

Statement from the University of Cape Town and Stellenbosch University on the breakdown in relations between the police and the Khayelitsha community

It is deeply troubling that residents of Khayelitsha fear leaving their homes at night as a result of on-going violence and intimidation. Of concern too, is that despite the Khayelitsha community having campaigned for the improvement of the quality of policing services over several years, very little has been done to assuage their concerns. As universities, we are committed to the development of individuals, through knowledge, to their fullest potential. Violence, its effects and the fear of violence are an enormous hindrance to human development. It is for these reasons that we have decided to issue this statement.

Khayelitsha has one of the highest levels of violent crime in the country, particularly murder and attempted murder. And, uncontroversially, crime is a far more pervasive threat for those living in crowded, impoverished, poorly serviced informal settlements of which Khayelitsha is typical compared to more affluent areas. Without adequate roads, lighting or safe transport, the residents of Khayelitsha are more vulnerable to social contact crime than those South Africans who enjoy such amenities. Moreover, the residents of this community are largely unemployed and thus dependent almost entirely on the provision of government protection, welfare and services.

The South African government has an obligation to protect members of the public from violations of their constitutional rights. In respect of policing, there is a specific constitutional duty on the South African Police Service (SAPS) to “prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law.” Notably, in *S v Walters*, the Constitutional Court stated:

“Police officers do not have a discretion to fulfill these obligations if they wish – it is their duty to do so. They are always entitled and often obliged to take all reasonable steps...to carry out their duties.”

In addition, section 12(1)(c) of the South African Constitution states that everyone has the right to freedom and security of the person, which includes the right to be free from all forms of violence from either public or private sources. South African courts have recognized that freedom from violence is fundamental to the equal enjoyment of human rights and fundamental freedoms. There is thus a duty on the state and all of its organs not to perform any act that infringes these rights and, in certain circumstances, also a positive component, which requires the state to provide appropriate protection to everyone through legislation and policing structures.

Given the acknowledged level of dysfunction at the Khayelitsha police stations by both the SAPS and

the Auditor-General, the unabating levels of violence, and the obvious dissatisfaction amongst residents with the standards of policing, the government's failure to deliver any form of integrated solution to the policing problem is cause for deep concern. For as long as Khayelitsha continues to be affected by extreme violence and an ineffective responses from government, community members will continue to have their rights to life, security and bodily and psychological integrity violated on a daily basis.

Therefore, given the fundamental nature of the rights and duties of the South African government enumerated above, we urgently call for measures and processes that will improve police effectiveness, reduce violence and restore the breakdown in relations between the community and the police in Khayelitsha. As a first step, it is imperative that the state of policing in Khayelitsha be impartially and independently investigated, and that recommendations of this investigation be promptly implemented. It is essential that this investigation be supported by all levels of government, and be based on sound constitutional principles and that it aspires, ultimately to:

- help build a community free from violence and crime,
- ensure that the police service acts in accordance with the constitution and the law and
- ensure an open, accountable, ethical and efficient government that eradicates, condemns and punishes corruption.



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