

Kennedy 12 Trial: Five Nil to Abahlali baseMjondolo

Today the first five days of the trial of the Kennedy 12 came to an end. The trial will resume in May next year and then, if more time is needed, it will continue again in July.

We wish to begin this statement by thanking all of those people and organisations that have stood by our movement in the difficult times that followed the attack and then this ongoing trial. Your solidarity is much appreciated. There is a saying that when days are dark friends are few. But in these dark times we still have many friends and the solidarity from all of you is deeply appreciated.

The legal process against the Kennedy 12 has been dragged on for far too long. The lives of the 12 accused have been seriously disrupted. They lost their homes in the attack and after they were arrested they lost their jobs. They have spent hard months in Westville Prison – a place that is an absolute disgrace to our society. It has been a very difficult time for their families. We have always tried to get this matter into trial as soon as we could and the state has always delayed and delayed. We were very pleased that, at last, the trial has started. But we are disappointed that it may now drag on until the middle of next year. The accused will not be able to continue with their lives. Our movement will continue to have to divert its energies to the trial, to the accused and to the people displaced in the attack. For as long as the trial continues the charges will be used by our enemies to discredit our movement. We are also worried about the safety of the accused, of the witnesses, of our leading members in Kennedy Road and of our leaders in general. We are particularly worried about the safety of witness X. We really do feel that the state must take steps to guarantee the safety of this witness.

The trial could not have gone better for the Kennedy 12 during this week. It is now five nil to the Kennedy 12. After five days of the state leading its evidence it has no case against any of the 12. None of the state's witnesses identified any of the 12 as being responsible for any murder and all of the state witnesses were quickly and clearly shown to be unreliable. They contradicted their own statements, their own testimony and each other's testimony. The only fact that has emerged clearly during this week is that the Kennedy 12 are being framed. State witnesses admitted that they were asked to identify members of the Safety & Security Committee and the Mfene Dance Group (and not people that they had seen committing any crime) in the police line up. They admitted that the police had written their statements for them, and told them to sign, without reading them back or giving them an opportunity to interrogate their contents.

After one week of hearing the state's evidence there is simply no case for any of the 12 to answer. If the trial continues like this our lawyers will just ask the magistrate to dismiss all charges when the prosecution have finished making their case.

However from Monday to Thursday the media coverage of the trial, especially the reporting by SAPA, was disgraceful. They reported and sensationalised the allegations made by the witnesses but then said nothing about the fact that the testimony of those witnesses was entirely discredited during cross examination. A trial goes back and forth. Claims are made and their truthfulness is then investigated. The reporting on a trial should do the same. It should report the claims that are made by witnesses and then also report on the credibility of those claims after cross examination. To fail to do this and to only report the allegations that are made is to create an entirely false picture of what has happened in court. As a movement we find ourselves winning, decisively, in the court and at the same time losing, just as decisively, in the media. SAPA's coverage of the trial was so unethical that the Magistrate even had to condemn it on one specific point and to report their journalist to the media Ombudsman.

Anyone who doubts that the reporting has been grossly unfair should compare it against the transcripts of the trial. We challenge the media - especially SAPA to do this. We are publically requesting that the SAPA editor examine the

transcripts and then meet with us to discuss why the reporting was so unfair and what can be done to ensure fairness in the future.

We are not sure if the trial has been reported in this deeply dishonest and unfair way because journalists have been won over by the politicians; if they just share the hatred of the poor (and especially the hatred of the strong poor, the organised and mobilised poor) that is common amongst the middle classes and the rich or if they are just lazy and not doing their jobs properly. However we do note that the reporting was much fairer on Friday.

Some of our comrades are now asking if it was wise for us to mobilise in defence of the media via the Right2Know Campaign. They are saying why must we, who face life threatening conditions in the shacks every day, invest our own time and money in mobilising in support of a corporate media that treats us and our movement with such bias and contempt. They are saying that yes we have a right to know but we also have a right to know the truth. In our discussion this afternoon we reaffirmed that we are opposed to all attempts by government to censor the media. However we have also decided that we will not support any media freedom campaign that does not spend the same amount of energy on defending the freedom of the corporate media as it does on:

1. Demanding the democratisation of the media and support for autonomous community media.
2. Making sure that poor people have good support to challenge the media when they report on us and our movements with such reckless dishonesty and bias.

We are very well aware that the politicians do not accept defeats by the organised poor very well. When they lose on one terrain they shift the battle to another terrain. We won our case against the Slums Act in the Constitutional Court and they responded with the attack on our movement in Kennedy Road and the incredible lies that surrounded the attack. The campaign to assassinate the movement's reputation continues. We fully expect that the state will mount a new attack against us after failing to make any case against the Kennedy 12 in court this week. We do not know what form their next attack will take – it could be more violence, it could be more lies, it could be something new. We are very well aware that their intelligence is always close to us – even standing next to us and listening when we are praying outside the court. We recognise many of their agents, even the cars that they use.

There is no doubt that there was a battle in Kennedy Road in September last year. So far this trial has only shown that the police have tried to frame the accused as being responsible for the two deaths in that battle. It has shed no light on why that battle happened, who started it and who was responsible for the destruction of homes, injuries and deaths. It is good that it is clearly emerging that the police have framed the accused. But a full and neutral investigation is still required so that the real truth can emerge and so that all those who destroyed homes, injured and killed people can be made to fully account for their actions before the society and before the law.

We do not believe that the lower courts were neutral in this matter. They have, clearly, been totally politicised. However, we respect this court and its fair-minded and experienced Magistrate. It has, like the Constitutional Court, been fair. We are very pleased with the work of our legal team and we appreciate the church support that has enabled us to go to court with good lawyers. We will accept any judgment handed down by this court.

We remain committed to a living politics. We remain committed to a people's politics. We remain committed to the struggle for land and housing in the cities. We remain committed to building the political power of the poor against elites in the state, business, civil society and the media.

Ms Bandile Mdlalose
Abahlali baseMjondolo Movement S.A (Secretary General)
031 304 6420
074 730 8120

Ms Zodwa Nsibande
Abahlali baseMjondolo Youth League (Secretary General)
082 830 2707

Rev Mavuso
Rural Network Spokesperson
072 279 2634

Mr Mnikelo Ndabankulu
Abahlali baseMjondolo Spokesperson
079 745 0653