an option. We need to build solidarity between and within struggling communities. We need the

broadest possible front of progressive forces against repression, including grassroots groups, movements, trade unions and progressive students, academics, NGOs and religious formations. A national indaba on repression and political violence needs to be convened.

We also need international action.

Colonialism, capitalism and imperialism were and are global systems. A struggle in one country can make huge advances but, it will always face national and international opposition. Ultimately, the struggle to humanise the world has to be a global struggle.

Just as we support movements like the MST (Brazil) and Pudemo (eSwatini) when they confront repression, they support us when we face repression. We have to build solidarity between movements in South Africa, across the region, across Africa and around the world. We have to build a global movement of movements against oppression and repression for the dignity of every human being.

Around the world many of us will die in the struggle to put an end to the vandalism of human life. We have to do everything that we can to put an end to the politics of blood in our own country, and across the world.

**Sibusiso Zikode**

**President of Abahlali baseMjondolo**

**21 October 2022**

# We remember...

## 2012

Maurice Mjomba, Tanzania

Victims of the Marikana Massacre,  
South Africa:

Tembelakhe Mati

Thapelo Eric Mabebe

Semi Jokanisi

Phumzile Sokanyile

Isaiah Twala

Julius Langa

Molefi Osiel Ntsoele

Modisaotsile Van Wyk Sagalala

Nkosiyabo Xalabile

Babalalo Mtshazi

John Kutlwano Ledingoane

Bongani Nqongophele

Cebisile Yawa

Mongezeleli Ntenetya

Henry Mvuyisi Pato

Ntandazo Nokamba

Bongani Mdze

Bonginkosi Yona

Makhosandile Mkhonjwa

Stelega Gadlela

Telang Vitalis Mohai

Janeveke Raphael Liau

Fezile David Saphendu

Anele Mdizeni

Mzukisi Sompeta

Thabiso Johannes Thelejane

Mphangeli Thukuza

Thobile Mpumza

Mgcineni Noki

Thobisile Zimbambele

Thabiso Mosebetsane

Andries Motlapula Ntsenyeho

Patrick Akhona Jijase

Julius Tokoti Mancotywa

Michael Ngweyi

Jackson Lehupa

Khanare Elias Monesa

Mpumzeni Ngxande

Thembinkosi Gwelani

Dumisani Mthinti

Paulina Masuhlo

Daluvuyo Bongo

## 2013

Moses Tshake, South Africa

## 2014

Thuli Ndlovu, South Africa

Xola Banisi, South Africa

## 2015

Gilles Cistac, Mozambique

## 2016

Noluvo Swelindawo, South Africa

Wayne Lotter, Tanzania

Sikhosiphi Radebe, South Africa

**2020**

Charl Kinnear, South Africa

**2021**

Fikile Ntshangase, South Africa  
Babita Deokaran, South Africa  
Paschal Raymond, Tanzania

**2019**

Anastácio Matavel, Mozambique  
Midasi Wanana, South Africa  
Ayanda Denge, South Africa

**2022**

Lindokuhle Mnguni, South Africa  
Anton Mzimba, South Africa  
Moreblessing Ali, Zimbabwe  
Nokuthula Mabaso, South Africa  
Ayanda Ngjila, South Africa

**2018**

Sifiso Ngcobo, South Africa  
Godfrey Luena, Tanzania  
Victor Mabunda, South Africa

**2017**

Soyiso Nkqayini, South Africa  
Sibonelo Mpeku, South Africa  
Mahamudo Amurane, Mozambique  
Mohahu Daniel Maseko, South Africa  
Edmore Ndou, Zimbabwe

*Who would  
you add?*

# Executive Summary

Activists are in danger and there is a steady increase in the number of activists being killed.<sup>1</sup> Activist victimisation threatens the principles of a transparent and democratic society and by its very nature, violates the comprehensive rights accorded to human rights defenders in international and domestic legal instruments.

This report follows on from the first edition report published in April 2018 by the Centre for Applied Legal Studies (CALs) to document the victimisation experiences of activists in South Africa.<sup>2</sup> In expanding on the first edition, which focused mainly on the experiences of environmental activists, this report investigates the experiences of human rights defenders in various fields of activism. The unique contribution of this edition lies in how it highlights the gendered impacts of victimisation across various activism sectors and documents activists' demands for change and tactics adopted to fight repression.

The content herein takes stock of the prevailing nature of the victimisation of activists, its evolution during the COVID-19 pandemic and how stakeholders can create and implement activist-centered solutions to end victimisation and demand accountability, reform and decisive action from responsible parties. This qualitative research was conducted through telephonic semi-structured interviews with activists from rural, urban and peri-urban areas across South Africa. In the interests of the participants, this report does not disclose their identities. The research pool was also limited to activists and did not include the views of the perpetrators.

## Environmental and land activists

Resource exploitation such as logging and mining account for a third of attacks on human rights defenders.<sup>3</sup> The activists interviewed in this report described being intimidated, harassed, forced into hiding, unlawfully arrested and being on the receiving end of death threats for challenging mining and mining companies within their communities. The toxic collusion between the state, mining companies and traditional leadership also fuels the repression of environmental activists.

## Community activists

The legacy of colonial-apartheid systems compounded by the failure of municipalities to provide services and ensure the fulfilment of rights, including socio-economic rights, has led to community activists expressing their dissatisfaction through protest action, engaging state officials and demanding that the lack of proper governance by the local, provincial and national government be accounted for. Unfortunately, such dissent is met with hostility and victimisation including forced hidings, intimidation, death threats, death and the discrediting of community activist leaders.

## Gender justice activists

Gender-based violence is a pressing and persisting issue in South Africa. The prevalence of rape culture in South Africa is supported by a complex system of gender stereotyping, patriarchy, toxic masculinity, misogyny, violence and the abuse of power. The impact of this is far-reaching, especially for members of the LGBTQIA+ community as the targeting of queer persons and queer rights activists is widespread. Gender-justice activists reported being discredited, cyberbullied, harassed and intimidated. Women and queer activists additionally face the burden of advocating for their causes and fighting for their right to speak out.

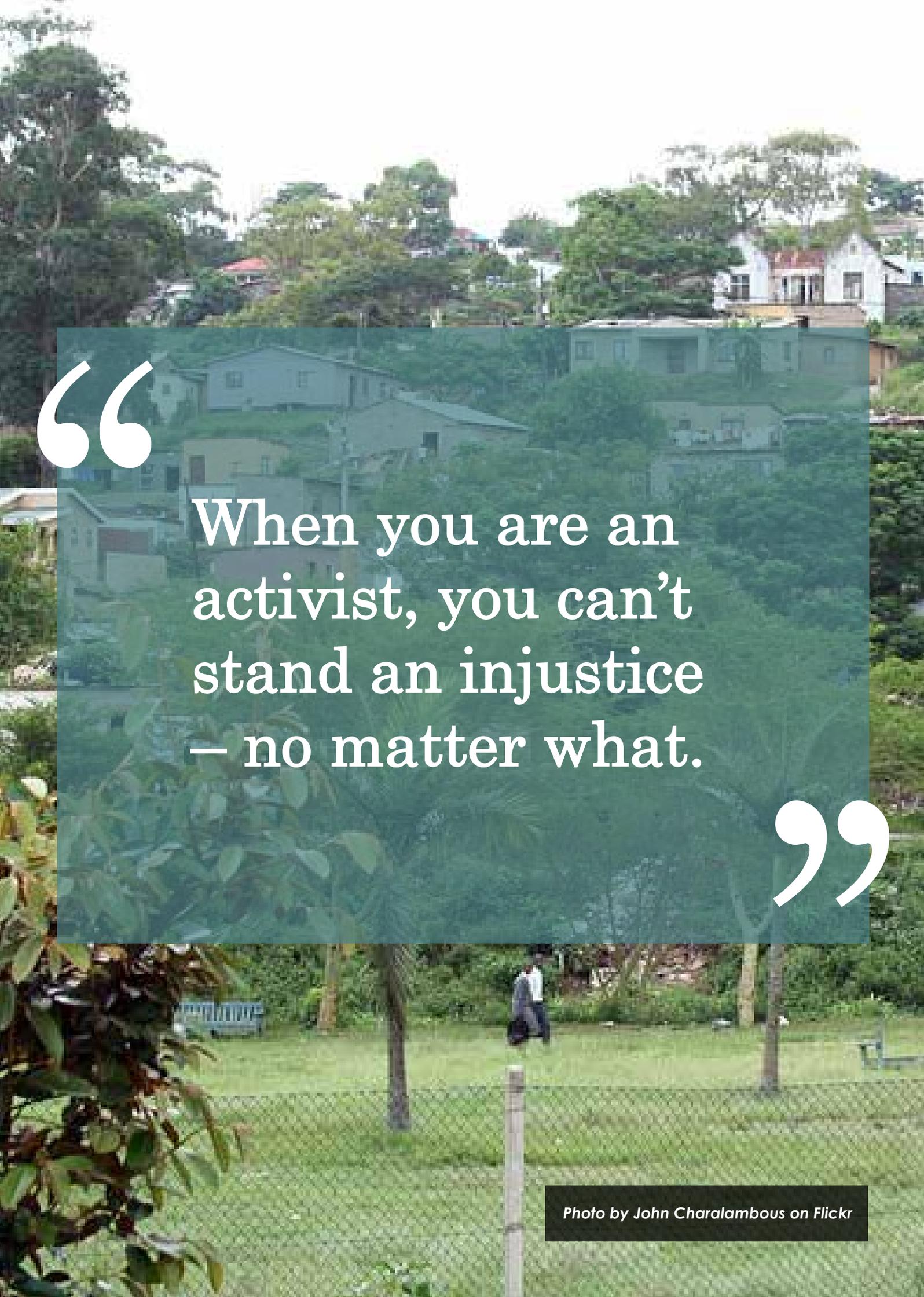
## Student activists

The 2015 / 2016 #FeesMustFall protests were a traumatic time for student activists. The goals of the movement included undoing the legacy of colonialism and apartheid in the education system which involved decolonising and transforming universities, free education and ending rape culture. Yet, despite the importance of the issues pioneered by #FeesMustFall, the police and universities retaliated against students by using excessive force during protests, committing violence, instituting lock outs and suspending many student leaders.

## Whistleblowers

South Africa has a corruption crisis both in the public and private sector. However, those who seek to root out such corruption face threats to their lives and livelihoods. Whistleblowers face being ostracised, intimidated, harassed, fired and even killed. This brings into sharp focus the long-standing inefficiency of the state in protecting whistleblowers.

The common trends identified in the victimisation of human rights defenders across different fields of activism include harassment, intimidation, unlawful arrests, death threats and the use of legal processes to silence activists. The impact of victimisation is far-reaching and long-lasting. Victimisation adversely impacts the lives, psychological wellbeing and livelihoods of activists and their families. In creating a platform for knowledge-exchange between activists, this report documents various tactics and strategies employed by activists to counter victimisation, including digital security training and partnerships with organisations that can provide emergency assistance – such as the Right2Protest Project, which provides bail assistance for activists who have been arrested during protests. The report concludes with recommendations on how activists can be supported and how the state and state entities can address and eradicate activist victimisation, including fulfilling its international obligations to protect human right defenders.



“

When you are an  
activist, you can't  
stand an injustice  
– no matter what.

”

# Introduction

It's a Friday evening in August 2022 in eKhenana, an informal settlement in the outskirts of Cato Manor. A community meeting led by members of Abahlali baseMjondolo has just concluded. This year alone, two other members of Abahlali have been killed and many others remain under threat. The community has since upgraded its security by installing CCTV cameras around the informal settlement.

Lindokuhle Mnguni, an Abahlali leader and chairperson of the eKhenana Commune, has been attending the meeting. Since the assassination of his fellow comrades Ayanda Ngila and Nokuthula Mabaso, it is unusual for Lindokuhle to still be in eKhenana by nightfall. Lindokuhle has been staying at the Abahlali safe house that was set up following the persisting attack of its members including the killing of over 20 of its leaders. This evening, however, the community meeting ran over time and after months of sleeping at the safe house, Lindokuhle is inclined to stay the night at his home with his partner. Convinced that it is safe to retire to his home, he stays.

In the early hours of Saturday morning, 20 August 2022, two hitmen charge through the informal settlement looking for him. Footage from the CCTV cameras show the hitmen searching through key areas of the community where Abahlali members are known to sleep. The hitmen clearly know their way around the area. They know where to look. After searching various sites, they move to the home of Lindokuhle and find him sleeping next to his partner. They smash the windows, break down the door and, with a few shots, slaughter the 28-year-old activist.

## Background

According to Global Witness, there is a steady increase in the number of activists being killed. In 2019, Global Witness reported that 212 environmental human rights defenders were killed. This number continues to rise. In 2020, over 277 were killed.<sup>4</sup> In 2021, Front line Defenders reported that 358 human right defenders were killed, with over 60% being environmental activists.<sup>5</sup>

Women activists are also targeted. They often find themselves fighting both for their causes and for the right to have a say in their communities.<sup>6</sup> And, unlike men, women human rights defenders face the added threat of gender-specific harms that are often fueled by hyper-masculinity and sexism. In underscoring these linkages between activism by women human rights defenders and gender-based violence, the International Union for Conservation of Nature and Natural Resources reports that women human rights defenders are usually discredited and stigmatised for being activists and are at an increased vulnerability to gender-based violence, including intimate partner violence.<sup>7</sup>

These victimisation patterns can also be seen in South Africa. The murders of community activists Nokuthula Mabaso and Thuli Ndlovu, environmental activist Fikile Ntshangase and whistleblower Babita Deokaran are a few examples of women killed for their activism. The massacre of Abahlali BaseMjondolo leaders – including the assassination of Ayanda Ngila, Siyabonga Manqele and Lindokuhle Mnguni in 2022 alone – is also a chilling reminder that community activists in South Africa are not safe and further that little is ever done to hold the perpetrators accountable. Despite South Africa being a constitutional democracy, civic space continues to shrink.

Activist lawyers and journalists, for instance, also face attacks ranging from intimidation to civil and criminal litigation and even death threats. It is crucial, therefore, to take stock of the prevailing victimisation of activists, how it has evolved during the COVID-19 pandemic and how different stakeholders can actively create and implement activist-centered solutions to end victimisation. At the end of the day, perpetrators of victimisation must be held accountable and decisive action and reform strategies must be implemented. Activist victimisation can and should urgently be eradicated.

## Legislative framework

The South African Constitution defends the rights of all people, including activists, to equality, human dignity, life, privacy, security of the person, freedom of expression, assembly and association.<sup>8</sup> The government is obligated to ensure the fulfilment of these rights and the protection of the rights of activists.<sup>9</sup>

The government's obligation also extends to taking positive steps to ending the repression of activists and creating an environment where public participation is encouraged. In *Doctors for Life*, the Constitutional Court held that 'the duty to facilitate public involvement must be construed in the context of our constitutional democracy, which embraces the principle of participation and consultation'.<sup>10</sup> The

government must, therefore, not only be reactive to incidences of repression, but it must also actively encourage activism and the tolerance of activism as an integral part of a democratic society.

International law also provides for the protection of human rights defenders and lists a comprehensive set of rights that human rights defenders have in carrying out their activism work. South Africa has supported the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (United Nations Declaration on Human Rights Defenders or 'UNDHRD') which provides for the right of all people 'individually and in association with others, at the national and international levels to meet or assemble peacefully, to form, join and participate in non-governmental organisations, associations or groups, or communicate with non-governmental or intergovernmental organisations'.<sup>11</sup>

In addition, Articles 6 to 12 of the UNDHRD recognise specific rights and protection measures for human rights defenders. In summary, these articles entitle human rights defenders the right to:

- Know, seek, obtain, receive and hold information relating to human rights, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;<sup>12</sup>
- Develop and discuss new human rights ideas and principles and to advocate their acceptance;<sup>13</sup>
- Submit to governmental bodies, agencies and organisations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may impede the protection and realisation of human rights;<sup>14</sup>
- Benefit from an effective remedy to be protected in the event of the violation of those rights;
- Make complaints about official policies and acts relating to human rights and to have such complaints promptly reviewed;<sup>15</sup>
- Conduct human rights work individually and in association with others;
- Seek the protection and realisation of human rights at the national and international levels;
- Attend public hearings, proceedings and trials in order to assess their compliance with national law and international human rights obligations;<sup>16</sup>
- Offer and provide professionally qualified legal assistance or other advice and assistance in defence of human rights;<sup>17</sup>
- Have unhindered access to and communication with non-governmental and intergovernmental organisations;<sup>18</sup>
- The lawful exercise of the occupation or profession of human rights defender;<sup>19</sup>
- Participate in peaceful activities against violations of human rights and fundamental freedoms;<sup>20</sup>
- Adequate protection under national law in reacting against or opposing, through peaceful means, acts or omissions attributable to the state that result in violations of human rights;<sup>21</sup> and
- Solicit, receive, and utilise resources for the purpose of protecting human rights.<sup>22</sup>

South Africa has incorporated into its Constitution the Universal Declaration of Human Rights which amplifies the protection of all human beings' rights, without distinction based on political or other opinions, amongst others. These rights and freedoms include the right to life, freedom and security of the person, equality before the law and equal protection of the law, privacy, freedom of opinion and expression, which includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers, freedom of peaceful assembly and association, and participation in public affairs.

South Africa is bound by the African Charter on Human and Peoples' Rights which also provides wide protection to human rights defenders by guaranteeing, amongst others, their civil and political rights.<sup>23</sup> Under the Organisation of African Unity, the development and energisation of civil society are encouraged to be viewed as a building block in the process of creating an environment conducive to human rights in Africa.<sup>24</sup> The Kigali Declaration also recognises the important role of civil society organisations and human rights defenders in the promotion and protection of human rights in Africa.<sup>25</sup> It calls upon member states and regional institutions to protect them and encourage the participation of civil society organisations in decision-making processes.<sup>26</sup>

The African Commission on Human and Peoples' Rights has made resolutions that prioritise vulnerable human rights defenders. For instance, the African Commission established the mandate of the Special Rapporteur on Human Rights Defenders in Africa,<sup>27</sup> who *inter alia* receives and acts on complaints of violations of the rights of human rights defenders, and provides recommendations on what Member States can do to increase their protection.<sup>28</sup>

States are expected to promote public understanding of civil, political, economic, social and cultural rights,<sup>29</sup> and to promote and facilitate the teaching of human rights at all levels of formal education and professional training.<sup>30</sup> Finally, states are to ensure and support the creation and development of independent national institutions for the promotion and protection of human rights, such as ombuds or human rights commissions.

Although South Africa has a Constitution that protects activism and various pieces of legislation that protect fundamental rights such as the right to assemble and protest,<sup>31</sup> the country is yet to have legislation dedicated to the specific protection of human rights defenders or to combat repressive antics such as SLAPP suits. West African countries such as Côte d'Ivoire,<sup>32</sup> Burkina Faso and Mali, however, have legislation dedicated to protecting human rights defenders.<sup>33</sup> For that reason, South Africa and other African countries need to accelerate efforts to enact legislation specifically geared towards protecting human rights defenders.<sup>34</sup>

The South African Constitution defends the rights of all people – including activists – to equality, human dignity, life, privacy, security of the person, freedom of expression, assembly and association.

The government is obligated to ensure the fulfilment of these rights and the protection of the rights of activists.

“

There's always a threat of a lawsuit against you.

”

*Photo by Omhle Ntshingila from the Right2Protest Project*

# Methodology

In line with the University of Witwatersrand's requirements for ethical research, CALS applied for and was granted ethical clearance from the University's committee dealing with non-medical research. The purpose of ethical clearance is to ensure that research is conducted responsibly and in line with University standards. Furthermore, through ethical clearance, the risks associated with the research can be identified and minimised. It also ensures that participants are properly informed about the ambits of the research, confidentiality, as well as how the data will be collected, stored, processed and disposed of, amongst others.

CALS acknowledges that in the process of conducting this research, there was a potential risk associated with activists sharing their victimisation experiences, including the risk of possible retraumatisation. To mitigate this, the real names of the activists interviewed are not mentioned in this report. CALS also offered psycho-social support to all interviewed activists and continues to work with partner organisations such as the Southern African Human Rights Defenders Network to respond to threats on a case-by-case basis should such a need arise.

Almost all activists who participated in the research found it empowering to speak about their experiences and to voice their demands for change. In honour of these activists and many others who were not interviewed, this report is crafted as activist-centric.

This second edition report is a qualitative research study into the victimisation experiences of activists in South Africa. The activists are divided into categories according to their field of activism. The categories are as follows:

- **Land and environmental activists:** activists who conduct their activism in mining-affected communities
- **Community activists:** activists who advocate for the interests of local community members in non-mining affected areas
- **Gender justice activists:** activists who advocate for the rights of women and sexual minorities
- **Student activists:** activists who were involved in #FeesMustFall and subsequent activism related to students' experiences in institutions of higher education
- **Whistleblowers:** current or former employees who speak out against unlawful conduct within their workplaces

The activists interviewed are from both rural and urban areas (including peri-urban areas) in Gauteng, Eastern Cape, Western Cape, Free State, Mpumalanga, North-West, KwaZulu-Natal and Limpopo. The activists were selected from communities and social movements that CALS has previously interacted with. Other participants were those whose stories we have heard from the media or from other partners and partner organisations. In total, thirty activists were interviewed.

Due to the COVID-19 lockdown restrictions that were in place at the time the research data was collected, the interviews were conducted telephonically through semi-structured one-on-one interviews. The interviews were based on an open-ended questionnaire. The names and identifying characteristics of the activists are not included in this report to protect them from further victimisation.

## Structure

After a comprehensive analysis of the legal framework, the subsequent chapters detail the victimisation experiences of activists in each specified field. Each chapter begins by describing the contextual framework in which the defenders find themselves when navigating their activism work. It then describes the specific victimisation experiences of the interviewed activists and analyses the findings. After each activism field has been examined, the report then describes the impact of the victimisation experiences on all the interviewed activists. A key contribution of this report is also documenting some of the strategies activists use to fight victimisation. Finally, the report details the demands that activists have towards ending activist repression in South Africa.

## Limitations

As already mentioned, this qualitative research interviewed a limited number of activists. The purpose of this was to delve deeper into the specific victimisation experiences of activists, the impact that this has had on the activists themselves, their families, and their activism work, and to understand what activists believe is required to end victimisation in South Africa. We acknowledge that the experiences documented here may not reflect the full extent of the victimisation experiences of the various activists.

In conducting this research, many gender justice activists, especially members of the LGBTQIA+ community, were afraid to speak out against their victimisers and against repositories of power which entrench violence against them. Therefore, there were more limited numbers of activists interviewed in this category. This report also considers whistleblowers as activists. Whistleblowers have historically been excluded and/or ignored when awareness is raised on the victimisation of those who dissent. This has arguably contributed to their victimisation as they are under-protected and unseen in their efforts to advocate for truth and justice.

Finally, as mentioned above, it is the deliberate goal of this report to be activist-centric. The perpetrators of activist victimisation were not interviewed during the research process that culminated into this report. Furthermore, this report aims to amplify the voices of activists. Therefore, no effort is made to filter or water down the experiences or demands of the interviewed activists for the eradication of activist victimisation in South Africa.

## Objectives

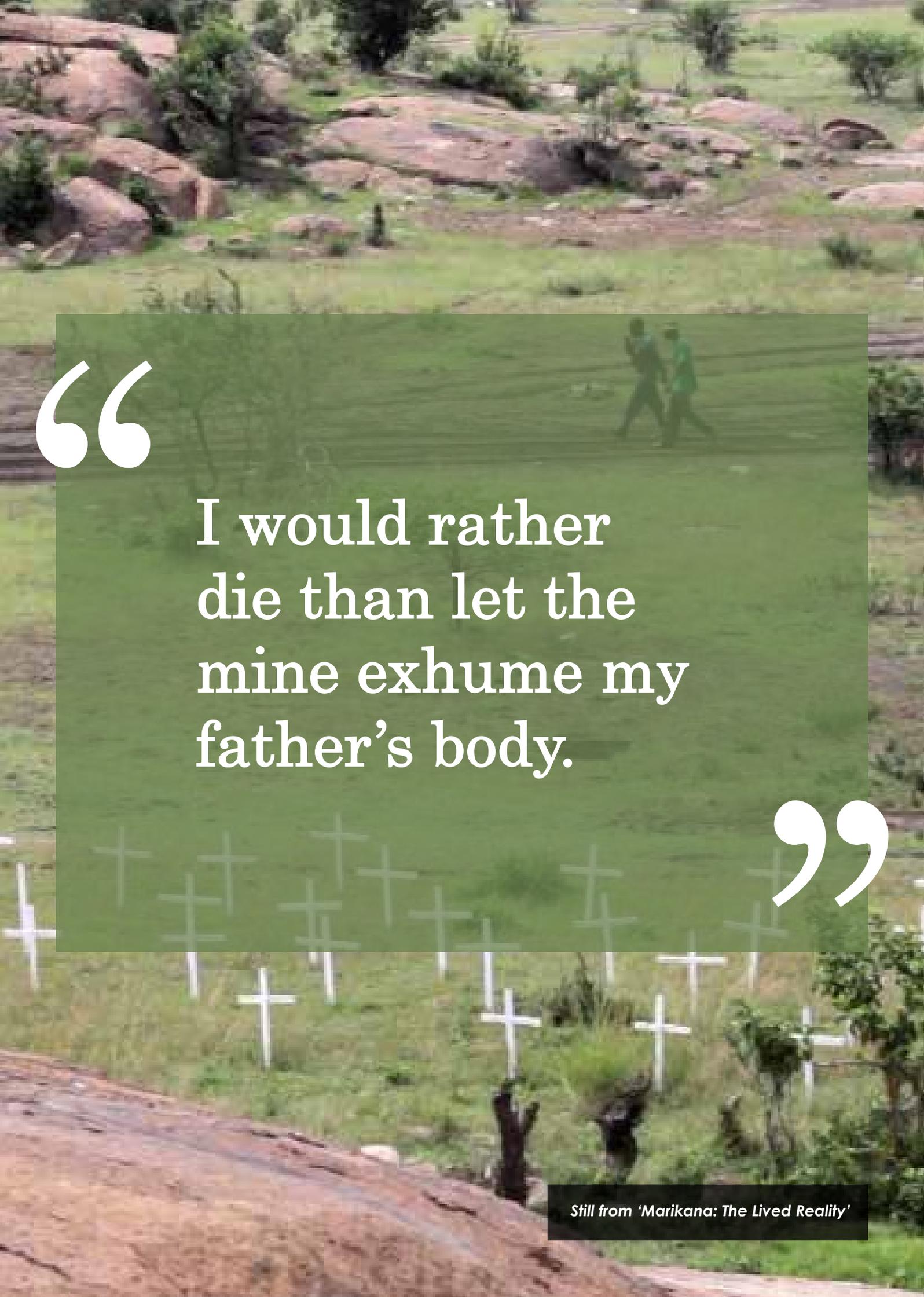
The first edition report was compiled after detecting that there was limited research pertaining to the victimisation of activists in South Africa. The first edition report therefore focused on identifying the problem of activist victimisation in South Africa and its impact on activists and their activism work. The findings of the first edition report revealed that activists experienced victimisation which included death and death threats, forced hiding, the use of violence against them and their loved ones, threats to their families and harassment, amongst others.<sup>35</sup>

Women activists reported being additionally threatened with sexual violence.<sup>36</sup> The arrest or forced hiding of women activists also proved to directly impact family and family structures as women were often the primary caregivers in their homes.<sup>37</sup> The first edition also revealed a prevalence of the use of civil and criminal litigation proceedings against activists as a means of silencing them.<sup>38</sup>

The interviews conducted in the first edition were mainly with environmental activists. However, in CALS' work with communities and social movements, we soon discovered that activist repression can be found in almost every sector where people dissent, challenge power and demand accountability. The idea behind the second edition report was therefore to investigate the victimisation experiences of activists in various fields of activism. We narrowed our investigation to five fields, namely: gender justice activists, student activists, community activists, whistleblowers and land and environmental activists.

While this report investigates the victimisation experiences of activists across different sectors including gender justice activists, the report also pays particular attention to the victimisation of activists who are women and sexual minorities in all the different sectors. One of the unique contributions of this second edition is that it highlights the gendered impacts of victimisation across all sectors. The second edition further documents the interventions demanded by the interviewed activists for the ending of activist repression in South Africa.

In summary, the second edition report aims to firstly illustrate that while attention has been brought to the victimisation of activists within the extractive industry, activist victimisation is found across various sectors. Secondly, the report acts as a resource for strategic information sharing amongst activists. Lastly, the report seeks to amplify the voices of activists by documenting their demands for change and detailing how the relevant parties can implement these demands to support activists, hold to account victimisers and end the repression of activists in South Africa.



“

I would rather  
die than let the  
mine exhume my  
father's body.

”

*Still from 'Marikana: The Lived Reality'*

# Land & Environmental Activists

For more than a century, the extractive industry has had considerably negative political, social, economic, and environmental impact in South Africa. The mining sector was one of the key areas in which the colonial-apartheid mechanisms of racial segregation, land dispossession, promotion of migrant labour and the exploitation of Black labour, amongst others, flourished. In short, 'the South African mining industry was both a beneficiary and driver of colonialism and apartheid in their economic, social and legal manifestations. The mining sector perpetuated and strengthened the apartheid state'.<sup>39</sup> Mining companies influenced policies, laws and were instrumental to the colonial project. State capture therefore can be seen as having commenced at this point.

Although progress has been made through reform legislation such as the Mineral and Petroleum Resources Development Act,<sup>40</sup> the legacy of the exploitation of Black people to the benefit of corporates persists. This legacy can still be seen in mining-affected communities today. Despite promises of jobs and 'development' within the communities, mining has seldom yielded these results for locals. Instead, mining has brought increased hardships for communities.<sup>41</sup> This includes loss of land used for subsistence farming, the pollution of air and water, climate change, damage to houses due to blasting and an overarching failure by mines to comply with mandatory social and labour plans.<sup>42</sup> These conditions have created and/or exacerbated the impoverishment of communities.

As a result of these injustices, many mining-affected communities have organised into networks and social movements to challenge the conduct of mines, demand accountability from the state and mining corporations and advocate for social justice within their communities. The systematic nature of the harm brought by mines and the failure of the state to effectively regulate mines in the protection of communities is one of the driving forces behind the vibrancy of activism within environmental justice spaces. Unfortunately, the intolerance of these corporations to dissent and challenges to their operations has resulted in environmental activism being potentially deadly.

Global statistics have shown that activists who are protecting land and environmental rights for minorities or marginalised persons were most likely to be killed for their activism work.<sup>43</sup> Reports investigating the victimisation of environmental activists in South Africa also indicate that activists are being harassed, intimidated, unlawfully arrested and threatened with death.<sup>44</sup> Police have cracked down on protests led by social movements, effectively targeting social movement leaders. Social movement leaders have also faced home raids and kidnapping.<sup>45</sup>

In addition, activists report that mining companies have taken to enlisting traditional leaders to exploit communities,<sup>46</sup> moreover, dividing communities in order to conquer them. Mining companies have often refused to consult with communities or meet their demands, thereby creating more tension between communities and mines.<sup>47</sup> Activists living in mining-affected communities are also highly targeted for challenging mines and mining operations.<sup>48</sup>

All these realities can be seen throughout mining-affected communities across South Africa. The state's failure to exercise its oversight functions has led communities to believe that the state is in unlawful cohorts with mining companies. This, coupled with the lived realities of poverty and oppression, has contributed to many people revolting against mines. Below are some of the experiences of land and environmental activists.

## Findings

Death threats are disturbingly common within environmental activism. A report by the Special Rapporteur on the situation of human rights defenders, Mary Lawlor, reveals that the killing of activists is almost always preceded by death threats.<sup>49</sup> For many activists, the assassination of Fikile Ntshangase was a painful reminder that death threats can be executed.

After the death of an activist in a neighbouring community, Lerato reported receiving many calls and SMSes stating that she was next. In another region in KwaZulu Natal, Qhawe reported receiving death threats which forced him into hiding. Close friends warned him that there was a hitman hired to kill him. As a result of these death threats, Qhawe had to relocate frequently to avoid being killed. "I have to watch what I eat, where I stay, what I drive," he reports. Another activist in the same province recalled receiving telephonic death threats for his role in opposing a mine. Another recalled how men came into his house and fired gunshots in the air.

Michael, a social movement leader, reported being forced to flee his home after he was targeted for participating in a case against a mining company in his village in Limpopo. He recalls the victimisation starting soon after filing court papers against the mine where he appeared as a deponent. Unidentified men began parking outside his house and enquiring about his whereabouts. Soon thereafter, a break-in at his house forced him to flee for his and his family's safety.

Themba, also in Limpopo, reported that a van belonging to the mining company would routinely park outside his house to surveil him. In a separate incident, unidentified men interrogated his wife about his whereabouts. They accused Themba of being part of an anti-development group that is challenging the mine. A few days after this incident, his house was broken into. Fearing for his life, Themba had to temporarily relocate. Another activist, Andile, reported being kidnapped twice in Gauteng by unidentified men in police uniform who took him from his house and threatened him to stop speaking against the mines. He was stripped of his belongings in both kidnapping instances and abandoned approximately 30km away from his house.

There is toxic collusion between traditional authorities and mining companies which poses a threat to the lives of those who fight against such abuse of power. One of the key findings is that activists are threatened and harassed not only for their activism work but additionally for showing solidarity and support to other activists who challenge mines.

An example of this is when Zandi organised a memorial service for a fellow activist who had been killed for her work in resisting the mine. Several members of the local traditional authority came to the memorial service with guns and sjamboks and demanded that the attending activists leave the village.

As they were packing and leaving, one of the members of the traditional authority came into Zandi's car and told him to 'be careful because something terrible will happen' to him.

Zizi is currently in hiding after receiving a tip-off that he is on a hit list. Zizi works relentlessly in his community in KwaZulu Natal to stop coal mining in his village. His pivotal role in resisting mining operations has however, made him a target. After seeing the adverse impact of coal mining in other communities, including livestock diseases and the pollution of air and water, Zizi and other members of the community have been fervently training others on their rights, organising demonstrations and engaging responsible state officials to protect their land. In particular, Zizi and his community protest against the exhumation and relocation of ancestral graves in order to give way to mining operations. Zizi and his community stand firmly against the exhuming of the bodies of their ancestors. This resistance has been the core reason for what has become a violent stand-off between the traditional leadership (who support mining operations) and the community.

There is toxic collusion between traditional authorities and mining companies which poses a threat to the lives of those who fight against such abuse of power.<sup>50</sup> In many mining-affected communities, activists reported being harassed and ostracised from their community by traditional leaders.<sup>51</sup> These abusive practices often stem from the culture of self-enrichment that is often prevalent within traditional leadership, resulting in a failure to exercise their powers for the benefit of the community.<sup>52</sup> Many interviewed activists reported being victimised by the traditional authority for fighting against mines. Lebo was fined three goats by the traditional authority for organising a protest against the mine and rallying the community to resist the mine. Banele, a movement leader, was refused entry into a village by the traditional authority because of his work with local activists in resistance to the mines.

Mphefumlo was refused entry into a village in KwaZulu Natal where he was due to train local activists on their rights when it comes to mines. In refusing his entry, the local traditional authority accused Mphefumlo of 'being used by White people' and blocking benefits due to the community from mining.

Interviewed activists also reported being subjected to abuse of power by police. The use of the police to advance individualistic and political gains is one of the main forms of victimisation experienced by activists that is left unaccounted for. Activists reported to have been victimised by the police at the behest of mining corporations, traditional authority and even local state officials.

Bandile recalls how he was singled out by police in a taxi travelling to an organised protest against a mine. He was put in a police van without any explanation to why he was arrested. In other instances, police are given the names and pictures of usual leaders of protests and the police would then arrest these activists despite them not doing anything that would justify their arrest.

Activists also report being arrested and kept in a holding cell for days without being charged. Anele recalls being kept in a holding cell for three to seven days at a time without ever being charged. In another instance, Sphiwe was targeted and arrested for a protest that he was not part of. Nikho, a movement leader, further reported being harassed by police. After organising a protected protest against a mine, Nikho received a tip-off that the police wanted to arrest him to stop the protest from happening. Nikho was able to escape to avoid arrest and the protest

continued. Another activist reported having arranged a meeting with mine officials. Instead of coming out to meet with the community, the mine sent the police who specifically targeted and attacked him and refused to take him to hospital even though he was visibly, seriously injured and needed medical attention.

Activists in mining-affected communities have also reported that one of the most popular tactics used by mines is to divide communities. This results in pro-mining community members intimidating and harassing ‘anti-mining’ community members. As a result, activists are being attacked by both mining companies and pro-mining members of the community.

As discussed above, traditional authorities are also complicit in intimidating and harassing activists. Activists reported not feeling protected or accurately represented by their traditional leaders and that traditional authorities are often in cohort with mining companies, thereby acting in the interest of the mines to the detriment of communities. This is concerning as traditional leaders are supposed to be acting in the interests of local communities.<sup>53</sup> Their role as far as protecting land rights is supposed to be to support community concerns and the non-displacement of communities, which includes ensuring that such communities are not exploited by mining companies.

In theory, traditional leaders do not own communal land, and land rights are supposed to rest with households and communities, however traditional leaders often see themselves as owners (in their personal capacities) of communal land.<sup>54</sup> They take decisions concerning the land without consulting or obtaining the consent of the people living on the land. This contradicts customary law structures which prescribe for participatory decision-making, inclusion and transparency as far as communal land and the people living on the land are concerned.<sup>55</sup>

Traditional leaders are supposed to engage with, mediate for and support their local communities.<sup>56</sup> However, this is not the position. Traditional leadership, in many instances, has intimidated people who oppose mining and threatened others to not associate with those viewed as ‘troublemakers’ because they speak out against the mines.<sup>57</sup>

The discrediting of activist leaders in communities is also rife. Sebatatso advocates for the rights of women in her mining-affected community in the Western Cape. She speaks out against the gendered impacts of mining on women in her community and works hard to ensure that the voices of women are heard in engagements with the mine. In numerous instances, however, when she would mobilise the community and lead community demonstrations of dissent, there would be concerted efforts to discredit and undermine her.

The forms of abuse of power that plague activists / activism include, but are not limited to, the use of police to target activists, discrediting activist leaders within communities, contracting persons to intimidate and harass activist leaders instead of meaningfully engaging communities, and dividing communities. The use of criminal and civil litigation against activists is also a common method of victimisation.

Since CALS' first victimisation report, more attention has been paid to the victimisation of activists using civil and criminal litigation against them for the purposes of silencing them.<sup>58</sup> Detailed reports have since been released evidencing the use of legal processes to silence activists in general,<sup>59</sup> and environmental activists in particular.<sup>60</sup>

This legal action can take the form of criminal litigation, such as unlawful arrests, and civil litigation such as wide-reaching interdicts and defamation suits. Morena, a member of social movement network and his community had a wide-reaching interdict granted against them that prohibited any form of expression of dissent against the mine in the Free State. Thuli, an activist leader in her community in Western Cape is currently facing a defamation suit by a mining company for telling her community's story on the lived struggles of mining-affected communities. "There's always a threat of lawsuit against you," says Thuli.

## Analysis

As noted in the introductory remarks, resource exploitation including the extractives industry has been found to be one of the deadliest for activists globally.<sup>61</sup> In the first edition report, most of the activists who reported being victimised were within the extractives industry. The victimisation experiences recorded then have not changed significantly over the last four years. Environmental activists continue to witness their comrades being killed, their lives are still threatened, and they still work in spaces that are hostile to their dissenting voices.

Through relentless efforts by environmental activists, significant progress has been made to advance the changes sought by communities. These have included cementing communities' place as key stakeholders in all mining-related decisions affecting them;<sup>62</sup> holding mining companies accountable for lack of implementation of their social and labour plans;<sup>63</sup> holding mines and government accountable for the erosion of communities' rights to a safe and clean environment; and demanding the protection of their right to determine what happens to the land which they inhabit.<sup>64</sup> These concerted efforts by activists have contributed to collective solidarity across the country and fostered boldness to continue the fight against the abuse of power by mines and large corporations.

While efforts by environmental activists have contributed to the growing acknowledgement of the power of communities, it has come at the cost of severe personal sacrifices for many human rights defenders. All the activists who were interviewed reported suffering from the trauma of their victimisation experiences.

Many are still in forced hiding and others have had to relocate constantly to avoid being killed. Those who solely face harassment or intimidation are still restricted from enjoying key rights and freedoms meant to be enjoyed by all human beings.

In addition to the psychological impact, victimisation also carries severe consequences for an activist's personal life, including their family life (for example, some activists reported having to relocate frequently with their children, and others have been forced to leave their families behind), their ability to build relationships with their communities, their ability to secure employment and thus be able to support themselves, their autonomy and ultimately overall wellbeing.

Environmental activists' key civil and political rights – such as freedom of association, freedom of expression, freedom of movement – are being systematically and deliberately violated at the hands of those exercising some form of power, such as the police, mining companies, private security, government officials and traditional leadership.



“

If you are poor in  
this country, you  
have no rights.

”

# Community Activists

Local municipalities are one of the most direct ways in which communities interact with their government. It is through local government that services such as clean and safe water, electricity, roads and other infrastructure, housing, schools, hospitals, and many other essential services are delivered. Communities' experience of the functioning (or lack thereof) of the government of the day is therefore often tied to local government. However, holding local government accountable has proven to be detrimental to activists within their communities.

Section 151 of the Constitution provides for the local sphere of government which comprises of municipalities. The objectives of local government include the provision of services to communities, promotion of social and economic development and the promotion of a safe and healthy environment.<sup>65</sup> The Municipal Systems Act (the Act) goes further in determining the duties of municipalities which include ensuring all members within the jurisdiction of the municipality have access to basic services.<sup>66</sup> 'Basic municipal service' is defined by the Act as a municipal service that 'is necessary to ensure an acceptable and reasonable quality of life and if not provided, would endanger public health, safety, or the environment'.<sup>67</sup>

The Constitution and the Act mandate local government, through its municipalities, to provide the above mentioned services in a 'sustainable manner' and in such a way that 'equitable access' is provided for such services. Most municipalities, however, have failed to provide these services. Many people are living without clean water, flushing toilets or electricity, amongst other things. People in rural areas are especially excluded from these services. Increased urbanisation without adequate response from local (as well as provincial and national) government has also exacerbated the housing crisis in metropolitan areas. The failure of local governments to ensure the provision of housing has contributed to an increase in informal housing that has, in turn, cascaded into a sanitation crisis.

Fraud, corruption and mismanagement of funds have proven to be some of the forefront impediments to the delivery of services by municipalities. According to the Auditor General's Municipal Funds Management Act Report of 2019/2020 (the 2019/2020 Report) only 27 out of 257 municipalities in South Africa received a clean audit opinion.<sup>68</sup> Almost half of all municipalities are under financial strain with over R3.47 billion in the year 2019/2020 alone being lost to wasteful expenditure.<sup>69</sup> In the 2021/2022 Report, 33 municipalities were reported to be dysfunctional and were placed under administration where provincial or national government had to take over the functions of the municipalities.<sup>70</sup>

The 2019/2020 Report also revealed that 22 municipalities received a 'disclaimed opinion' on their audit.<sup>71</sup> A disclaimed opinion is the worst audit opinion municipalities can get. It means that the municipality failed to provide the Auditor General with evidence for most amounts and disclosures in their financial statements.<sup>72</sup> The 22

municipalities that received a disclaimed opinion had received additional grants totaling R6,49 billion from the national government to enable them to continue providing services. The Auditor-General also reported that it 'could not confirm what was done with the money from receipt to what was left in the bank at year-end'.<sup>73</sup>

The above paints a picture of why most municipalities are failing and why their residents are consequently under served. The reality of lack of service delivery leads to increased poverty, under development, lack of opportunities and an array of human rights violations. This is further exacerbated by the persisting legacy of apartheid that has severely under-resourced and disadvantaged areas predominately occupied by Black people. These lived realities of an unresponsive government, lack of basic human necessities and continuously deteriorating living conditions have led many to express their dissatisfaction with local government through, amongst others, protest action, demands for accountability from local officials and challenging local authority. Unfortunately, the expression of dissent has been met with hostility.

## Findings

Community activists seek good schools, houses, water, electricity, effective and efficiently run municipalities and municipal services, open and transparent governance, job opportunities, expansion and growth of local economies and expanded business opportunities. The struggle to have the voices of communities heard has, however, been very politicised. This has meant that activists who are marked as 'troublemakers' from opposition parties or those who are not 'toeing the line' within their own party often end up assassinated, facing death threats and forced into hiding to avoid being killed. Many interviewed for this report have also described being repeatedly targeted and arrested without cause.

Activists have reported that police allow themselves to be used to advance political motives and agendas. When being arrested, some of the interviewed activists stated that the police would take down their statements but would later distort them to make it seem as though they committed a crime when in fact they did not. Others report government officials bribing or otherwise using the police to target certain activists who are viewed as leading communities to dissent against the government of the day. Many others have reported that the police do not understand the right to protest and that activists are arrested even when protests are peaceful and notice has been given. Police are sent to arrest activists when communities want to engage with mines or municipal officials. Police are then aggressive in their approach with community activists, often using excessive force. In one of these clashes with the police, Siphokazi reported being targeted and severely assaulted by police at a protest in Eastern Cape, which left him in hospital for seven months and in a wheelchair for almost a year.

Amahle lives in an informal settlement in Gauteng and has always been involved at the local level of her political party, advocating for the provision of services in her community. After years of her community being failed by this political party, Amahle left to join another movement within the community. Since joining this movement,

Amahle believes she has been made a target. She has been unlawfully arrested several times. In one instance, at a meeting with the Department of Housing, a local police officer saw her name on the register and then arrested her. She was kept in a police cell for almost five days without being charged.

In another instance, she was falsely accused of burning someone's house during a service delivery protest and was arrested by police in the early hours of the morning. A local police officer then told her that he would make sure she does not receive bail as she was a 'troublemaker' for protesting within the community. Indeed, Amahle was denied bail (due to the several instances in which she had been arrested for protesting). Amahle was later acquitted as the Court found she was indeed not at the scene of the crime, but Amahle had already spent seven months in prison for a crime she did not commit.

Zama, a vibrant activist in his community has been shot by police and arrested nine times because of his activism work. At some point in these arrests, he was charged with arson that occurred during a protest that he was not part of and that took place in another region. On another occasion, he spent six months in prison for organising and partaking in a peaceful protest. Again, in one of the arrests, Zama was kept in a police cell for ten days without being brought before a magistrate.

**“Although I don't have a criminal record, just being in prison and wearing that prison uniform still haunts me,” says Zama.**

Activists have also reported the use of political tensions to further their victimisation. For instance, if you are an activist but belong to a minority party then you would be arrested more frequently even if you had done nothing wrong. Thuso reports that when he belonged to the majority party in his community, he was never arrested, though he was actively involved in his community. But since leaving the political party, he has been repeatedly arrested. Again, the arrests of activists for protesting would occur even if the protests were lawful and peaceful.

Political tensions are also used to undermine the efforts of communities to obtain justice, accountability and services. A good case in point is in the Eastern Cape where Vumi started a social movement to tackle the alarming rates of unemployment within his community. After organising a successful protest against the failure of the government to create half a million jobs as promised, some officials from the party made a concerted effort to discredit the social movement by alleging it had been co-opted by 'a White opposition party'. These discrediting efforts were a major blow to the legitimacy of the newly-formed movement. It created divisions within the community and was deliberately designed to destabilise and disband the movement. Vumi reported having to work harder to re-mobilise members and show the independency of the social movement from political influence.

Leo, an activist in the Eastern Cape who is involved in organising at a community level, started receiving death threats on his phone. He then began intense investigations to determine the legitimacy of the threats as well as to discover who was contracted to kill him. The investigation revealed that there was indeed a hitman in another city who was hired to kill him. He later managed to locate the person and convince him not to execute the order. But even after succeeding with stopping this hitman, Leo knew someone else could be hired again to assassinate him. As a result of this, Leo remains in hiding.

**“I don’t stay in one place for long. I make sure my movements are unpredictable so no one can track me,” reports Leo.**

Moving around from place to place is one of the survival strategies that activists have adopted in an effort to protect themselves from being killed. Steven was forced to leave his wife and two kids in his village and has gone to live in another province after receiving numerous death threats, including being sent pictures of guns and corpses. He also reports not being able to go back to his village for more than three days at a time fearing he may be attacked whilst there.

## Analysis

The struggle for marginalised persons, including the struggle for equality, opportunity and freedom from poverty is political. This political complexion is prominent in the activism of community activists. The centrality of politics for community activism may be traced to the political roots of their present living conditions and the reasons for their activism.

The architecture of colonialism and apartheid was to ensure Black people lived in unproductive and cast-off areas that were not contrived for a thriving human being.<sup>74</sup> This was not only achieved through racial segregation of residential areas but equally through dispossession of prime land, under-resourcing of schools, limited access to work opportunities and many other hardships.<sup>75</sup> The 1994-to-date government has largely left these egregious conditions unchanged, thereby sparking fierce resistance from Black communities and community activists.

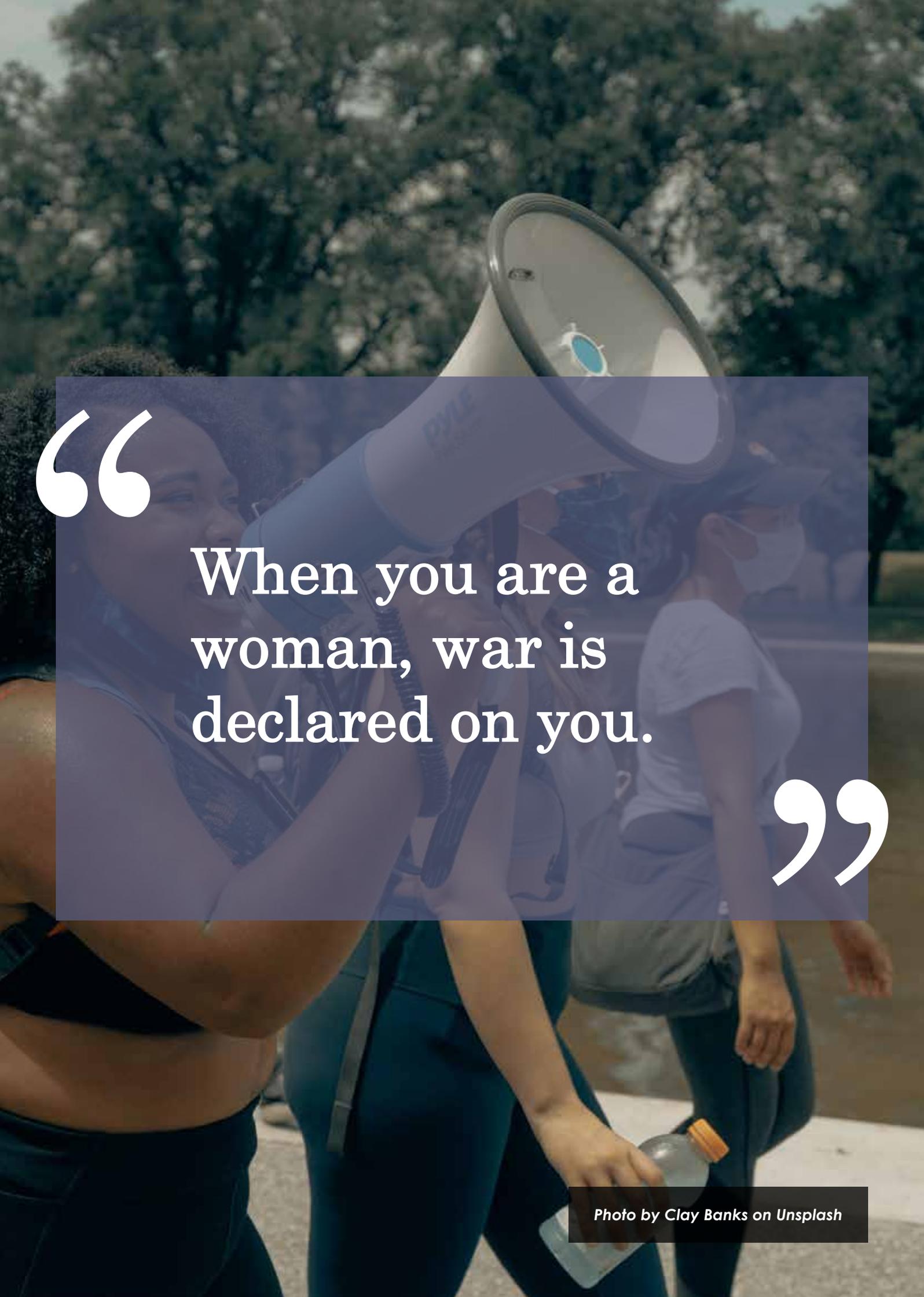
The victimisation of community activists is also made political. In victimising community activists, the focus often shifts from the demands of the activists to which political party or affiliation such demands come from. This undermines community activists’ efforts to be heard. Furthermore, their political affiliations also make them targets for victimisation such as being repeatedly picked up by police and held in police vans or at police stations without cause. One of the interviewed activists reported feeling more protected from victimisation when she was part of a particular political party than when she left to join a new social movement.

The politically-charged victimisation of community activists also involves violence which can turn deadly. Community activists seek accountability from officials within local government, which in turn, makes them targets particularly if they belong to a political party or movement that is not the same as the governing party in the area. Community activists are also often discredited if they belong to a minority party in their region. This is despite the fact that all people have the right to hold public officials accountable.

Many of the community activists we interviewed were also previously actively involved in a political party or have contested local elections as independent candidates. An expression of dissent may then be viewed as a move to remove or undermine a particular person or political party that is in power. This can have deadly consequences for activists. Many reported being threatened by local officials and then facing serious death threats that forced them into hiding.

The repeated arrest of activists has also been used to curtail their activism. Some of the community activists we interviewed reported not being able to contest for the position of ward councillor due to pending protest cases against them. Having to frequently attend court proceedings also impacts human rights defenders' ability to keep their jobs or seek employment. The frequent arrests of activists also has gendered impacts. An activist interviewed reported how she was unlawfully arrested a few times while she was pregnant which took a toll on her physical and mental well-being. She also reported that one of the instances in which she was arrested in the early hours of the morning, she had to leave her new born baby behind with no one else to look after them.

In summary, the heightened risk of being killed, intimidated, forced into hiding and unlawfully arrested is a victimisation feature that is evident for both environmental and community activists. Community activists, however, additionally face adversity from local elites who wield considerable power. Community activists work in the intimate spaces of their communities where they are likely to be known and therefore more easily targeted. The effects of victimisation therefore affect even the mundane parts of their everyday lives, posing a risk both to their personal safety and to their passion to continue the fight for their communities.

A photograph of a woman in a black tank top and dark pants, holding a large white megaphone. She is looking to her right. In the background, other people are visible, some wearing face masks and carrying bags. The scene appears to be an outdoor protest or rally with trees in the distance. A semi-transparent purple rectangle is overlaid on the image, containing the quote.

“

When you are a  
woman, war is  
declared on you.

”

# Gender Justice Activists

Gender justice activism in South Africa takes many forms, including gender equity organising, feminist mobilisation, advocacy against gender-based violence and LGBTQIA+ rights activism, amongst others. Gender justice activists lead the fight for the recognition of the rights of women and LGBTQIA+ members. Across sub-Saharan Africa, countless courageous gender justice activists openly oppose oppression and persecution based on sexual orientation and gender identity, despite this activism carrying significant risk to their lives and livelihoods.<sup>76</sup>

According to Statistics South Africa, a woman is murdered every three hours in South Africa and many are assaulted and raped before their death.<sup>77</sup> Gender-based violence is therefore one of the most pressing and persisting issues in the country. It exposes what in essence is a decaying society. Having declared gender-based violence and femicide a national crisis, the government's National Strategic Plan acknowledges that gender-based violence is caused by 'widespread gender inequality and is rooted in patriarchal gender customs'.<sup>78</sup> Furthermore, the prevalence of rape culture in South Africa is supported by a complex system of gender stereotyping, patriarchy, toxic masculinity, misogyny, violence and abuse of power.<sup>79</sup> The impact is far-reaching. There is, for example, a significant psycho-social impact on survivors, their families, communities and society as a whole.<sup>80</sup> This impact is further exacerbated for members of the LGBTQIA+ community.

Many activists working on gender justice related issues were accordingly unsurprised by the significant increase in incidences of violence against women under the hard lockdown during the COVID-19 pandemic.<sup>81</sup> The reality is that women have always lived in fear. Women are afraid of being at home, of walking in their community, of exercising alone, taking public transportation, expressing their opinions on social media and opposing injustices in schools, places of worship, and workplaces. Simply put, women live in fear. Even if they are not facing imminent danger, a significant amount of women's lives are dedicating to avoiding violence. Women often carefully consider daily activities such as walking or using public transportation, because each of these seemingly mundane activities can endanger their lives.

The targeting of queer persons and queer rights activists is also widespread in South Africa, even though the country was the first in Africa, and fifth in the world, to legalise same-sex marriage.<sup>82</sup> According to a 2017 survey conducted by the Centre of Risk Analysis at the South African Institute for Race Relations, four in ten LGBTQIA+ people in South Africa knew of someone who had been murdered because of their sexuality.<sup>83</sup> Hatred and intolerance towards members of the LGBTQIA+ community has resulted in hate crimes such as homophobic rape, transphobic rape, and the killing of queer persons because of their sexual orientation, gender identities, gender non-binary views and politics.<sup>84</sup> Activists who speak out against such violence and homophobia are also increasingly victimised for their work. The findings below detail the experiences of victimisation of these activists as well as women's rights activists.

Activists who advance gender justice face many forms of victimisation. These include discrediting, insults and humiliation. Mary, for instance, assists families in her community in the Western Cape to address domestic violence. She is, however, often labelled as a troublemaker and is accused of interfering in 'private affairs' when she assists survivors escape their abusers.

Kgomotso is a queer-rights activist. As a queer person herself, she also expresses experiencing many instances of harassment, discrediting and insults. One example is from 2019 at a protest organised after the murder of Uyinene Mrwetyana. Although there were many people protesting, young male students started hurling insults at her. They body-shamed her and said she had AIDS and STIs and that she would infect the people around her.

Gender justice activists not only experience this form of victimisation in person but they are also cyberbullied on social media. A lot of the advocacy work done by gender justice activists is disseminated through media and social media. This strategy increased in popularity during the COVID-19 pandemic when in-person demonstrations such as protests were banned. Unfortunately, the increased use of social media also fueled an increase in incidences of cyberbullying. The body-shaming, insults and harassment experienced by Kgomotso were not only in person but on social media as well. Online, Kgomotso was repeatedly insulted for being queer.

Linda is a gender justice activist at her university. After speaking out to a few people about being raped by a fellow comrade, Linda was targeted by supporters of the perpetrator on Facebook. People sent her hateful messages, called her a liar and demanded a case number from her. Linda eventually had to delete her Facebook account and became too scared to pursue the matter further.

**“If the few people [who knew about the rape] attacked me so much, how much more will the media?” she asks.**

Victimisation occurs both to gender justice activists who publicly name perpetrators as well as those who do not.<sup>85</sup> Merely speaking about the acts of violence that were committed against survivors sparks patriarchal and sexist responses of disbelieving and intimidating survivors into silence. Survivors who do name their perpetrators also report having had legal action brought against them. Interviewed activists reported that this comes in the form of protection orders or defamation suits where the survivor is sued for millions and is ordered to retract their statement. In other cases, interdicts are used where the survivor is prohibited from saying anything further about the assault.

Living in a patriarchal society makes the work of gender justice activists more difficult. Victimisation here does not only come from a singular identified source, but it also comes from other activists too. Many of the interviewed activists reported feeling confused, angry and betrayed when victimised by other activists. For example, the discrediting and name-calling experienced by Sebatatso was at the hands of her fellow community members and activists. And, when Linda opened up about being raped by a member of the student movement she was part of, she was discredited by other members of the movement. Even when she tried to raise awareness about these issues, many of her fellow comrades began harassing and threatening her to retract her statements.

Even organisations that purport to protect the rights of queer persons have been accused of victimising queer activists. In one particular instance, Nkosi was told by her boss that just because she is queer, it does not mean she can do whatever she wants. She reports that most of the humiliating comments she faced were made by fellow staff members, indicating that the ignorance and malice towards queer persons and queer activists is deeply rooted.

Lastly, gender justice activists find themselves having to fight both for the causes they champion and for their place in the world as activists. The attack on women and queer gender justice activists is therefore double-barrelled, driven by the fact that they are women or queer persons and that they dare to be activists.

## Analysis

Gender justice activists work in a patriarchal society that enables toxic masculinities, rape culture and other cultural and social norms that are harmful to women and members of the LGBTQIA+ community. And so, as these activists strive to raise awareness on gendered issues and gender oppression, they are silenced and victimised by the same norms they seek to challenge and change. Patriarchy and homophobia dictate that women and queer gender justice activists should not be vocal about gender justice because 'how dare a woman or a queer person challenge the status quo?'

Many gender justice activists are survivors of gender-based violence. Many still are members of the LGBTQIA+ community and have experienced hate speech, hate crimes and general homophobia. This has meant that these gender justice activists often have to be brave enough to speak out in the face of their personal experiences and conjure up enough power to advocate for the rights of others too, despite fierce resistance from society. In daring to speak truth to power, these gender justice activists are not only shamed for their personal experiences of violence and subjugation, but they are also victimised for taking a stance in demanding change.

Of all the categories of activists documented in this report, gender justice activists experienced higher incidences of cyberbullying. In 2017, using the caption #MeToo, hundreds of women across the globe spoke out about their experience of sexual violence.<sup>86</sup> This, however, also resulted in many women being silenced through defamation suits, intimidation and being forced to retract their statements.<sup>87</sup>

“

People are selective [about] the lives that they want to advocate for, like male and heterosexual. That is our problem. People are speaking liberation but only want it for themselves and not for people who live different lives from them. They always have misplaced preferences.

Even the brightest minds are homophobic but claim to understand race politics. They oppress other people because they do not think like them. That is one of the greatest forces of victimisation. It is the most progressive people that oppress queer bodies as they claim to not understand gendered issues. These people drive anti-queer and anti-women politics.

”

In 2018, following the death of Uyinene Mrwetyana, the caption #AmINext was used by gender justice activists to demand the end to violence against women. Again in 2019, social media was instrumental in building momentum for the #totalshutdown movement where gender justice activists marched to Union Buildings to demand the end of gendered violence in South Africa.

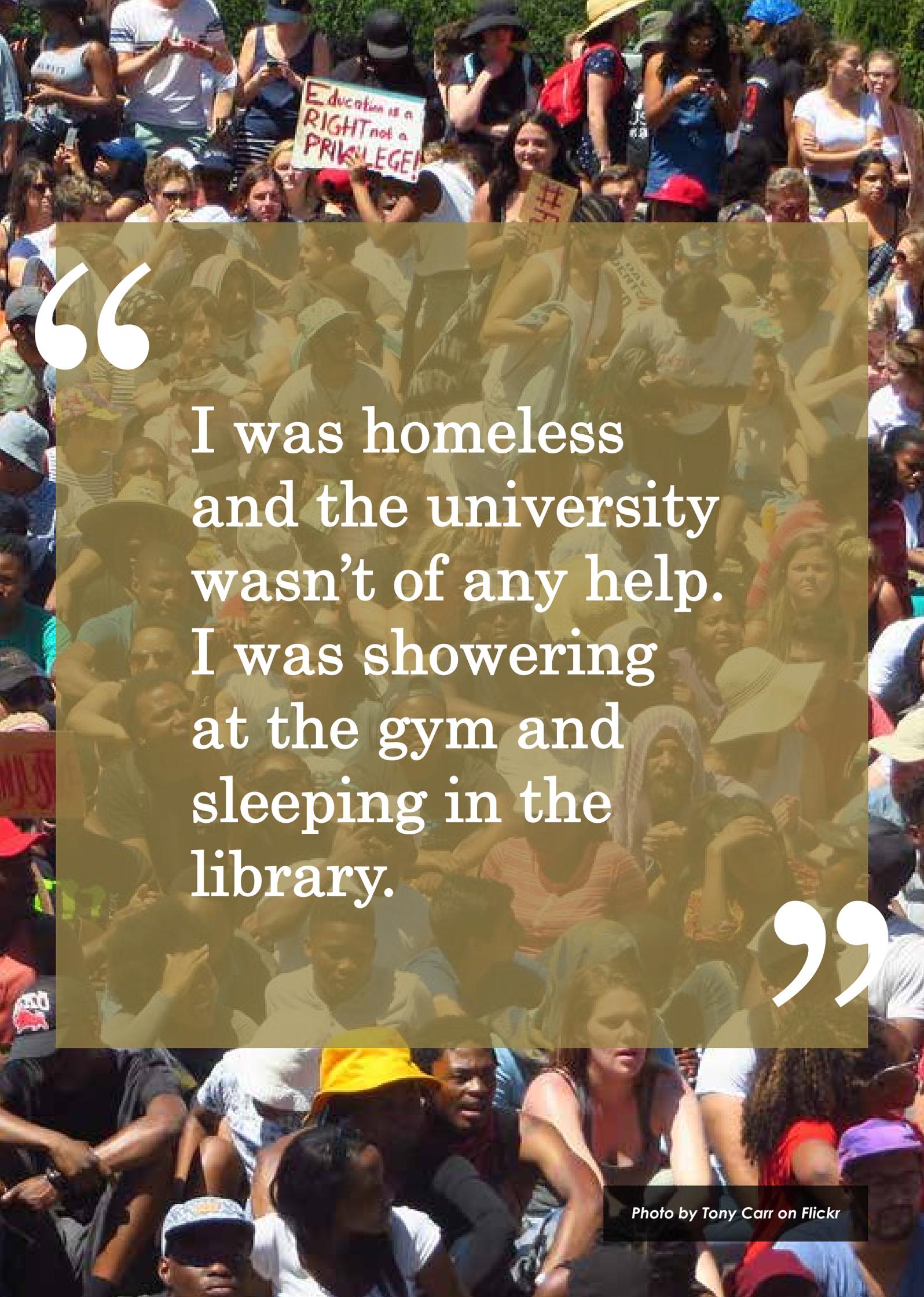
Although social media has proven to be a powerful tool for gender justice activists to run campaigns and raise awareness about gendered issues, it is also where they are often met with push back. Many of the gender justice activists who led these movements also experienced cyberbullying and harassment. Gender justice activists find themselves being ridiculed, called names, sworn at, harassed and threatened both in-person and on social media. Queer activists advocating for gender justice also reported being called names, threatened and harassed both for being queer and for advocating for queer rights.

Gender justice activists generally feel that nothing is ever done to change the situation of their victimisation. As survivors and activists, they face stigmatisation, harassment, victim-blaming and isolation from their communities. Gender justice activists who publicly name perpetrators are additionally confronted with legal action such as defamation suits and protection orders.

**“For gender justice activists, the perpetrators of victimisation are everyone.”**

Unlike environmental and community activists where blame can be attributed to a single identifiable entity, this is not the case with the victimisation of gender activists. State actors (including the police), private persons and entities such as family members, friends, community members, other activists and businesses may all be responsible for victimisation, states Kuhle. And, the victimisation of gender justice activists perpetuates the very issues that gender justice activists seek to address.

We must also grapple with how our society's systematic issues, including misconceived ideas, norms, culture and practices lead to gendered oppression that is also prevalent within the activism field. The expectation is that activists would share similar goals and values of dismantling oppressive structures of power to create a truly free and equal society for all people. Instead, those who should know better, do not necessarily do better. It seems the prejudices perpetuated by society do not escape even those who profess to be more socially conscious and the tentacles of patriarchy and homophobia still reach activist spaces.



Education is a  
RIGHT not a  
PRIVILEGE!

#LIFE

“

I was homeless  
and the university  
wasn't of any help.  
I was showering  
at the gym and  
sleeping in the  
library.

”

# Student Activists

One of the most traumatic times for student activists in South Africa since 1976 was, arguably, what culminated into the 2015/2016 #FeesMustFall protests. After many years of student oppression through financial exclusion, epistemic marginalisation, racism, sexism, classism and gender-based violence in South African institutions of higher education, there was finally a tipping point.

Prior to 2015, most of the sporadic protests occurred in historically Black institutions. These protests were linked to the dissatisfaction with the marginalisation and exclusion of students in these institutions. While attention was barely paid to the protest action of students in historically Black universities, the 2015/2016 #FeesMustFall protests in the historically White universities drew national and international attention and empathy.

It is difficult to think of the #FeesMustFall movement without thinking about British colonialism and the schooling system in South Africa.<sup>88</sup> During British colonisation, the schooling system distinguished between the enslaved children's education and that of the master.<sup>89</sup> The enslaved children were schooled in a manner that would socialise them to enslavement whilst the master's children were schooled in a manner that would prepare them to be oppressors.<sup>90</sup> The impact of these differences is still rife in the university system. This is because the historically White universities enjoy a more functional schooling system with infrastructure and efficient administration while historically Black universities struggle with resource allocations and insufficient infrastructure which has, in turn, caused much frustration within these universities.

Institutions of higher learning were established as an extension of this British colonial education. During apartheid, the Extension of Universities Act of 1959 entrenched this system by providing for segregated universities based on race, namely, Black, White, Indian and Coloured.<sup>91</sup> Today, historically White universities continue to enjoy privileges such as higher international rankings and better university facilities, all of which are legacies of colonial-apartheid systems. These nuances fuelled the call by #FeesMustFall for a total decolonisation of the universities.

The call for the decolonisation of universities is a reaction of the colonised people, in this instance students.<sup>92</sup> The reaction is as a result of the frustration and alienation that coloniality through education has caused them. Colonised education has stripped them of everything that resembles themselves including their culture, language and manner of socialisation. Through this, colonial education entrenched itself within sexism, homophobia, classism, racism and patriarchy, amongst others.<sup>93</sup> To decolonise was then to undo the alienation caused by these systems through colonial education.<sup>94</sup>

Some of the main goals of the #FeesMustFall movement included undoing the legacy of colonialism and apartheid in the higher education system, free education, the ending of rape culture on campus, the transformation or decolonisation of universities, and ending the outsourcing of security guards and general workers.<sup>95</sup>

Though it can be argued that the reasons for the protests in historically White institutions were vastly different from those in historically Black universities, there is a striking similarity that cannot be ignored. Students in historically White universities were fighting against institutionalised racism and language policies, while students in the historically Black universities were fighting for the overall functioning of severely under-resourced universities. Both resulted from colonialism.<sup>96</sup>

#FeesMustFall also ushered in other movements that protested against systemic issues in universities. These included the #RhodesMustFall, #AfrikaansMustFall and #Asinamali movements which focused on issues of decolonisation and classism that are entrenched in universities' policies and practices. These movements also had a gendered aspect. Universities were called out for their failure to implement progressive sexual offence policies and turning a blind eye to rape and rape culture on campuses.

After the #FeesMustFall protests, then-President Jacob Zuma announced that government would subsidise free higher education for poor and working-class students.<sup>97</sup> The government also announced a zero-percentage fee increment for 2016. In addition, there has been a wave of language policy changes in historically White universities that has been progressive.<sup>98</sup>

Yet, despite the achievements pioneered by #FeesMustFall and the many legitimate reasons that gave rise to the student protests, the state and universities retaliated against students by using excessive force and violence.<sup>99</sup> Not only was there physical violence meted against students at the hands of police and armed private securities, but there were also instances of targeting and punishing of students.<sup>100</sup> Students have since reported experiencing trauma and other mental health challenges that emanated from participating in the #FeesMustFall protests. Below are the experiences of the student activists we interviewed.

## Findings

One of the most permanent ways in which universities effected the victimisation of student activists was by taking away their ability to complete their degrees. This was done through refusing students from entering campus or using university property, including property essential for students' ability to successfully complete their degrees. Universities prohibited many student activists from using university property which included libraries, computer labs, science labs, and research labs, amongst others. This fundamentally disrupted the ability of students to obtain their education and satisfactorily complete their academic year.

Many of the victimised student activists failed their academic years or never obtained their degrees. Others never returned to their universities and those who returned continued to experience harassment and threats by staff members.

Donald is from Soweto and lived in a university residence 80km away. He is also the first in his family to go to university. Following his participation in the 2016 protests, Donald was prohibited from entering the campus (including attending classes that are necessary to write exams) and was forced to vacate the university residence. This, as imagined, affected Donald's academics. After negotiating with the university, Donald was eventually accommodated 10 km away from campus. Donald reported that this too was meant to isolate him from the rest of the student body to affect his role in organising. Similarly, Thuto failed his academic year in 2016 following being suspended from university for his role in the protest action.

“From 2016 to 2018 I was not allowed at [the university] and I was not allowed to pursue my post-graduate education. It was only in 2018, two years later that I could return to the university,” recalls Thuto.

Richard and Lerato were also suspended and subsequently expelled from university for their role in the #FeesMustFall protests. The interviewed students who were suspended were also unable to apply at other universities in the country due to the hold on their academic records.

Student activists also reported being targeted by university management. During the time of unrest, Tim would be singled out and threatened whenever he would interact with senior university staff. Even students who had already served their suspension period reported being harassed and intimidated when trying to re-enter the university. Sebata recalls how he struggled to have the legal hold on his academic record removed after he had completed his suspension period. When seeking assistance from the registrar, he was insulted and intimidated, making it clear that he is unwanted by the university. This targeting did not only extend to students, but many of the lecturers who offered support and stood in solidarity with students were ostracised for it, resulting in many leaving these institutions post the uprisings.

The police and private security were also central in meting out violence against students. They continually used excessive force against protesting students. The mass arrests of students, the use of tear gas and rubber bullets on protesting students, and the harassment and assault of student protesters all marked the interaction of police with student activists. In one instance, during a #Asinamali protest, a bystander was shot dead by police.

Many of the arrested students were also charged with public violence, malicious damage to property, incitement to commit violence, amongst others. And, although for most students these charges were later dropped, their arresting and

charging was used by universities to justify instituting disciplinary proceedings against them. Furthermore, despite the charges later being withdrawn, the physical and psychological impact of being repeatedly arrested, assaulted by police and kept in holding cells cannot be erased by the withdrawal.

Finally, many more students who were not directly arrested by police or suspended by the university, still expressed being traumatised by what transpired in the series of student protests. Whether it was fleeing from being tear-gassed at a protest, watching their fellow classmates being assaulted or arrested by police or even coming to terms with how students were being treated by those who are supposed to act in their best interests, the memory and trauma of the reprisals against students for expressing dissent still haunts them.

## Analysis

Opinions differ on whether the 2015/2016 and (sometimes yearly) protests since have been successful in dismantling at least some parts of the colonial and patriarchal systems that have informed the functioning and corporatisation of higher education institutions.<sup>101</sup> Nevertheless, whatever the wins or losses, a great price was paid by many students who experienced intense victimisation at the hands of these institutions. Many are still suffering from victimisation and the effects of the victimisation, seven years after #FeesMustFall.

The suspension of student activists involved in the protest has led to many of them being unable to finish their degrees at the institutions in which they were originally enrolled. Although some students were allowed to return to university after a certain amount of time, for many their suspension had permanent consequences. For instance, there were financial implications that hindered the return of suspended students. Some lost their bursaries, while others lost their university residential accommodation. Others had to leave the city where the university is situated and move back home, often many kilometres away, and presenting prohibitive transport costs.

The students who were able to return to the university also had difficulty reintegrating. Here, relational constraints are evident where students anticipate being re-victimised by the university and the university distrusts the returning student. This strained relationship between universities and students stands in sharp contrast to the picture of a lifelong partnership and 'belonging' of students often depicted by universities. The suspensions, therefore, no matter how temporary they were meant to be, caused irreparable harm in the lives and future careers of students.

The student protests were also marred with violence and the use of excessive force by the police. These acts of violence by police highlight again a deep misunderstanding of the role of law enforcement in the policing of protests. It also brings to the fore once more how impoverished Black people are often treated by police.<sup>102</sup> This lack of care or respect for a Black body can also be seen in how police would tear gas peaceful protesters, drag protesters on the street floor and attack students who were peacefully protesting.<sup>103</sup>

Many of the students interviewed were also the first generation in their families to go to university. Their suspension or expulsion therefore not only impacted their lives and career trajectory, but it also had an enormous impact on their families' quest for a better life through their university education.

The victimisation of student activists at the hands of those who are supposed to support and protect them demonstrates the brutality of victimisation. It can be argued that the disproportionate and forceful response of universities was to end the 'disruptions' to university activities and to punish student activists for causing the disruptions. Instead of addressing the issues raised by students and exploring less violent and punitive ways of addressing activists, the position taken by those in authority, including government, was a strong-armed approach revealing an intolerance to activism.

It is incumbent on institutions of higher education, the government and the private sector, where applicable, to foster dialogue with students on the structural issues plaguing universities. Responding to these issues can result in tangible, implementable and measurable solutions that do not include victimisation. Government and higher education entities must find strategies and solutions for managing student activism that are not repressive or combative but that can be conducive to the constitutional principles of participatory democracy, transparency and accountability.

A silhouette of a person blowing a whistle against a blue sky with white clouds. The person's hair is blowing in the wind. A dark blue semi-transparent rectangle is overlaid on the image, containing the quote and a large white opening quotation mark on the left and a large white closing quotation mark on the right.

“

In South Africa,  
when you blow  
the whistle, you  
get fired or you  
get killed.

”

# Whistleblowers

South Africa finds itself in a conundrum. On the one hand, South Africa has a corruption crisis both in its public and private sector. On the other hand, those who seek to root out such corruption and irregularities face threats to their lives and livelihoods. In 2018, the Judicial Commission of Inquiry into Allegations of State Capture (the Commission) was established to investigate allegations of state capture and fraud within organs of state and the public sector. Over a period of four years, the Commission has exposed the extent of state capture and corruption in South Africa.<sup>104</sup>

Although the Commission has revealed deeply rooted corruption in both the public and private sectors, this process has done very little for those who have come forward to expose corruption.<sup>105</sup> As a result, whistleblowers remain at risk and continue to be targeted. The most recent example of the severe consequences of speaking out has been the murder of whistle blower Babita Deokaran, a key witness in the fraud related to R300 million in personal protective equipment purchased by the Gauteng Department of Health.<sup>106</sup>

Life is never quite the same for those who make it out alive after whistleblowing. Whistleblowers are often ostracized, intimidated and even fired from their workplaces. Many are forced to flee their homes to secure their safety, which includes fleeing to neighbouring countries. For instance, Atholl Williams is currently exiled from South Africa for whistleblowing. As a former employee of Bain & Company, Williams provided crucial information to the State Capture Commission on the role of Bain & Company in capturing the State.<sup>107</sup>

Whistleblowing not only threatens the physical security of a person, but it also brings about adverse financial consequences. There are many instances of long and unpaid suspension of those who report corruption and other unethical behaviour, such as the case of a whistleblower who exposed alleged corruption in the Department of Justice in 2003.<sup>108</sup> As a result of his reporting, he, instead of the reported person, was suspended pending an investigation into the matter.<sup>109</sup> This, of course, negatively impacted his financial wellbeing and ability to provide for his family.<sup>110</sup>

Whistleblowing also has an impact on the emotional and psychological wellbeing of the individual. Employers often use their power to discredit, frustrate, and dismiss whistleblowers, making it even more difficult for people to come forward with information. The GIBS Ethics Barometers report found that only 30% of those who had witnessed some form of misconduct indicated that they would report it.<sup>111</sup> The two main reasons for not reporting were fear of victimisation in the workplace and that the company would in any case not act.<sup>112</sup>

Whistleblowing has very serious repercussions for whistleblowers despite there being numerous pieces of legislation that aim to protect them. The Labour Relations Act 66 of 1995, Companies Act 71 of 2008 and the Protected Disclosures Act 26 of 2000 (PDA) – commonly known as the “Whistleblowing Act” – are all designed to provide protection for whistleblowers and whistleblowing. Yet, despite these, whistleblowers face increased victimisation in their workplace and communities. Legislation such as the Protection Against Harassment Act 17 of 2011, for instance, makes provision for whistleblowers to obtain a protection order against those harassing them but it cannot ensure the physical security of those who make disclosures.<sup>113</sup>

The intimidation and killings of whistleblowers continues unabated. In 2009, for example, a whistleblower who is believed to be connected to the uncovering of corruption in a municipality in North West was assassinated in his car.<sup>114</sup> The threats to the lives of even high-profile whistleblowers, such as the Commission witnesses, have also brought into sharp focus the long-standing inefficiency of the state in protecting whistleblowers.<sup>115</sup>

Despite the critical role played by whistleblowers in exposing corruption and demanding accountability, whistleblowers are often excluded from conversation on protecting activists and ending activist victimisation. It is therefore vital that the victimisation of whistleblowers-insider activists- is also analysed in this report. This is to give recognition to the critical role played by whistleblowers in rooting out corruption in the public and private sector and in further demanding accountability and justice. By shedding light on the struggles of whistleblowers, which are both similar to other activists and unique to their circumstances, it is hoped that this report will draw activists and whistleblowers closer to collectively championing the end of repression.

## Findings

All the whistleblowers interviewed for the purposes of this report revealed repeated harassment and then dismissal from their workplaces, both within the private and public sectors. Marsha, a former government employee, appointed to head the investigations department of the entity she worked for, was suspended and dismissed for reporting cases related to fraud, including procurement fraud, and corruption charges implicating executives in the entity. She was also targeted for reporting misrepresented financial statements and internal audit reports.

Alicia, who was employed in the private sector, was similarly promptly dismissed despite following correct whistleblowing channels as per the company policy. She reported theft and unethical behaviour by her manager and the director and was soon suspended and dismissed because of this.

Mthethi, a chartered accountant at a multinational corporation, also narrated how he was dismissed after raising concern on a sudden change in the company's financial reporting system that had the effect of overinflating the company's financial reporting by 80%– a difference in the balance sheet of almost a billion dollars. Mthethi raised these irregularities with the Chief Financial Officer who retaliated by sending him a suspension letter, eventually leading to his dismissal.

The victimisation experiences of whistleblowers is slightly different to those experienced by other fields of activists. Whistleblowers conduct their activism work within their place of employment. For this, they are victimised through harassment, intimidation and threats which often culminate in their dismissal.

This dismissal in turn directly affects their livelihoods as they are soon suspended and/or dismissed. Victimization for whistleblowers leads to the loss of their jobs and therefore loss of their houses, cars and income necessary to sustain themselves and their families. This also puts severe strain to familial relationships including marriages and partnerships.

Sinovuyo, employed at a public entity was charged with misconduct and suspended after stopping the procurement of an underqualified and overcharging contractor.

Soon after whistleblowing, Noma was charged with misconduct and insubordination. She was promptly suspended and security was sent to escort her off the premises. She believes that as a head of a department, this was done not only to humiliate her but to also send out a warning to others of the consequences of whistleblowing. After her suspension, she also received numerous threatening letters from the Chief Executive Officer demanding that she refrain from speaking to the media about the allegations.

Portia lodged a complaint in which she reported irregularities in her workplace with the understanding that her complaint would remain anonymous. However, soon after, she was instructed to sign documentation that revealed her identity in the complaint. These documents were then leaked by Human Resources to the director whom she had reported. Portia also reports how she was consequently bullied at work. Eventually, in efforts to secure her dismissal, her manager, who sided with the implicated director, began frequently changing her job descriptions in order to negatively affect her performance review and thus justify her dismissal.

Litha was targeted by the company's Chief Financial Officer and Chief Executive Officer after whistleblowing on irregularities implicating them. The Chief Financial Officer personally chaired Litha's disciplinary hearing and made sure there was a finding of dismissal against him. In addition, the Chief Financial Officer systematically ensured that all people who could support Litha's finding were also dismissed from the company.

Thato similarly reported experiencing bullying and harassment. She was being unduly influenced by the board of directors to grant a tender to a company without following due diligence processes. This would have cost the public entity over R300 million. Her refusal to do this led to her being charged and suspended. Thato refused to cover up the irregularities and corruption and was threatened until she was eventually dismissed.

## Analysis

Perhaps the most overlooked form of activism is whistleblowing. Insider-activists against corruption were mostly underrepresented, unprotected and ignored until the Commission thrust their work into the spotlight. Whistleblowing is an important form of activism that guards against an erosion of society by corruption, corporate capture, irregularities and other unlawful conduct. Fortunately, widespread conversations have begun, including with the South African Human Rights Commission, on how to better protect whistleblowers.

Harassment in the workplace and loss of employment is not the only form of victimisation faced by whistle blowers. As noted above, some are forced into hiding after receiving death threats and other are assassinated.<sup>116</sup> The killing of whistleblowers, like the killing of other sectors of activists requires immediate attention.

Interviewed whistleblowers reported that the biggest form of support they need is financial. They argue that more can be done to financially support whistleblowers through legal mechanisms such as prohibiting the dismissal of a person for whistleblowing and the payment of financial reparations to employees who have lost their jobs due to victimisation from whistleblowing.

The Commission has recommended the establishment of an agency to handle all matters related to whistleblowing, and that whistleblowers be granted criminal and civil immunity to encourage individuals to step forward to report fraud and corruption.<sup>117</sup> In a time of increasing corruption, corporate capture and other unlawful acts by both public and private actors, the importance of whistleblowers has to be amplified.



“

I cover my tracks  
and watch my back.  
I don't know when  
they will hit. You  
just always have  
to be careful.

”

# Impacts of Victimisation

Victimisation adversely impacts the lives and livelihoods of activists. Its consequences impact activists not only in the time in which they are actively dissenting but quite often for many years after. Many student activists, for instance, were suspended or expelled from university for partaking in the 2015/2016 #FeesMustFall protests and were thus never able to complete their qualifications. Other activists find it difficult to secure a job as they have been discredited and therefore no one wants to employ them.

Activist victimisation also has the effect of demobilising communities. Some of the activists we interviewed who had been repeatedly victimised through police harassment and imprisonment stated that they no longer want to be involved in activism. Another activist who was forced into hiding reported that since he left his community, people have not been as active with raising community concerns as before. "It's as if people are scared since they saw what happened to me. So, every now and then when I go home, I remind them that they must still stand up for the cause," says Mothusi.

What is usually not discussed is the psychological impact victimisation has on activists. In providing support to activists, their need for emotional and psychological support is often overlooked. When asked about the impact of victimisation on their overall well-being, many activists admitted to suffering from depression, anxiety, insomnia, post-traumatic stress disorder (PTSD), hallucinations and flashbacks. One activist told us that he does not talk about what he has been through. "It's too painful to talk about it so I just keep it locked inside. But when somebody asks me about it, when I get a chance to express how I feel, I realise I am still hurting," recalls Themba.

Another activist mentioned that he is still traumatised from getting pictures of corpses on his phone. Xolile was heavily pregnant when she had to repeatedly attend court hearings for a matter that was instituted against her and fellow comrades for peacefully protesting within their community. This took a strain on Xolile's physical, emotional and mental wellbeing.

Activists are usually drawn into activism because of experiencing some form of injustice. The injustice itself has traumatic effects on the mental and emotional wellbeing of the activist. This adverse impact is then escalated by the re-traumatisation of activists through victimisation for speaking up against injustice. For example, Andile lives in an informal settlement in Gauteng and has been fighting for years for the efficient provision of services, including housing, water, electricity and sanitation, by the state in his community. On top of the injustices of living in poverty, Andile is also subjected to police brutality during protests and is often arrested even when he is not involved in resistance efforts. Andile not only faces

the daily trauma of being Black and poor in South Africa, but he is also additionally targeted for speaking up against this injustice.

The mental and emotional impact of victimisation affect both activists and their families. One activist reported that every time his child heard police sirens passing, they would have a panic attack due to continually witnessing the police harassing him. Another activist recalls how his children never wanted to be away from him. Whenever he leaves the house, his children would cry, worried that they would never see him again.

**“I didn’t realise my kids were this traumatised. I didn’t realise we were all not okay,” recalls Ethan.**

Another activist's four-year-old daughter saw him get arrested by police and further saw the injuries he had because of being tortured by police. This made his daughter hate the police and continue to be hateful towards them whenever she saw them.

Activist victimisation also impacts family relationships. Many of the activists who are forced into hiding are separated from their families for many months at a time. Visiting their families also has to happen undercover and with the constant need to watch their backs and cover their tracks. Some activists' families may support the causes which the activist champions, but they continually warn the activist to leave activism due to the imminent dangers associated with it.

Other activists have reported that victimisation has split or caused a rift between their families. Thabo, for instance, reported that his refusal to leave activism has caused his family to distance themselves from him. Lerato on the other hand no longer gets to live with his wife and children due to being in forced hiding. The impact of victimisation on family relationships is also intensified for women. A few months after Xolile had given birth to her child, she was again taken away by police. She has spent days in police holding cells and months in prison awaiting trial away from her newborn baby.

The victimisation of activists also takes a toll on the relationships of activists with their communities, friends and even fellow comrades. Many of the activists interviewed reported feeling isolated from their communities due to victimisation. Isolation from one's community creates a sense of loneliness in the struggle for justice, which in turn also has emotional and mental consequences for activists. Friends no longer want to associate with them and other community members are reluctant to be seen with 'troublemakers'. An activist, for example, stated that many people in his community are unemployed and as a result, they would rather not associate with him as he has been discredited and being seen with him would impact their chances of getting jobs.

Another issue to confront is how activists also feel victimised by other activists. Women and queer activists particularly responded that they were victimised by other activists. One queer activist reported to feeling humiliated by fellow activists who made derogatory comments about queer people. Many interviewed gender justice activists especially reported that there were people within the activism space who were perpetrators and apologists for toxic masculinity. Women activists also felt that they were being frequently undermined by other activists.

Student activists also expressed the same views. Many reported that fellow comrades would treat women as subordinate. "I was told to let the men lead," said a student activist. Another activist reported being sexually violated by a fellow member of the movement, stating that:

“It was my fellow activist who was groping me and making sexual advances when I was in need of a place to stay. And as I was sleeping, he was groping and touching me inappropriate[ly]... He was part of the movement and part of violent masculinity... He had very little patience for women or queer bodies.”

Victimisation at the hands of those who are supposed to share the same vision is perhaps even more difficult to come to terms with than victimisation at the hands of a common oppressive system, person or entity. Interviewed activists expressed repeatedly that this is a form of betrayal which leads to a mistrust of fellow comrades. Yet, despite the intense victimisation and the complexities of the impact of the victimisation, a majority of the activists we interviewed remain resolute in their fight for change in South Africa.

“

Activism is a school. You learn and unlearn things. It forever evolves. I have grown through activism. I have learnt and unlearnt many things. Sometimes you are tired. Other times you have the strength to push, other times you feel pessimistic. Sometimes you feel change is inevitable.

It's taxing. You have to play politics, you have to be responsible for your politics. In a political party, your politics are fixed, but in activism you generate your own politics, you have to figure it out. It generates more questions than answers. It is very taxing.

”

# Resisting Victimisation

One of the aims of this report is to provide a platform for activists to share and exchange tactics and strategies they have used to evade, ameliorate or stop victimisation. Some of the tactics that activists have adopted to resist repression include the following:

- Changing cellphone numbers frequently to avoid receiving threatening phone calls and messages, being traced or digitally surveilled;
- Changing where they live frequently, if there is impending danger, to avoid being tracked down and to remain in hiding;
- Using safe houses for activists whose personal safety is under threat;
- Having allies within their communities who can warn them of imminent danger, for instance activists reported having community members who alert them if they are on a hit list or if there are rumours of an imminent attack against them;
- Knowing where and when the hotspots for attacks are as certain areas or times may be unsafe for activists. For example, during local election season, community activists may be at an increased risk of attack and may need to take extra precautionary measures;
- Partnering with well-known social movements who may increase the number of activists attending demonstrations or other activities marking dissent. For example, working with national networks or movements may assist in increasing the numbers of people protesting which makes it more difficult for perpetrators to target individuals;
- Working closer with larger organisations and NGOs who may be able to provide immediate assistance should an activist be in danger. For example, the Southern African Human Rights Defenders Network can assist in relocating an activist whose physical safety is threatened;
- Ensuring activism work and demonstration of activism is publicised in the media as much as possible as a form of protection for activists. For example, involving the media during protests;
- Having a database of organisations that can provide immediate assistance in instances of victimisation. For example, having the contact details of the Right2Protest Project hotline should an activist be arrested during a protest;

- Ensuring that day-to-day tasks and movement is not predictable, if there is suspicion that an activist is being surveilled;
- Constant movement building within the community to deter victimisers from being able to divide communities. For example, hosting frequent meetings to discuss issues and how to tackle issues as a movement;
- Sharing information with other partners to better understand the rights implicated in expressions of dissent. For example, working with NGOs for capacity building activities that may include learning about how to access information held by the state or private entities and what can be done if such information is denied;
- Familiarising themselves with the processes to be followed when demonstrating dissent, such as giving notice when convening a protest. Boosting security at the primary place of residence should it become necessary;
- Starting video or voice recording when arrested by police in order to have evidence, particularly during protests;
- Being cautious of how whistleblowing takes place. For example, avoiding whistleblowing publicly and ensuring anonymity is maintained as far as possible when using reporting channels;
- Being aware of their emotional and mental wellbeing. For example, being conscious of what triggers you, including how far you can go in advocating for the issue at hand. Being cautious of when you may need to stop or take a break from activism; and
- Understanding digital safety and security. For example, attending digital safety training and understanding cyberbullying and how to counter it.

# Addressing Victimisation

The ultimate call for action is for the eradication of all the issues which activists fight against. While these systems of oppression, malfunction and breakdown continue, activists demand a civic space in which they are free to express their demands for change. Activists have demands directed to victimisers and those who have the power to hold victimisers accountable and to change the systems and circumstances that allow the victimisation of activists.

There are also steps that organisations such as CALS can take to support activists in fighting against repression. It is for the purpose of cultivating a free civic space that the following recommendations are made:

## Ending repression and holding perpetrators accountable

### Police and private security

- Hold mandatory training on how to police protests;
- Work with civil society organisations in providing anti-repression training;
- Conduct gender sensitivity training for all SAPS officials – this includes training on queer rights;
- Provide police bail for protestors whenever possible;
- Refrain from targeting and repressing activists in a bid to advance political agendas or personal vendettas;
- Improve monitoring and accountability measures for misconduct of officials;
- Significantly improve the Independent Police Investigative Directorate system for holding to account officials who are responsible for victimisation;
- Be thorough in investigating the killing of activists; and
- Provide speedy and effective assistance when activists report being harassed, intimidated and/or receiving death threats.

### National Prosecuting Authority

- Be intentional about ending the malicious prosecution of activists;
- Be thorough in requiring evidence that shows an activist is or has been involved in committing a crime, as activists are often subjected to criminal suits for the mere purpose of being silenced;
- Be cautious of possible victimisation in instances of arrest from protest action;
- Raise awareness within the NPA about the continued use of the criminal justice system to victimise activists, including the laying of false charges against activists;
- Speedily dismiss frivolous cases against activists; and
- Be proactive in the prosecution of those who victimise activists, including those who intimidate, harass and kill activists.

## Mining companies

- View activists as an integral part of ensuring compliance with community engagement requirements;
- Respect communities and view them as key stakeholders, as mandated by law;
- Refrain from using traditional leadership as a tool to repress dissent;
- Have clear guidelines on the role of private security and how private security is to engage with protesters so as to prevent instances of excessive use of force;
- Create collaborative programmes with activists to foster dialogue and collective solution finding; and
- End all tactics used to repress activists, including dividing communities and surveilling activists.

## Institutions for higher education

- Create strategies and plans on how to handle student protests in such a way that encourages collective dialogue and solution finding instead of a combative 'us vs them' environment;
- Create tangible and implementable solutions for the issues highlighted by students including the high incidences of gendered violence;
- Create and implement activist support spaces within campuses;
- End the bullying and harassment of students and student leaders;
- Bridge the power dynamic between students and university management;
- Create and foster a university culture that supports the principles of public participation, democracy and transparency;
- Ensure private security is trained on how to manage protests without the use of excessive force or violence;
- The suspension and expulsion of activists should be a measure of last resort;
- The removal of activists from university residences and the prevention of students from accessing and using university property necessary to write tests, exams and fulfil other academic and sporting requirements should be avoided as far as possible;
- Responses to activism should not be to punish students by taking away their opportunity to receive an education; and
- Create accountability mechanisms for those responsible for victimisation.

## Chapter 9 Institutions

- Work with activists and NGOs to end the repression of activists;
- Recommend accountability mechanisms for victimisers;
- Raise awareness on the continued victimisation of activists across the country;
- Assist state entities in creating mechanisms that can be implemented to end activist repression;
- Advocate for the implementation and/or better functioning of entities that are meant to tackle victimisation in each field of activism; and
- Advocate for the implementation of legislation dedicated to protecting activists.

## Government

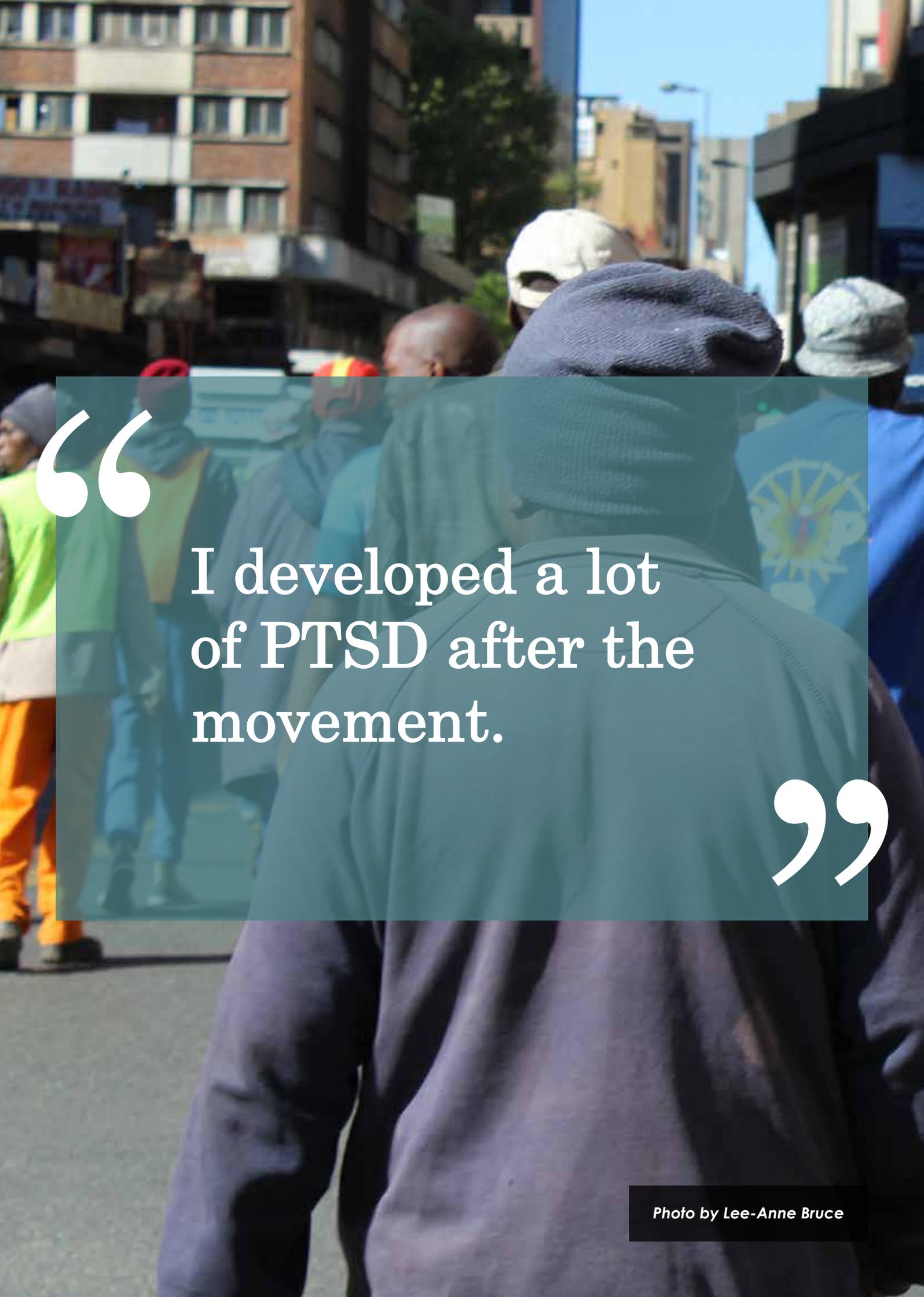
Government must take measures to ensure that the country is a safe place for activists and further commit to creating and implementing better protective mechanisms for activists. This may include:

- Implementing legislative and policy measures to prohibit repression, such as anti-SLAPP legislation;
- Creating or capacitating entities that will be responsible for ensuring the eradication of victimisation, for example an ombuds that deals with the victimisation of whistle blowers;
- Creating mechanisms for monitoring and enforcing compliance with laws prohibiting victimisation;
- Running national anti-repression campaigns to ensure widespread messaging on intolerance to activist repression;
- Partnering with organisations aiding activists facing victimisation;
- Encouraging and ensuring entities such as the police and the NPA are properly investigating and prosecuting those who murder activists;
- Create mechanisms to ensure effective remedies for victims of repression; and
- Take all necessary measures to ensure 'the protection of everyone against any violence, threats, retaliation, (*de facto* or *de jure*) adverse discrimination, pressure, or any other arbitrary action as a consequence of his or her legitimate exercise of rights'.<sup>118</sup>

## Supporting activists

### Public interest legal organisations

- Conduct training and workshops to capacitate activists on accessing and using tools to advance their activism work;
- Create safe spaces where activists can share their victimisation experiences and tactics to fight victimisation;
- Provide legal representation in instances of victimisation;
- Support alternative ways of protesting;
- Be more involved with grassroots organisations, including providing support for community-led mobilisation;
- Engage victimisers about activist victimisation and hold them to account (where possible) for repression;
- Create spaces amongst activists where victimisation by other activists can be frankly discussed and addressed;
- Provide digital safety training;
- Facilitate training on the rights of activists and tools available to express dissent
- Continually raise awareness about victimisation and the need to eradicate it; and
- Assist in engaging regional and international bodies regarding activist victimisation in South Africa.



“

I developed a lot  
of PTSD after the  
movement.

”

# Conclusion

This report examines the threats that activists face for their activism. It illustrates that though there are international and domestic instruments that guarantee rights, these do not necessarily translate to the protection of rights of activists. It further underscores that South Africa does not have legislation specifically dedicated to the protection of activists, including legislation that can effectively deal with tactics of victimisation such as SLAPP suits.

To document the victimisation experience of activists, the report looks at five fields of activism, namely land and environmental activists, community activists, gender justice activists, student activists and whistleblowers. The land and environmental activists reported facing death threats, intimidation and having many of their other fellow activists being killed or forced into hiding. Community activist reported politically motivated victimisation where they would also be forced into hiding or threatened with death amongst other tactics of intimidation and harassment. Gender justice activists, on the other hand, experienced many instances of cyberbullying. They also reported that while other activists usually can identify specific persons or institutions that victimise them, they are victimised by everyone.

The student activists interviewed pointed to the different parties that furthered their victimisation. They mentioned that universities would work with private security and police to censor their expression of demands. This is the same for whistleblowers who reported that in the pursuit to fight corruption, mismanagement of funds and other irregularities, their workplaces would employ different ways to censor their voices, including being fired, suspended, killed or exiled for speaking out.

The common impact of victimisation reported by the interviewed activists is on their lives and livelihoods. They reported that victimisation has caused a strain on their relationships with their families, communities and friends. They further reported deteriorating mental and emotional wellbeing caused by the victimisation.

Lastly, to facilitate information exchange, this report documents various tactics that activists can use to fight repression. The report also proposes recommendations for eradicating victimisation and holding victimisers to account. It proposes, amongst others, that police and private security receive specific training, the NPA deal speedily with investigating and prosecuting victimiser, mining companies and institutions of higher learning working with, and not against, the affected activists in coming with solutions and that Chapter 9 institutions play a more central role in fighting activist victimisation. It then calls on the government to honour its national and international obligation in fighting repression, creating remedies for victims and holding perpetrators to account. The report finally ends with recommendations on how partner organisations can stand in solidarity with activists by supporting their fight for an unencumbered civic space.

# Afterword

“We are nothing on earth if we are not, first of all, slaves of a cause, the cause of the people, the cause of justice, the cause of liberty.”

– Frantz Fanon, Letter to Roger Tayeb, November 1961

While acknowledging the important strides that South Africa made 28 years ago when it officially transitioned into a democracy, our continued struggle for the achievement of equality and human dignity still remains essential. Today, the state of human rights in South Africa presents a difficult and frightening situation that is worsened by the failings of our elected leaders to adequately address the challenges before them.

In the face of unsustainable levels of poverty and widespread abuse of power, South Africa is seeing a growing number of people engaging in political practice that strives for equality and justice. These individuals and communities are forced to accept the risks of victimisation, such as being arrested, intimidated or even losing their lives or those of their loved ones. Although there is no official data on the number of activists that have been killed since 1994, various reports show that close to 67 people have lost their lives for defending human rights.<sup>119</sup> It is likely that this number underreports the pattern of violence against activists, painting a grim picture on the true scale of the situation of defenders in South Africa.

Since I started working with human rights defenders in 2018, I have engaged with individuals and communities across South Africa to try and identify the dynamics behind the increasing attacks against them, and assess government efforts to prevent such attacks or hold perpetrators to account. Although the cause of these attacks is a multi-faceted problem, there remains a great failure of state institutions to carry out proactive measures in defending vulnerable individuals and communities in their fight for social justice.

Moreover, widespread impunity continues to embolden attacks against human rights defenders, particularly against those challenging interests that lie at the intersection of class, gender and identity. This is evident in the brutal killings of Anton Mzimba, Fikile Ntshangase and Sikhosiphi ‘Bazooka’ Radebe, three individuals from different provinces attached to their place and community, with a shared vision to defend their ancestral territory and the ecosystems vital for biodiversity and the climate; or the lack of justice for families of the Marikana Massacre, an attack which greatly shows the deadly link between corporate power and repression.

The killings of three leaders of the eKhenana branch of Abahlali baseMjondolo, within a space of six months, is a crucial political moment for us to truly consider what it means to challenge the systemic erosion of human rights standards in our country. The continued failure to ensure adequate access to economic opportunities and strengthening the justice system are some of the factors that are allowing the situation to thrive. Therefore, in order for the protection of human rights and civic space to be guaranteed, it is crucial to establish a more consistent and credible political response that ensures the indivisible protection of human rights.

As we find ways to address the current political situation in South Africa, I hope each of us recognise that it is not only the duty of activists to force the government to recognise their legitimate work in defending human rights. The stories contained in this report should teach us that each of us have a role to play in demanding for the protection of human rights and the creation of a safe space for defenders.

Lastly, our greatest form of recognition to those who lost their lives in the struggle for equality and justice is to ensure that their names and work forever remains in our hearts and lips. We have to pay it forward.

**Simpiwe Sidu**

**Southern Africa Human Rights Defenders Network**

**28 October 2022**

# Endnotes

- <sup>1</sup> The terms 'activists' and 'human right defenders' are used interchangeably in this report.
- <sup>2</sup> E Gumboh et al 'Victimisation experiences of activists In South Africa' (2018) Centre for Applied Legal Studies.
- <sup>3</sup> Global Witness 'Last line of defence: the industries causing the climate crisis and attacks against land and environmental defenders' (2021) 11 – 12.
- <sup>4</sup> Global Witness 'Defending tomorrow: the climate crisis and threats against land and environmental defenders' (2020) 9 –10.
- <sup>5</sup> Frontline Defenders 'Global analysis 2021' (2021) 3 – 5.
- <sup>6</sup> Ibid 10.
- <sup>7</sup> I Camey, L Sabater, C Owen, E Boyer and J Wen 'Gender-based violence and environment linkages: the violence of inequality' International Union for Conservation of Nature and Natural Resources (2020) 170.
- <sup>8</sup> Constitution of the Republic of South Africa, 1996.
- <sup>9</sup> Section 7(2) of the Constitution places a positive obligation on the state to protect, promote and fulfil the rights found in the Bill of Rights.
- <sup>10</sup> *Doctors for Life International v Speaker of the National Assembly* 2006 (6) SA 416 (CC) Para 22.
- <sup>11</sup> Article 5 of UNDHRD.
- <sup>12</sup> Article 6 of UNDHRD.
- <sup>13</sup> Article 7 of UNDHRD.
- <sup>14</sup> Article 8 of UNDHRD.
- <sup>15</sup> Article 9 of UNDHRD.
- <sup>16</sup> Ibid.
- <sup>17</sup> Ibid.
- <sup>18</sup> Ibid.
- <sup>19</sup> Article 11 of UNDHRD.
- <sup>20</sup> Article 12 of UNDHRD.
- <sup>21</sup> Ibid.
- <sup>22</sup> Article 13 of UNDHRD.
- <sup>23</sup> Articles 2, 4,6,7, 9 – 11. See also Article 25 on states obligations to promote and respect such rights.
- <sup>24</sup> See Preamble, OAU: Grand Bay (Mauritius) Declaration and Plan of Action, 1999 para 10.
- <sup>25</sup> Kigali Declaration (2017) para 28.
- <sup>26</sup> Ibid.
- <sup>27</sup> Resolution 69 and 273.
- <sup>28</sup> For more information on the activities of the Special Rapporteur, available at <http://www.srhrdafrica.org>.
- <sup>29</sup> Article 14 of UNDHRD.
- <sup>30</sup> Article 15 of UNDHRD.
- <sup>31</sup> Such as the Regulations Gathering Act 205 of 1993.
- <sup>32</sup> The law on the Promotion and Protection of Human Rights Defenders – the first African State to enact specific legislation to protect human rights defenders.
- <sup>33</sup> RM Lumbu 'Compendium on the legal protection of human rights defenders in Africa' (2018) vi.
- <sup>34</sup> It is pertinent to note that even with such legislation, we need not be blind to the overarching issue that the enactment of specific legislation alone will not eradicate the

victimisation of activists if states do not concurrently implement increased measures to enforce compliance with such legislation and play a more active role in protecting human right defenders.

<sup>35</sup> E Gumboh et al 'Victimisation experiences of activists In South Africa' (2018) Centre for Applied Legal Studies.

<sup>36</sup> Ibid 3, 22 – 23.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid 14.

<sup>39</sup> Centre for Applied Legal Studies & Amnesty International 'Unearthing the Truth: How the mines have failed communities in the Sekhukhune Region of South Africa' (2022).

<sup>40</sup> 28 of 2002.

<sup>41</sup> Centre for Applied Legal Studies & Amnesty International 'Unearthing the Truth: How the mines have failed communities in the Sekhukhune Region of South Africa' 9.

<sup>42</sup> Ibid.

<sup>43</sup> Frontline Defenders '2020 Global Analysis' (2020).

<sup>44</sup> Centre for Environmental Rights, Human Rights Watch, GroundWork. 'We Know Our Lives Are in Danger': Environment of Fear in South Africa's Mining-Affected Communities' (2019).

<sup>45</sup> Ibid.

<sup>46</sup> See, for example, *Baleni v Minister of Mineral Resources* [2019] 1 All SA 358 (GP).

<sup>47</sup> Ibid.

<sup>48</sup> See further Centre for Environmental Rights, Human Rights Watch, GroundWork (2019).

<sup>49</sup> M Lawlor 'Final warning: death threats and killings of human rights defenders' (2020) Report A/HRC/46/35.

<sup>50</sup> L Leonard 'Traditional leadership, community participation and mining development in South Africa: The case of Fuleni, Saint Lucia, KwaZulu-Natal' (2019) 86 *Land Use Policy* 290 – 291.

<sup>51</sup> Ibid.

<sup>52</sup> Legal Resources Centre. 'Communal Land and the Traditional Elites' <https://friendsofthelrc.org/communal-land-and-the-traditional-elites/>.

<sup>53</sup> Leonard (2019) at 290 – 291.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid 295.

<sup>57</sup> South African Human Rights Commission, 'National Hearing on the Underlying Socio-economic Challenges of Mining affected Communities in South Africa' 6. See also E Gumboh et al 'Victimisation Experiences of Activists in South Africa, Centre for Applied Legal Studies (2018) p. 19 – 21; Centre for Environmental Rights, Human Rights Watch, GroundWork (2019) 22.

<sup>58</sup> See E Gumboh et al 'Victimisation experiences of activists in South Africa' (2018) Centre for Applied Legal Studies.

<sup>59</sup> See further 'SLAPP-ed but not silenced' (2021) Business and Human Rights Resource Centre.

<sup>60</sup> See further E Gumboh et al 'Victimisation experiences of activists in South Africa' (2018) Centre for Applied Legal Studies.

<sup>61</sup> Global Witness 'Last line of defence: the industries causing the climate crisis and attacks against land and environmental defenders' (2021) 11 – 12.

<sup>62</sup> *Chamber of Mines of South Africa and others v Minister of Mineral Resources* Case No. 71174/2017 order of court dated 20 February 2018.

<sup>63</sup> Centre for Applied Legal Studies & Amnesty International 'Unearthing the Truth: How the mines have failed communities in the Sekhukhune Region of South Africa' (2022).

<sup>64</sup> *Baleni and Others v Minister of Mineral Resources and Others* [2019] 1 All SA 358 (GP); 2019 (2) SA 453 (GP).

<sup>65</sup> Section 152 of the Constitution.

<sup>66</sup> Municipal Systems Act 32 of 2000.

<sup>67</sup> *Ibid* section 1.

<sup>68</sup> A clean audit opinion means that the municipality's financial statements and performance report give a transparent and credible account of its finances and its performance against the targets that had been set.

<sup>69</sup> Auditor General's Municipal Funds Management Act Report of 2019/2020 'Consolidated general report on the local government audit outcomes' page 8.

<sup>70</sup> Auditor General's Municipal Funds Management Act Report of 2021/2022 'Consolidated general report on local government audit outcomes' 4.

<sup>71</sup> Auditor General's Municipal Funds Management Act Report of 2019/2020 'Consolidated general report on the local government audit outcomes' 8 – 9.

<sup>72</sup> *Ibid* 10.

<sup>73</sup> *Ibid*.

<sup>74</sup> M Strauss 'Historical Exposition of Spatial Injustice and Segregated Urban Settlement In South Africa' (2019) 135 – 139.

<sup>75</sup> SERI 'Edged out: Spatial Mismatch and Spatial Justice in South Africa's Main Urban Areas' (2016).

<sup>76</sup> For instance, 32 countries in Africa still criminalised homosexuality <https://antigaylaws.org/regional/africa/>.

<sup>77</sup> [http://www.statssa.gov.za/?page\\_id=737&id=5](http://www.statssa.gov.za/?page_id=737&id=5).

<sup>78</sup> <https://www.justice.gov.za/vg/gbv/NSP-GBVF-FINAL-DOC-04-05.pdf>.

<sup>79</sup> P D Gqola. *Rape: A South African nightmare* (2015).

<sup>80</sup> R Cornelius, T Shahrokh, E Mills 'Coming Together to End Gender Violence: Report of Deliberative Engagements with Stakeholders on the Issue of Collective Action to Address Sexual and Gender-based Violence, and the Role of Men and Boys Evidence Report' (2014) Institute of Development Studies.

<sup>81</sup> J Usta, H Murr, R El-Jarrah 'COVID-19 Lockdown and the Increased Violence Against Women: Understanding Domestic Violence During a Pandemic' (2021) 133 – 9.

<sup>82</sup> M Morris 'Costs of Coming Out Can Be High for SA's LGBT Community' (2017) Institute for Race Relations.

<sup>83</sup> *Ibid*.

<sup>84</sup> *Ibid*.

<sup>85</sup> C Ahrens 'Being silenced: The impact of negative social reactions on the disclosure of rape' (2006) *American Journal of Community Psychology* 38 31 – 34.

<sup>86</sup> <https://www.globalfundforwomen.org/movements/me-too/>.

<sup>87</sup> <https://www.nytimes.com/2020/01/12/arts/defamation-me-too.html>.

<sup>88</sup> W Xaba 'Challenging Fanon: A Black radical feminist perspective on violence and the Fees Must Fall Movement' (2017) 31 *Agenda* at 96.

<sup>89</sup> *Ibid*.

<sup>90</sup> *Ibid*.

<sup>91</sup> The Extension of Universities Act 45 of 1959.

<sup>92</sup> SJ Gatsheni-Ndlovu 'Rhodes must fall' in SJ Gatsheni-Ndlovu (ed) *Epistemic freedom in Africa: deprovinciation and decolonisation* (2018) at 230.

<sup>93</sup> *Ibid*.

<sup>94</sup> *Ibid*.

<sup>95</sup> M Langa 'Introduction' in M Langa (ed) *#Hashtag an analysis of the #FeesMustFall Movement at South African universities* (2017) at 6.

<sup>96</sup> Xaba (2017) 98.

<sup>97</sup> <https://www.news24.com/news24/SouthAfrica/News/zuma-announces-free-higher-education-for-poor-and-working-class-students-20171216>.

<sup>98</sup> University of Pretoria, University of Free State, University of South Africa are some of the universities that introduced changed language policies.

<sup>99</sup> G Mavunga '#Feesmustfall protests in South Africa: A critical realist analyses of selected newspaper articles' *Journal of student affairs in Africa* (2019) 81 – 99.

<sup>100</sup> Ibid.

<sup>101</sup> See further S Booysen, G Godsell, R Chikane, S Mpofo-Walsh 'Fees Must Fall: Student revolt, decolonisation and governance in South Africa' (2016); A Habib 'Rebels and Rage' (2019); D Blackmur 'International resonances of the #FeesMustFall movement in South African universities, 2015 – 2017' (2021) *Agenda* 29.

<sup>102</sup> D Mashiloane, D Pillay 'The policing of public protests in South Africa with specific reference to the Free State province' (2017) *Acta Criminologica: African Journal of Criminology & Victimology*; D Bruce 'Police brutality South Africa' Centre for the Study of Violence and Reconciliation.

<sup>103</sup> See visuals of #EverythingMustFall [https://www.youtube.com/results?sp=mAEB&search\\_query=everything+must+fall+documentary](https://www.youtube.com/results?sp=mAEB&search_query=everything+must+fall+documentary).

<sup>104</sup> See <https://www.statecapture.org.za/> for the complete state capture reports.

<sup>105</sup> See Commission Report Part IV vol IV [https://www.statecapture.org.za/site/files/announcements/683/OCR version State Capture Commission Report Part IV Vol IV-Eskom.pdf](https://www.statecapture.org.za/site/files/announcements/683/OCR%20version%20State%20Capture%20Commission%20Report%20Part%20IV%20Vol%20IV-Eskom.pdf).

<sup>106</sup> <https://www.news24.com/news24/SouthAfrica/News/babita-deokaran-murder-seven-accused-to-appear-in-court-on-monday-20210830#:~:text=Deokaran%20was%20shot%20outside%20her%20home%20in%20Mondeor%2C,R300%20million%20tender%20for%20personal%20protective%20equipment%20%28PPE%29>.

<sup>107</sup> A Williams 'Deep Collusion – Bain and The Capture of South Africa' (2021).

<sup>108</sup> Open Democracy Advise Centre 'Heroes Under Fire: South African Whistleblower stories' (2015) 2.

<sup>109</sup> Ibid 2.

<sup>110</sup> Ibid.

<sup>111</sup> Gordan Institute of Business Science 'Ethics Barometers' (2020).

<sup>112</sup> Ibid.

<sup>113</sup> Section 2.

<sup>114</sup> <https://aidc.org.za/justice-whistle-blowers/>.

<sup>115</sup> This includes the revealing of the identity of Mr X despite the ordered protection of his identity.

<sup>116</sup> [OCR version - State Capture Commission Report Part VI Vol IV - Recommendations.pdf](#) page 23.

<sup>117</sup> Ibid.

<sup>118</sup> Article 12 (2) of UNDHRD

<sup>119</sup> See 'We remember' section. HRDs killed include Fikile Ntshangase; Sikhosiphi 'Bazooka' Radebe; Babita Deokaran; five journalists who have been killed in South Africa since 1993; 24 members of the Abahlali baseMjondolo movement; 34 people whose lives were claimed by the Marikana Massacre; Anton Mzimba.



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