COMMISSION OF INQUIRY INTO ALLEGATIONS OF POLICE INEFFICIENCY IN KHAYELITSHA AND A BREAKDOWN IN RELATIONS BETWEEN THE COMMUNITY AND POLICE IN KHAYELITSHA

UMHLAHLANJELA WEMIBUTHO YOLUNTU

ISIQALO

1. Ndibulisa kohloniphekileyo ushihlalo wale Komishini Yophando uJustice O'Regan, ihlakani lakhe u Advocate Pikoli, oogxa bam, amalungu emibutho. Nangona ndigqibelisa ngabo ndibulisa kwakunye nabantu abasidibanisileyo apha - abahlali base Khayelitsha.

2. Xa siqhuba apha namhlanje nakwintsuku ezizayo, kufuneka ukuba simana siziqhwetha sizikhumbuza ukuba kutheni silapha nje. Sakwenza njalo, iyakusinika umkhomba-ndlela kwizinto esiza kuzithetha, indlela esithetha ngayo kwaye nokuba siziphatha njani kule Komishini.

3. Le Komishini imiselwe emva kokuba abahlali base Khayelitsha bephakamise ukungaxoli kwabo ngendlela amapolisa asebenza ngayo kule ngingqi, kwaye nendlela ubudlelwane phakathi koluntu namapolisa obusekelezeke ngayo.

4. Kule mizamo yabo abahlali base Khayelitsha baxhaswa yimibutho yoluntu, ekukho kuyo i-Social Justice Coalition, i-Ndifuna Ukwazi, i-Equal Education, i-Treatment Action Campaign kunye ne Triangle Project.

5. Kubalulekile ukuba siqwalasele ukuba le mibutho isebenza eKhayelitsha, kwaye ezinye zeenkokheli zale mibutho zingabahlali balapha abazaziyo ezimeko sizakuthetha ngazo.

6. Le ndibano yanamhlanje ayiqali namhlanje. Abahlali base Khayelitsha benze iinzame ukususela ngo 2003. Benze iimbumba, iziphakamiso,

nemingcelele besenza isimbonono kuzo zonke izigaba zika Rhulumente, bekhalela indlela ezokhuselo ezingasebenzi ngayo.

7. Zonke iinzame zabo ziye zadla phantsi, bade babhenela kumbuso we Ntshona Koloni. Esi sicelo sobukho bale Komishini senziwe yile mibutho yoluntu phantsi komqolo ka section 206 (5) woMgaqo Siseko wesizwe somZantsi Afrika kuba bekholelwa entweni yokuba abahlali base Khayelitsha abazifumani iinkonzo zokukhuseleka kwakunye nenkxaso njengamaxhoba obundlobongela.

8. Kudala abantu base Khayelitsha bewulindele lomhla nalo mzuzu. Xa sicaphula kumazwi ohloniphekileyo u Justice Moseneke xa echitha isicelo somphathiswa wama Polisa, uthi: *amalungelo abantu base Khayelitsha ngawo la angundoqo kule ntsinda-badala.*

9. Mhlawumbi singalibala silapha nje kule Komishoni ukuba lo msebenzi sizakuwenza apha umalunga nabantu abafana nam nawe, abanamagama, abana makhaya neminqweno nabamele ukuxhamla kwizibophelelo nezithembiso zoMgaqo Siseko welizwe. Amanye aloo magama ngoo Angy Peter; oo Zoliswa Nkonyana; ngoo Nandipha Makeke kwakunye no Lorna Mlofana. Abanye bezintsapho balapha namhlanje. Banqwenela ukubona umsebenzi wale Komishoni uqala, uqhuba yaye uphumelela.

10. Bonke ababahlali bachatshazelwe yindlela amapolisa enza ngawo umsebenzi wawo ngokunganelisiyo kule ngingqi. Nangona abafana no Zoliswa Nkonyana kwakunye no Nandipha Makeke bengasakwazi ukuwaxhamla amalungelo abo okuphila, awesidima, okulingana kwabantu, enkululeko nalawo okuphila ngaphandle koloyiko – iintsapho zabo zilapha,

kwakunye nabanye abahlali abangakwaziyo besaphila bona ukuxhamla la malungelo.

11. Umsebenzi wale Komishini unika ithuba kubahlali base Khayelitsha lokuthetha nale nkqubo, bekhupha imbilini yabo ngokungafumani oko uMgaqo Siseko kubathembise kona. La malungelo amele ukuba aziswa kubo ngamaziko ka Rhulumente afana namapolisa, abatshutshisi, amagosa olawulo lee nkundla zamatyala, namalungu oburhulumente wesixeko.

12. Kufuneka siqwalasele ukuba amanye amalungu alo mphakathi nezalamane ade aphulukana nobomi babo kuba la maziko akhankanywe ngasentla engawenzanga ngendlela umzebenzi wawo.

13. Kuba kubanye bethu ingumsebenzi wethu wesiqhelo lona, kumele sikhumbuzane ngokubaluleka kwalo mzuzu. Le nkqubo izakwenza imbali entsha kuba kuyaqala ukuba abantu nemibutho yabahlali isebenzise imiqolo yoMgaqo Siseko welizwe ukuphuhlisa amalungelo abo ngolu hlobo, nokwenza ezi nzame zokuphucula iimeko zabo. Ezi nzame zabahlali base Khayelitsha zizo ezisidibanise apha bezama ukuqinisekisa ukuba amasebe ka Rhulumente enza indima yawo ekuphuhliseni amalungelo oluntu.

UBUNGQINA OBUPHAMBI KWE KOMISHINI

14. Phambi kwale Komishini, siza kuzisa ubungqina obuzakubonakalisa ngokupheleleyo ukuba le miba iphakanyiswa ngabahlali imele ukuba siyithathele ingqalelo, kwaye sisebenzele ukuguqula ezi meko.

15. Masithi chatha kobu bungqina. Bubonisa ukuthi, gqaba-gqaba:

15.1 Amalungelo abahlali base Khayelitsha awabonelwa nto xa besiya kukhalela kwabo bamele umtheto, ngogama amapolisa.

15.2 Abantwana noo mama bayaxhatshazwa xa besiya kwizindlu zangasese, xa besiya kufuna amanzi kwii mpompo ezikude nezikufutshane, kananjalo baxhatshazwa naku makhaya abo.

15.3 Oomama, iimbacu, abantu abadala, abo bathandana benesini esinye, abafiki kweli lo Mzantsi, abaphila nentsholongwane ye HIV/AIDS ngabona amalungelo abo athi axhatshazwe. U-Lorna Mlofana ubulewe luluthsa lwengingqi xa lusiva ukuba uphila ne HIV/AIDS. U-Lorna lo ebeyenye yeenkokheli ze TAC.

15.4 Amakhaya abahlali aqhekezwa rhoqo kodwa ezi zinto aziselwa so.

15.5 Abahlali abawathembi amapolisa ukuba ayawenza umsebenzi wawo ngoko abazixhamli ngokubeka izikhalazo zabo kuwo.

15.6 Intsebenziswano engekhoyo phakathi kwamapolisa, abaphandi nabatshutshisi, into leyo ebangela ukuba amatyala angahambeli ndawo. Akukho qhakamshelwano nabo bangamaxhoba obundlobongela ngenkqubela phambili yamatyala abo, neentsuku ekumele amangqina aye ngazo enkundleni. Nemiqathango ayilandelwa.

15.7 Amapolisa awabonakali eluntwini, nto leyo ebangela uloyiko, noluntu lube ngamaxhoba ingaphezulu abo banga bantwana besikolo.

15.8 Umqolo ongu section 195 woMgaqo Siseko ulindele ukuba abasebenzela uRhulemente baziphathe ngendlela, nesithozela, bengathathi cala, besenza umsebenzi wabo ngentembeko nezabelo zezimali bezenze ngokufanalekileyo. Abahlali base Khayelitsha abasixhamli esi sibophelelo.

16. Ezi ziphakamiso sizenzayo zizakungqinwa naluphando obelenziwe ngamapolisa bekhokhelwe ngongasekhoyo u-Lt General Tshabalala.

17. Olo phando lwezikhalazo zemibutho yoluntu obelukhokhelwe ngamapolisa lufumanise ukuba:

17.1 Ulwabiwo lwamapolisa, oluhlala lucuthwa malunga nokwenza i- *sector policing*, lucutheka ngaphezulu xa amapolisa alo msebenzi esabelwa eminye imisebenzi.

17.2 Ulwabiwo lwamapolisa nezithuthi ibangela ukuba amapolisa angabonakali kwaye angafikeleli ngethuba eluntwini.

17.3 Imigaqo ye *sector policing* ayilandelwa ngamaziko aseHarare nase Lingelethu-West.

17.4 Kula maziko siwakhankanyileyo izabelo azoneli, into leyo ebangela ukuba amapolisa angakwazi ukusebenza ngokufanelekileyo.

18. Sizakubonisa ukuba i-*sector policing* ibalulekile ekunqandeni ubundlobongela nokuqinisa ubudlelwane phakathi kwamapolisa noluntu, ngoko ke ukungalandelwa kwemiqathango kuzala ukungabikho kobudlelwane obuhle phakathi koluntu namapolisa.

19. Oluphando lwamopolisa, lwenziwe ngamapolisa lufumanise nokokuba:

19.1 Ezinye izikhalazo azibhaliswa encwadini yazo njengokuba kulindelekile, ziye zibhaliswe emva kophando.

19.2 Azibhalwa zonke izikhalazo, ithi lonto yenze iingxelo zingathembakali.

19.3 Abo batyholwa ngezenzo ezigwenxa bayavalelwa kodwa bangabekwa zityholo bade bakhululwe kuba akusekho ndlela yokuyazi ukuba izityholo zithini na kowuphi umtyholwa.

19.4 Amapolisa aye abambe abantu kodwa angachazi ukuba arhanela ntoni okanye zithini izityholo.

19.5 Amapolisa angaba phandi awavelisi ziqhamo ingakumbi kwizityholo zokugetyengwa nokuqhekweza kwezindlu.

19.6 Inkqubo yamatyala ayilandelwa, ifana nokuthatha ubungqina eluntwini, ukuzotywa kwabarhanelwa kwakunye nokubonisa imifanekiso yabarhanelwa kubakhalazi.

19.7 Ayikho intsebenziswano kumacandelo amapolisa, efana nokwabelana ngolwazi lokuqinisa ukuphandwa kwamatyala.

19.8 Amatyala ayachithwa enkundleni kuba iinkcukacha aziphelelisi kumaphepha asiwa kuba tshutshisi.

20. Isiphetho soluphando lwamapolisa ngamapolisa sivalelise ngamazwi athi: amapolisa oMzantsi Afrika e Khayelistha awakwazi ukutsho ukuba

anikezela ngeenkonzo kuluntu lwase Khayelitsha ezisemgangathweni wokuba baxole, bangakhalazi.

21. La mazwi ayinyani.

ISIVALO

22. Silapha nje size kufuna izisombululo.

23. Asidibenanga apha ukuza kuhlasela amapolisa okanye ukuza kutyholana sibangisana ngoko kuba ngobani abenza ubugwenxa. Okwethu kukuphucula iinkonzo zokhuseleko, ukusondenza iinkonzo zobulungisa, nokuphucula iimeko amapolisa asebenza phantsi kwazo ukuze nawo aphucule umgangatho weenkonzo kubahlali.

24. Size apha ukuze sincothule iingcambu zawo wonke amakhula enza ukuba iinkonzo zamapolisa zophuke eKhayelitsha.

25. Siyayamkela ukuba uxanduva lokulwa ubundlobongelo ayiloxanduva lamapolisa kuphela kodwa kuzaku thabatha ukubambisana kwamesebe ka Rhulumente, uluntu, imibutho yabahlali naye wonke onegalelo ekuphuculeni impilo yoluntu.

26. Kufuneka onke amasebe ezobulungisa abambisane, ukususela emapoliseni esixeko ukuya emapoliseni elizwe.

27. Le nkqubo yale Komishini imele ukuqala ezingcanjini nakwintsusa yolwaphulo mthetho, ngokuzithemba nangokungazoyikiseliyo.

28. Abo bagxeka abahlali base Khayelitsha kuba besithi nezinye iindawo ziphila le mpilo yeenkukhu, bakhuthaza ukuba abemi bomdibaniso bamnkele imeko yokuphila ubomi bentaka.

29. Ezi ntsapho zimele nabo bangasekhoyo abafana no Lorna Mlofana, u Zoliswa Nkonyana no Nandipha Makeke, zimele ukusikhumbuza ngoxanduva esinalo lokufumana izisombululo ngapha kokugxeka nokukhalaza.

30. Yiminyaka ngeminyaka isikhalo sabahlali base Khayelitsha sivakala enzonzobileni, iinzame zabo zisiwa phantsi kwaye namalungelo abo enyantswa. Le nkqubo imele ukuba izise ithemba lokuba izinto zizakutshintsha. Lendibano imele ukuza nokuphila kwamanxeba nemiphefumlo endandathekileyo. Imibutho yoluntu kunye nabahlali baseKhayelistha banqwenela ukuba isiqhamo sale Komishini ibe kukwakha ubudlewane obutsha, izise amacebo asebenzayo nazaku setyenziswa ukuphucula ukhuseleko, nobulungisa kwakunye neemeko amapolisa asebenza phantsi kwazo.

31. Impumelelo yokoyisa ubundlobongela eKhayelitsha ixhomekeke kwintsebenziswano nokubambana ngezandla koluntu namapolisa.

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