

Grave Concerns about the Detention without Trial of the Kennedy Thirteen: This Travesty Must End

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After their 6th inconclusive bail hearing today, it is now abundantly clear that the legal process for the Kennedy 13 is a complete travesty of justice. They are scheduled to appear again on the 27th November. By that time, some of accused will have been in prison for 2 months without trial - two months in prison without any evidence being presented to a court and without a decision on bail. This is a moral and legal outrage that amounts to detention without trial by means of delay. In our view, it borders on unlawful detention. I am, tonight, issuing a call for their immediate release - justice has been delayed far beyond the point at which it was clear that it had been denied.

Ordinarily in a case with such serious charges as those put to the Kennedy 13, it is in fact extremely easy for bail to be denied. Usually all that is required is that the prosecution provide the court with some evidence showing that they have, at least, a *prima facie* case to make in the trial itself. That the prosecution has still not presented any such evidence, despite the magistrate's repeated concessions to give them more time to do so, indicates to us that the police simply have no case to make. What is being pursued in our courts in this instance is a political agenda against Abahlali baseMjondolo.

The Kennedy Thirteen were arrested in the aftermath of the September attack on Abahlali baseMjondolo in the Kennedy Road settlement. Abahlali baseMjondolo is highly respected for its courageous commitment to the equality of all human beings irrespective of their origins or position in society. Their recognition of the spark of the divine in every human being has been a prophetic voice calling us to conscience and grace in the moral wilderness of a country that is losing its way.

In April 2007 I visited the Kennedy Six in Westville prison where they held to a hunger strike for 14 days before the murder charges that had been trumped up against them were dropped. In November that year I, along with other church leaders, witnessed and denounced shocking police violence against Abahlali baseMjondolo.

In 2007 I had to put aside some of my exuberant faith in our new democracy as I came to understand that the days of police violence, police lies and wrongful arrest were still being used to silence those with the temerity to speak truth to power. I realised, with a heavy heart, that the days of the political prisoner were not yet over in our country.

The attack on Abahlali baseMjondolo, and the response to the attack by the police and some figures in the eThekweni Municipality and the Provincial Government of KwaZulu-Natal, have been met with grave concern across South Africa and abroad. 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.

I, along with many other church leaders as well as academics and human rights organisations, have called for a genuinely independent and credible inquiry into the attack on Kennedy Road. That call has not been heeded. It has become abundantly clear that the state has taken a political position on the attack and that it has forfeited any claim to neutrality in this matter.

The Kennedy Thirteen have come to court on six occasions to ask for bail. On each occasion a group of people, sometimes wearing ANC colours, some drunk and some armed, have been at the court to demand that bail be denied. The behaviour of these people has been appalling. They have openly made all kinds of threats including death threats. Clergy are amongst those who have been threatened and the apparatus of justice has been allowed to degenerate into what looks to all intents and purposes like a kangaroo court.

On six separate occasions the magistrate has postponed the bail hearing to give the police another chance to gather some evidence that could link the Kennedy Thirteen to a crime. On each of those six occasions the police have failed to produce any evidence linking the Kennedy Thirteen to any crime. Today the bail hearing for the Kennedy Road Thirteen was postponed until the 27th of November.

There were between thirty and forty clergy present at court today, all of us deeply disturbed by this travesty. We are all committed to see this matter through.

I am, tonight, issuing a call for the immediate release of the Kennedy Thirteen from prison on the grounds that justice has been delayed far beyond the point at which it was clear that it had been denied.

In light of the fact that this is quite clearly a political trial in which the rules that govern the practice of justice are not being followed, I am now calling for people of conscience outside of the state to join us as we set up an independent inquiry into the attack on Kennedy Road on 26 September; the subsequent demolition of the houses of Abahlali baseMjondolo members, the ongoing threats to Abahlali baseMjondolo members, the role of the police, politicians and courts in this matter.

Remember those who are in prison, as though in prison with them, and those who are mistreated, since you also are in the body. (Hebrews 13:3)

The Lord will respond to the prayer of the destitute; he will not despise their plea. Let this be written for a future generation, that a people not yet created may praise the LORD: "The LORD looked down from his sanctuary on high, from heaven he viewed the earth, to hear the groans of the prisoners and release those condemned to death." (Psalm 102: 16 ? 20)

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