

Civil society organisations welcome announcement of Commission of Inquiry into Khayelitsha police

Today the Premier of the Western Cape Helen Zille announced the establishment of a commission of inquiry (CoI) to investigate problems with policing by the South African Police Service (SAPS) in Khayelitsha. This follows years of sustained campaigning by our organisations and members, many of whom continue to experience the effects of a failing police and criminal justice system. While the CoI is welcomed the terms of reference fail to include the City of Cape Town's Metro Police – an integral part of policing in Khayelitsha.

The power to create a CoI is defined in Section 206(5) of our Constitution which states that a province:

may investigate, or appoint a commission of inquiry into, any complaints of police inefficiency or a breakdown in relations between the police and any community

This is the first time in South Africa that a community and civil society has won the right for this section of the Constitution to be invoked. Over a period of years we have monitored a number of criminal cases at the Khayelitsha Magistrates' Court, supported victims and taken testimony from residents about their experiences with police and the courts. We have noted the continued failures on the part of the police and others responsible for safety and justice in Khayelitsha. These failures include protecting people from harm, preventing and investigating crimes and the facilitation of justice timeously and with consideration for victims and families.

We maintain that the problems afflicting Khayelitsha's police and criminal justice system are so deep and extend so far that a CoI is the most appropriate vehicle to address them. Our decision to lodge the formal complaint in November 2011 came after many years of advocacy work, countless petitions and marches and calls as far back as 2003 in the case of the Treatment Action Campaign, for improved policing and justice for Khayelitsha.

Since we lodged our complaint Khayelitsha has experienced a spate of mob justice murders that has left at least 14 people dead since the beginning of the year. After speaking to residents about why such atrocities were taking place, Angy Peter of the Social Justice Coalition stated that, "When we asked residents why people were taking the law into their own hands and killing suspected criminals, people replied that there was no faith in police or the courts to deal with those who broke the law. This is the clearest indication of a broken relationship between communities and police".

In the spirit of cooperative governance and a desire to best address this situation, all stakeholders responsible for safety and justice – including the National Prosecuting Authority, the Department of Justice & Constitutional Development, the Department of Correctional Services, the Western Cape Department of Community Safety and the City of Cape Town's Safety & Security Directorate including the Metro Police – should embrace this process and avail themselves to participate and contribute if called on by the CoI.

The CoI will have the power of subpoena, but willing participation is what is required. We note with concern that to date almost nine months since we lodged our complaint SAPS has yet to respond with any substance. We appeal to the Minister of Police Nathi Mthethwa, Minister of Justice and Constitutional Development Jeff Radebe and the Mayor of Cape Town Patricia de Lille to ensure the necessary involvement.

There are many men and women in this sector who perform their job with courage and integrity. However, there are

also those who act with disregard for the very people and laws they are supposed to be upholding and protecting. We want a CoI to address not only instances of poor, irresponsible and at times illegal actions by police, but also ways in which more support, training and resources can be placed at their disposal to work more effectively.

The establishment of a CoI is a crucially important development and is welcomed by our organisations, members and no doubt by many resident of Khayelitsha. We are not under the impression that it will be a quick fix. However, it is a key step in establishing the extent of the problem, why it has reached this point and what we can do to improve things.

The CoI will hopefully play a role in beginning to rebuild trust between communities and police. It will provide people an appropriate and powerful forum where they can express their concerns and frustrations. It will also serve as an important opportunity to examine the ways in which violence against women and other so-called vulnerable groups is dealt with in a community that experiences disproportionate levels of crime.

Many of the issues in Khayelitsha with regard to policing, safety and justice are shared by communities across the country. Both Johan Burger and Gareth Newham of the Institute for Security Studies have supported this process with Burger commenting that, "It won't only be a beneficial inquiry for the Western Cape, but for the entire country?".

We hope that the recommendations of the CoI will serve as a blueprint for other similarly affected areas. The long term objective is that the CoI will kick-start a process that will see access to quality safety and justice progressively realised and transformed into the inalienable rights they are correctly envisioned as, and not the luxuries that they currently exist as today.

Our legal team will be Advocate Peter Hathorn and Advocate Ncumisa Mayosi.

For further comment please contact:

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