

3 December 2010

The build up to this case has been long and deeply compromised. Already in November 2009 I publicly said that “[J]ustice has been delayed far beyond the point at which it was clear that it had been denied. ... It is patently clear that there was a political dimension to the attack and that the response of the police has been to pursue that political agenda rather than justice”.

More than a year later, that politically motivated case against the Kennedy 12 is finally being played out in a Durban courtroom. We do not presume to anticipate the outcome of the case – that process must run its course; the judge will render a verdict; and we'll re-look carefully at what's happened at that point¹. So far, no witness has credibly linked any accused individual to any crime that they are charged with.

From the beginning, this prosecution has been a politically-driven abuse of the systems of law and justice - a fact noted by numbers of religious leaders, independent peoples' organisations, social movements, human rights organisations and independent academics both here and across the world. Trying to use the systems of law and justice to achieve party-political agendas is no way to build a credible and truthful case in a court of law.

From observers in the courtroom this week, it appears that the witnesses were in all probability: pressured and lured by a police investigating team under enormous political pressure to use the tragedy of September 2009 as a vehicle to attempt to discredit an independent social movement, Abahlali baseMjondolo; instructed simply to point out known members of a pre-existing (and SAPS recognised) local residents safety committee (which had links with the Kennedy Road Development Committee, which in turn had links with Abahlali); and induced to sign statements written for them by the police.

Ironically perhaps, the longer this process goes on, the more credible does Abahlali baseMjondolo's own version of the events of September last year appear. In their very early statements about the attacks, the movement's press releases pointed to the fact that (a) among the dead were some of the attackers whose hostility had been clearly targeted at Abahlali- linked people and structures; and (b) when orchestrated violence and spontaneous self-defence are unleashed in un-serviced and un-lit shack-settlement in the darkness of night, there is bound to be suffering, confusion and fear.

While the destruction of shacks belonging to Abahlali-linked people was still continuing, while all of this violence and social terror was pronounced by government leaders as a 'liberation' of the community; the movement itself made the first call for a full and independent Commission of Enquiry into all the facts and circumstances surrounding the events of that night. I have supported that call and been joined by many eminent supporters.

As the prosecution case has unfolded this past week, it is clear that this heartless exploitation of the poor to further the agendas of the powerful, continues. The reliving of the trauma and distress by the residents of Kennedy Road as they give and hear testimony in this political trial is painful to witness. This would not have happened if justice had been sought in this matter. Instead, a political agenda against Abahlali has trumped concerns with truth and justice – and it's falling apart in court. Once the case is over, whatever the outcome, there is still much serious work for a properly independent Commission of Enquiry focused on nothing but truth and justice – we're not there yet.

Issued by:

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¹When it comes to coverage of the court case, the media and the public at large, relying on SAPA reports, are not being well served to put it mildly. SAPA reports thus far convey nothing of the way in which the prosecution case in fact appears to be unravelling under the inherent weight of its own contradictions and cross-examination. 涅