

Mining activists in SA face death threats, intimidation and harassment - report

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Picture: Yvette Descham

On August 13 2013, Billy M heard gunshots at the gate of his house. He didn't know who fired the gun, and, worried that local traditional leadership might be involved, he didn't report the incident to the police. For the next five years, the community activist from Fuleni, a small rural village in KwaZulu-Natal bordering one of SA's oldest and largest wilderness areas, the Hluhluwe iMfolozi Park, continued to receive threats.

"We know our lives are in danger. This is part of the struggle," he says, simply.

Billy M's account is contained in a new report released this week, 'We know Our Lives Are in Danger': Environment of Fear in South Africa's Mining-Affected Communities, which documents how community activists in mining areas face harassment, intimidation and violence.

The report details how in Billy M's case, mining company Ibutho Coal had applied for rights to develop a coal mine in Fuleni in 2013.

The development would have required the relocation of hundreds of people from their homes and farmland and destroy graveyards. "The mine's environmental impact assessment

estimated that more than 6000 people living in the Fuleni area would be impacted. Blasting vibration, dust, and floodlights, too, could harm the community," says the report.

"During the environmental consultation processes, Billy M led opposition that culminated in a protest by community members in April 2016."

The company reportedly abandoned the project in 2016 while another firm, Imvukuzane Resources is reportedly interested in mining in the area.

The 74-page report, compiled by Human Rights Watch, the Centre for Environmental Rights (CER), groundWork, and Earthjustice, describes a system designed to "deter and penalise" mining opponents.

The authors conducted interviews with more than 100 activists, community leaders, environmental groups, lawyers representing activists, police and municipal officials, describing the targeting of community rights defenders in KwaZulu-Natal, Limpopo, Northwest, and Eastern Cape between 2013 and 2018.

They report intimidation, violence, damage to property, the use of excessive force during peaceful protests, and arbitrary arrest for their activities in highlighting the negative impacts of mining projects on their communities.

"The attacks and harassment have created an atmosphere of fear for community members who mobilise to raise concerns about damage to their livelihoods from the serious environmental and health risks of mining and coal-fired power plants," write the authors. "Women often play a leading role in voicing these concerns, making them potential targets for harassment and attacks."

But municipalities often impose barriers to protest on organisers that have no legal basis while government officials have failed to adequately investigate allegations of abuse. "Some mining companies resort to frivolous lawsuits and social media campaigns to further curb opposition to their projects.

The government has a Constitutional obligation to protect activists," write the authors.



Picture: Shayne Robinson, Section 27

Authorities should address the environmental and health concerns related to mining "instead of harassing the activists voicing these concerns," remarks Matome Kapa, attorney at the CER.

The report starts with the high-profile murder of activist Sikhosiphi "Bazooka" Rhadebe, who was killed at his home after receiving anonymous death threats in 2016. Rhadebe was the chairperson of the Amadiba Crisis Committee (ACC), a community-based organisation formed in 2007 to oppose mining activity in Xolobeni in the Eastern Cape. "Members of his community had been raising concerns that the titanium mine that Australian company Mineral Commodities Ltd proposed to develop on South Africa's Wild Coast would displace the community and destroy their environment, traditions, and livelihoods. More than three years later, the police have not identified any suspects in his killing."

Nonhle Mbuthuma, another Xolobeni community leader and spokesperson of the ACC, has also faced harassment and death threats from unidentified individuals. "I know I am on the hit list.... If I am dying for the truth, then I am dying for a good cause. I am not turning back," she says.

But other mining areas have had experiences similar to that of Xolobeni. "While Bazooka's murder and the threats against Nonhle have received domestic and international attention, many attacks on activists have gone unreported or unnoticed both within and outside the country."

This is, in part, because of "fear of retaliation for speaking out, and because police sometimes do not investigate the attacks", the authors found.

The origin of these attacks or threats are often unknown. "So are the perpetrators, but

activists believe they may have been facilitated by police, government officials, private security providers, or others apparently acting on behalf of mining companies.

"Threats and intimidation by other community members against activists often stem from a belief that activists are preventing or undermining an economically-beneficial mining project. In some cases, government officials or representatives of companies deliberately drive and exploit these community divisions, seeking to isolate and stigmatize those opposing the mine."

The Minerals Council South Africa, which represents 77 mining companies, including some in the research areas, responded that it "is not aware of any threats or attacks against community rights defenders where (its) members operate".

The authors state that while the mining sector and the government emphasise how mining is essential for economic development, "they fail to acknowledge that mining comes at a high environmental and social cost, and often takes place without adequate consultation with, or consent of, local communities".

The absence of effective government oversight means that mining activities have harmed the rights of communities across South Africa in various ways. "Such activities have depleted water supplies, polluted the air, soil, and water, and destroyed arable land and ecosystems." Researchers also documented cases of police misconduct, arbitrary arrest, and excessive use of force during protests in mining-affected communities, "which is part of a larger pattern in South Africa".

Last year, the Centre for Applied Legal Studies (CALs) at Wits University documented various efforts by traditional authorities to stifle opposition to mines in their communities.

"In some cases, traditional authorities label those opposing mines as anti-development and troublemakers, thus alienating and stigmatising them. As a result, community members are often afraid to speak out against a mine in open consultations," CALs found.

Research by the SA Human Rights Commission, too, has found that community members sometimes "are afraid to openly oppose the mine for fear of intimidation or unfavourable treatment (by the Traditional Authority)."

The SAHRC says many mining-affected communities are experiencing "the creation of tension and division within communities as a result of mining operations. Sometimes, threats and intimidation against activists come from community members who have been promised economic benefit from the proposed project or are politically allied with the government or traditional authority."

Local communities often do not benefit from mining activities, says the report. "Although South African law requires the development of social and labour plans (SLPs) that establish binding commitments by mining companies to benefit communities and mine workers, CALs has documented significant flaws in the development and implementation of SLPs."

Despite the environmental and social costs of mining, the government is not adequately enforcing relevant environmental standards and mining regulations throughout South Africa.

The SAHRC has found that the Department of Mineral Resources (DMR) often fails to hold mining companies accountable, "imposing few or no consequences for unlawful activities and therefore shifting the costs of pollution to local communities.

"Compliance with regulatory obligations, as well as monitoring and enforcement of such responsibilities, remains a crucial concern in the context of mining activities," says the SAHRC, noting how the DMR and other governmental agencies often do not respond to complaints filed against mines by community members.

The report's authors describe how the lack of government action and oversight has also helped make the mining industry one of the least transparent industries in South Africa. Information that communities require to understand the impacts of mines and to hold mining companies accountable for harmful activities is often not publicly available.

"Such information includes environmental authorisations, environmental management programs, waste management licences, atmospheric emission licences, mining rights, mining work programmes, social and labour plans, or compliance and enforcement information.

"The only way to access such information is through a request under South Africa's access to information law, a procedure that the World Health Organisation has called 'seriously flawed' and which the DMR regularly flouts. In addition, mining companies and the government rarely consult meaningfully with communities during the mining approval process, resulting in uninformed and poor government and industry decisions that do not reflect community perspectives or have their support," says the report.

The authors assert how the threats, attacks, and other forms of intimidation against community rights defenders and environmental groups have created an environment of fear "that prevents mining opponents from exercising their rights to freedom of opinion, expression, association, and peaceful assembly, and undermines their ability to defend themselves from the threats of mining".

In its November 2018 review of South Africa's compliance with the International Covenant on Economic, Social and Cultural Rights, the UN Committee on Economic, Social and Cultural Rights expressed concern about "reports of human rights defenders, particularly those working to promote and defend the rights under the Covenant in the mining and environmental sectors, being threatened and harassed".

It recommended that South Africa provide a safe and favourable environment for the work of human rights defenders to promote and protect economic, social, and cultural rights, including by "ensuring that all reported cases of intimidation, harassment, and violence against human rights defenders are promptly and thoroughly investigated and the perpetrators are brought to justice".

Mining activist Mariette Liefferink, who made submissions to the UN committee, tells how it has become increasingly difficult to work as an environmental rights defender in South Africa.

"There is an overwhelming body of evidence of intimidation, whether it is by means of frontal attacks or more insidious attacks on activists."

International and South African law requires South Africa to guarantee the rights of all people to life, security, freedoms of opinion, expression, association, and peaceful assembly, and the rights to health and a healthy environment, say the authors.

"The attacks, threats, and obstacles to peaceful protest described in this report prevent many community activists in South Africa from exercising these rights to oppose or raise concerns about mines, in violation of South Africa's obligations."

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