



## PRESS STATEMENT

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### **Former UN housing experts, civil society and social movements unite in their condemnation of City of Cape Town's Draft Unlawful Occupation By-Law**

Three former United Nations Special Rapporteurs on the right to adequate housing, Miloon Kothari, Raquel Rolick and Leilani Farha, have banded together with South African civil society organisations and social movements to denounce the City of Cape Town's [Draft Unlawful Occupation By-Law \(the draft by-law\)](#). The draft by-law, which is currently out for public comments until 31 July 2021, stands in stark contrast to the City's constitutional and international law obligations and constitutes a shocking assault on poor and working class families struggling with the impacts of landlessness, displacement and tenure insecurity..

The three imminent human rights experts join Ndifuna Ukwazi, Reclaim the City, Social Justice Coalition (SJC), Abahlali baseMjondolo, the Tshisimani Centre for Activist Education and the Housing Assembly in calling for the City to abandon this cruel and damaging by-law which, if implemented will have damaging consequences.

The former UN housing experts, who became aware of the draft by-law through social media, strongly criticised the draft by-law in a submission to Cape Town Mayor Dan Plato:

*“Those occupying land in Cape Town are doing so because of the distinct lack of adequate housing that is available to them in the city. Without access to adequate housing, people in the City are commonly left with two choices: sleep on the streets or establish housing for themselves and their families. Logic and human instinct dictate that in such circumstances establishing informal housing is the best option to ensure survival. To impose criminal charges and convictions onto people in such circumstances as the by-law does is, therefore, discriminatory and creates a double jeopardy. Their right to housing is denied and when they try to remedy that, they are punished in the harshest sense.”*

Ndifuna Ukwazi also challenged the draft by-law on the grounds that it would criminalise homelessness, encourage widespread illegal evictions and drive more poor and working class people into homelessness - this in opposition to what the Constitution and other laws require as a means to recognise and undo the indignity and unrelenting structural violence occasioned by the the colonial and apartheid era projects of land dispossession. The draft by-law gives vaguely defined “authorised officials” wide-ranging powers to remove and demolish informal dwellings without a court order, in clear violation of section 26(3) of the Constitution. In a detailed submission, Ndifuna Ukwazi attorney Mpho Raboeane wrote:

*“It cannot be forgotten that this proposed legislation operates within a context of historical and continuing dispossession, inequality and perpetual landlessness for the poor and marginalised of our society. The legacy of racially discriminative policies has created a climate in which neutrality and substantive equality before the law cannot exist. Albeit prima facie non-racial, we cannot be blind to the reality that those living in informality and facing insecure tenure in occupied spaces are predominantly Black and Coloured, poor and of the working class. Thus, in such a contextual setting, the reintroduction of apartheid era legislation is objectively regressive and may result in the negation of the constitutionally enshrined imperatives that are to underpin access to land, municipal governance and society in general. The approach chosen by the City in this Draft By-law views a deeply complex societal issue through the simple lens of property ownership rights which offers little protection for those living in precarity and serves to ‘legislatively intensify’ the weak position of Black and Coloured non-ownership rights.”*

These submissions follow an open letter to the City from various social movements rejecting the draft by-law.

- Read the Submission of Miloon Kothari, Raquel Rolick and Leilani Farha here: <https://jumpshare.com/v/Fox99oURDEKJQrF1dnUX>
- Read Ndifuna Ukwazi’s submission on the draft by-law here: <https://jumpshare.com/v/JMjuSeASPbGZBERlvbnw>
- Read the open letter from civil society organisations and social movements here: <https://jumpshare.com/v/1QCUiX9YFEOKuSvsOLI3>
- See the video from the civil society organisations and social movements here: <https://www.youtube.com/watch?v=gAjgvUxID7c>
- Read Ndifuna Ukwazi’s previous media release on the draft by-laws here: <https://jumpshare.com/v/idSBt9nRUdIoSAKvvRqQ>

**Contact:**

- Mpho Raboeane, Ndifuna Ukwazi Attorney: [mpho@nu.org.za](mailto:mpho@nu.org.za) / 063 687 6829
- Ntombi Sambu, Ndifuna Ukwazi Political Organiser: [ntombi@nu.org.za](mailto:ntombi@nu.org.za) / 071 840 0355
- Yusrah Bardien, Ndifuna Ukwazi Communications and Engagement Officer: [yusrah@nu.org.za](mailto:yusrah@nu.org.za) / 082 470 1441

**ENDS**

**ISSUED BY NDIFUNA UKWAZI**