

AK 2883 / A9

**IN THE SUPREME COURT OF SOUTH AFRICA
(TRANSVAAL PROVINCIAL DIVISION)**

Case No.:

In the review Application of:

J J WALUS

First Applicant

C DERBY-LEWIS

Second Applicant

And

AMNESTY COMMITTEE

Respondent

REVIEW

**AGAINST THE DECISION BY: JUDGE. H MALL, JUDGE. A WILSON,
JUDGE PRESIDENT. B. NGOEPE, ACTING
JUDGE. DENZIL POTGIETER & ACTING
JUDGE. S. KAMPEPE**

**OF THE AMNESTY COMMITTEE IN THE APPLICATIONS OF J J WALUS
(AM270/96) AND C DERBY-LEWIS (AM271/96) DELIVERED BY THE AMNESTY
COMMITTEE AT CAPE TOWN ON 7 APRIL 1999**

ON BEHALF OF APPLICANTS

**SWART REDELINGHUIS NEL &
PARTNERS INC**
245 Voortrekker Road
Monument
KRUGERSDORP
REF. J LUBBE/I.D.164

Tel : (011) 954-4000

Fax : (011) 954-4011

**VOLUME 9
(Pages 801 - 900)**

MR DERBY-LEWIS: 31.

MR BIZOS ... to you what we are going to argue. I want to give you an opportunity to deal with it and you have.

MR PRINSLOO OBJECTS.

MR PRINSLOO: Mr Chairman, before my learned friend proceeds, I am referring to page 340, R4 continued, paragraph 40, statement of Captain Deetliefs, where he states,

"On Friday, 23 April 1993 during the course of the day, I visited Clive Derby-Lewis in his cell. I handed over to him folio paper as requested on Tuesday 20 April."

Not, it was not given to him on the 20th of April as put to the applicant by Mr Derby-Lewis. It is incorrect, Mr Chairman.

MR DERBY-LEWIS: Mr Bizos.

MR PRINSLOO: By Mr Bizos, I beg your pardon.

MR DERBY-LEWIS: That is why, in fact, I queried when I started, Mr Chairman.

MR BIZOS: It may be, yes, but I will, I just want to get the date.

MR DERBY-LEWIS: Page 340.

MR PRINSLOO: It is page 340, Mr Chairman, paragraph 40.

MR BIZOS: Mr Chairman, we want to see the date. Anyway, be that as it may, you say that you ...

JUDGE WILSON: There is the 23rd of April at the beginning and end of the paragraph concerned.

MR BIZOS: I beg your pardon. I beg your pardon.

CHAIRPERSON: Paragraph 40 refers to the date at the beginning of that paragraph as being 23rd of April 1993.

MR BIZOS: Yes, well, be that as it may, it, I appreciate that it is a point that has to be dealt with and we are indebted to our learned friends for drawing attention to it, but you had an opportunity to write the statement in the cell. What I want to ask you is this, were the police interested in you signing the document purporting to be the truth?

MR DERBY-LEWIS: That was the agreement with, which

MR BIZOS: Yes.

MR DERBY-LEWIS: ... produced this statement, Mr Chairman.

MR BIZOS: That was the agreement, yes, and you say that you signed this and merely to indicate whether there were alterations on a page or not?

MR DERBY-LEWIS: On this particular statement?

MR BIZOS: Yes.

MR DERBY-LEWIS: That is correct, Mr Chairman, that was what Captain Deetliefs asked me to do.

MR BIZOS: He asked you

MR DERBY-LEWIS: He said he did not want a signature, he did not want to, to commit, me to commit myself at this stage, I must just go through this, check that there are no mistakes or alterations and if there are, sign them and otherwise certify there are no alterations.

MR BIZOS: I am going to put to you that you signed it, because you wanted to indicate that you agreed with the contents and in order that there may not be suggestions that you, that anything was altered in your statement, you added no alterations or alterations. What would have been the value of a statement to Mr Deetlefs or to anyone else without you signing that you spoke the truth in it?

MR DERBY-LEWIS: Mr Chairman, I explained why this word, these words "no alterations" were included on every page. If I had wanted to say "contents correct" I would have written exactly that, Mr Chairman, "contents correct, "contents correct" and signed it. Why would I talk about alterations if I was going to confirm the contents?

MR BIZOS: So, you actually are telling us that whoever received your statement was satisfied with a signature only certifying whether there were alterations or not.

MR DERBY-LEWIS: That is —

MR BIZOS: ... on a particular page —

MR DERBY-LEWIS: That is ...

MR BIZOS: ... and was not interested whether you had told them the truth or not?

MR DERBY-LEWIS: That is correct, Mr Chairman. Why would I initial the alterations where they were?

MR BIZOS: Well, I have put to you why you did it and I am going to put to you that this suggestion that they were not interested for you to certify by your signature that it was the truth, is an answer which is, borders on your having lost sight of reality, Mr Derby-Lewis.

MR DERBY-LEWIS: Mr Chairman, why then would they produce another nicely typed statement with a space for me to sign and then allow my attorney to come in, to ensure that the thing is signed as a confession before a magistrate, if they were happy with this one?

MR BIZOS: The question is whether you purported to write the truth or not?

MR DERBY-LEWIS: No, Mr Chairman, that is not the question. The question was ...

MR BIZOS: The question was ...

MR DERBY-LEWIS: ... regarding the validity of this statement.

MR BIZOS: I am asking you whether you purported to have written the truth in this statement or not?

MR DERBY-LEWIS: I explained, Mr Chairman, ...

MR BIZOS: Did you ...

MR DERBY-LEWIS: ... that I, Mr Chairman, I have already made a statement regarding this statement in its typed form wherein I stated that the circumstances around the list I included, because I wanted to protect my wife and the fact that the police accepted it as the final statement, is an indication that they were satisfied with that as well. In fact, they, to me that confirmed that they did not really believe that my wife was involved and that is why they did not press the matter.

MR BIZOS: Did you purport to write truth in this statement?

MR DERBY-LEWIS: I said I did, Mr Chairman, with that exception.

MR BIZOS: Right. You purported to right the truth with an exception, did you say? What was that exception or exceptions?

MR DERBY-LEWIS: I refer here to the typed version of this, Mr Chairman, ...

MR BIZOS: Yes.

MR DERBY-LEWIS: ... which is on page 65, regarding the list of names.

MR BIZOS: Yes.

MR DERBY-LEWIS: Paragraph 44.

MR BIZOS: You deliberately lied in your written statement, in your own handwriting in relation to that whilst you were being coerced by the police?

MR DERBY-LEWIS: I have already testified to that, Mr Chairman.

MR BIZOS: Is that the correct summary of your testimony, yes or no? 10

MR DERBY-LEWIS: I have already testified as to what extent this is correct. It, with the exception ...

MR BIZOS: Mr Derby-Lewis, ...

MR DERBY-LEWIS: ... of those paragraphs, ...

MR BIZOS: Mr Derby-Lewis, ...

MR DERBY-LEWIS: Mr Chairman, it is correct.

MR BIZOS: ... I will have, with the permission of the Chairman of the Committee, an answer to my question. Did you purport to tell the truth with certain exceptions and did you lie to the police despite the pressure that there was put on you? What is the answer to that question? 20

MR DERBY-LEWIS: Yes, I did in this instance, Mr Chairman.

MR BIZOS: Right.

MR DERBY-LEWIS: ... yes. 30

MR BIZOS: If you managed to lie and held out with your untruths, how great was the pressure that, you say, was imposed on you?

MR DERBY-LEWIS: Mr Chairman, I want to also recall that this was not under oath that this was done. That is the first point I want to make and I want to say, secondly, that at that stage the pressure was off. At that stage the pressure was off, because we had already reached agreement on the contents of the statement, They had then said to me, here is the paper, go and sit down, ...

MR BIZOS: So, ...

MR DERBY-LEWIS: ... Deetliefs testified to that effect, and go and sit down and write it out and we will get it before a magistrate and we will accept this statement as is.

MR BIZOS: So that, and you said yes and you said yes, because at that stage there was no pressure anymore on you?

MR DERBY-LEWIS: At that stage, yes.

MR BIZOS: Yes. So, you accepted to sign a statement at a time when there was no longer any pressure?

MR DERBY-LEWIS: Yes, yes, that is correct, the pressure had been removed because of my acceptance.

MR BIZOS: Yes. Thank you Mr Derby-Lewis. I do not think that I have to take that point any further. Now, in relation to your detention, did you see your attorneys?

MR DERBY-LEWIS: In relation to my detention?

MR BIZOS: Yes. As soon as your detention, well, first of all, you saw your attorneys in order to oppose the application for the extension of the period of detention.

MR DERBY-LEWIS: Correct. Excuse me.

MR BIZOS: Did you tell your attorneys, at that time, that you had been coerced to make any statements? 10

MR DERBY-LEWIS: Yes, Mr Chairman. That is why my advocate, at the end of my detention period, got me to produce the statement which is part of the evidence. I do not know what...

MR BIZOS: For how long did you see your attorney when you gave instructions to oppose the application to extend the period of detention? 20

MR DERBY-LEWIS: I am not sure, Mr Chairman. I am not sure.

MR BIZOS: You knew that unlike the unfortunate detainees under Section 6 and under Section 29 in the pre-90 days, that your affidavit would go before a judge and that you would be represented by counsel and that you would be given a hearing as to whether your detention should be extended or not?

MR DERBY-LEWIS: You mean when we tried to oppose the application? 30

MR BIZOS: Yes.

MR DERBY-LEWIS: Yes, Mr Chairman.

MR BIZOS: In the representations that you made to the court not to extend your Section 29 detention, did you say that you had been ill-treated whilst in the, whilst you were in detention?

MR DERBY-LEWIS: I cannot recall, Mr Chairman.

MR BIZOS: Do you recall whether you complained to your attorneys, at that time, and say, look, here is an opportunity for you to put in the affidavit so that it may become publicly known that I have been ill-treated and, also, that I fear that if my detention is extended, I will suffer more from these, to use your wife's words outside these proceedings, by these torturers?

MR DERBY-LEWIS: Mr Chairman, at that stage, the pressure had been stopped. So, there was no reason to complain about that. The intention was to oppose the extension, because there was no reason for the extension.

MR BIZOS: Mr Derby-Lewis, ...

CHAIRPERSON: The answer is no. In that application before the court he did not mention there was pressure on him.

MR DERBY-LEWIS: That is correct, no, I said that, Mr Chairman.

MR BIZOS: Yes. Bear with me for just a short while.

JUDGE WILSON: When did you make this statement, the 20th?

MR DERBY-LEWIS: Which one, Mr Chairman?

JUDGE WILSON: The one we are talking about.

MR DERBY-LEWIS: The hand written one?

JUDGE WILSON: The hand written one.

MR DERBY-LEWIS: No, Mr Chairman, apparently it was finalised on the 27th ...

JUDGE WILSON: 27th.

MR DERBY-LEWIS: ... of April. It started, the pressure started on the 20th in terms of Section 29, the real pressure. Until then I was even allowed to see my family that weekend and the impression was created that I was being taken care of and nobody had to worry about me and then on Monday morning, early, when nobody could do anything about it, that is when they sprung the Section 29 on me.

MR BIZOS: Do you agree that no complaint was voiced by your attorneys or counsel?

MR DERBY-LEWIS: As far as I know, there was no complaint at that stage.

MR BIZOS: Even though the pressure started as soon as you were converted from a criminal procedure detainee to a Section 29 detainee?

MR DERBY-LEWIS: Mr Chairman, I do not know whether there was any relevance in terms of the further application, because at that stage the pressure was off

MR BIZOS: When did the pressure start? Let us just get that clear.

MR DERBY-LEWIS: The pressure started on the 17th of April when I was arrested.

MR BIZOS: Yes and, obviously, that was before you made, you saw your attorneys in order to oppose the extension? 10

MR DERBY-LEWIS: I beg your pardon. Yes.

MR BIZOS: Yes.

MR DERBY-LEWIS: That was my initial arrest.

MR BIZOS: Yes, yes. Now, I want to read to you a newspaper cutting which may or may not have come to your attention, published on the 2nd of May 1993. This may have been whilst you and your wife, when was your wife arrested?

MR DERBY-LEWIS: On the 21st I think, Mr Chairman.

MR BIZOS: 21st, Yes. So probably, ... 20

MR DERBY-LEWIS: The 23rd, no ...

MR DERBY-LEWIS: ... you were probably in detention at, on the 2nd of May 1993.

MR DERBY-LEWIS: I was, Mr Chairman.

MR BIZOS: Yes.

MR DERBY-LEWIS: Yes.

MR BIZOS: I want you to comment on a statement made. I will, we will hand in a copy, Mr Chairman. It is headed, 30

"Was the overbearing Gaye Derby-Lewis playing Lady Macbeth to her ambitious husband.",

and I merely do that for the purposes of identification, but what I am concerned about is this,

"Her husband became a MP in 1987 forging a reputation in Parliament where even his CP colleagues strove to keep up with him to keep up civil appearances as an inveterate racist. Andries Beyers, a senior CP official at the time said,

"I think sometimes he became an embarrassment to us. He was a complex, difficult character, very, very hard line. He had a calling to bring English speakers to the CP, but his personal style actually put them off."

He lost his Parliamentary seat in 1989, Whites only election, at which point he decided, without abandoning his role as a self-appointed leader of the English speaking South African ultra-right to

10

20

30

consolidate friendships elsewhere. One of these friends was David Irving, the controversial British historian, famous for his Hitler sympathies.*

Now, I do not want, I do not expect you to admit this, but who was Mr Beyers?

MR DERBY-LEWIS: Mr Chairman, Mr Beyers was a man who had been, who left the party at that stage. He was a man who had an axe to grind with me, because I saw through him long before anyone else in the CP in terms of what he was using the Conservative Party for his own personal affairs.

MR BIZOS: Yes.

MR DERBY-LEWIS: That is what he was. He was a, as far as I was concerned, he was an outcast and he still is. He is a member, he is actually, Mr Chairman, he is an elected member of the National Party now. He has jumped from the National Party to the HNP to the CP to the Afrikaner Volks Unie and from there he has gone back to the National Party. So, I think that gives an indication of the integrity of the man.

MR BIZOS: He was the ...

MR DERBY-LEWIS: Excuse me.

MR BIZOS: ... Secretary of the Conservative Party from when to when?

MR DERBY-LEWIS: I am not sure of the exact dates, Mr Chairman.

MR BIZOS: Try and be of assistance to us, please. Was it during the period that you were a Member of Parliament?

MR DERBY-LEWIS: Yes, it was, Mr Chairman.

MR BIZOS: And was he the Secretary of the Conservative Party whilst you were in the ...

MR DERBY-LEWIS: President's Council.

MR BIZOS: in the President's Council?

MR DERBY-LEWIS: Not for all of the time, Mr Chairman.

MR BIZOS: Not all the time, but some of the time?

MR DERBY-LEWIS: Possibly, yes.

MR BIZOS: Yes.

MR DERBY-LEWIS: I am not sure exactly when he ...

MR BIZOS: Now, ...

MR DERBY-LEWIS: No, it was, definitely.

MR BIZOS: ... according to the statement, he had a low opinion of you and you, apparently, share that about him.

MR DERBY-LEWIS: That is correct, Mr Chairman.

MR BIZOS: The Committee is not interested in the rights and wrongs of that situation, Mr Derby-Lewis, but you yourself must also have made your views, if not generally known, at least the relationship between you, at best was, cold and correct?

MR DERBY-LEWIS: Fragile.

MR BIZOS: Fragile and cold and correct, to use diplomatic terms?

MR DERBY-LEWIS: That is debatable, Mr Chairman.

MR BIZOS: Yes. Now, he was the General Secretary of a political party, is the next most important person in the party after the leader, is he not? 10

MR DERBY-LEWIS: Not in the Conservative Party, no, Mr Chairman.

MR BIZOS: Well, is he the third most important person?

MR DERBY-LEWIS: Mr Chairman, he is responsible for party organisation.

MR BIZOS: Yes, well, let us see in the hierarchy. There is the leader, there is the deputy-leader and then, presumably, the Treasurer or the Secretary between the two of them, they must be high up in the hierarchy. 20

MR DERBY-LEWIS: That is not correct, Mr Chairman. I think Mr Bizos must familiarise himself about the CP. The CP was, in fact, a very democratic party and the party was not controlled in a dictatorial manner similar to the National Party. We learnt our lessons from them and that is not the structure that you are describing... 30

MR BIZOS: ... and I will read the portion out, Mr Derby-Lewis, and ask you:

"When the decision was made to bar my entourage from entering the Krugersdorp Centenary Hall, it was made because they were Black. The Conservative Party had taken action against Blacks using the facilities of towns which the CP controls.

Blacks, because they are Black, that we are talking about. Mr Derby-Lewis plays with words, hypocritically. Having the right to place conditions on the use of the City Hall is one thing. Nobody disputes that the City Council has the right to do so in the sense that it commands the decision-making machinery which can make such decision. Were I a White, I and my entourage would not even have to receive City Council permission to be in the City Hall. It is sheer naked racism which is applied against us. I want to assure Mr Derby-Lewis that when we in KwaZulu could possibly be facing

conditions on visits to this region, they will not be decided on with any regard whatsoever being paid to race ".

Now, what do you say about this allegation by Mr Buthulezi?

MR DERBY-LEWIS: Mr Chairman, Mr Bizos has not even given us an indication of the date of that article, regardless of not giving us a copy. Could he please tell me when that article appeared.

MR BIZOS: I think, with respect to myself, that I did say it was the 3rd of May 1989, but I will not take umbrage at it, but you have heard what it was, what was said, if this is what was said, what do you say about it?

MR DERBY-LEWIS: Mr Chairman, if I missed the date and Mr Bizos said it, I apologise.

MR BIZOS: Thank you.

MR DERBY-LEWIS: I did not hear it.

MR BIZOS: Yes.

MR DERBY-LEWIS: But as far as that report is concerned, Mr Chairman, it was not my decision to prevent Dr Buthulezi's entourage from taking over the hall mentioned in terms of that article. As far as my memory serves me, and this is now going back something like eight years, Mr Chairman, as far as my memory serves me, it was the Town Council of Krugersdorp that

took that decision and, also, once again relying on my memory, Mr Chairman, I believe that the decision was taken because the Council involved felt affronted by Dr Buthelezi that he believed that he could come to a council building in Krugersdorp and that the council, itself, would not be able to look after his security. I think that was the basis for that report. Now, Mr Chairman, there is a lot of stuff which Mr Bizos read out there. Can you just please repeat the part that you want...

10

MR BIZOS: Well, you have dealt with the one allegation. The other allegation I will summarise for you.

MR DERBY-LEWIS: Thank you, Mr Chairman.

MR BIZOS: Was that your Conservative Party prevented Black people from making use of council facilities. Was that true or not?

20

MR DERBY-LEWIS: Mr Chairman, those were the laws at the time. They were only acting in conformity with the laws.

MR BIZOS: In the towns in which the Conservative Party had a majority, Blacks could not use the library.

MR DERBY-LEWIS: Mr Chairman, in, to the best of my knowledge, in a lot of councils where the CP did not have even a representative, the same situation prevailed. I do not know why Mr Bizos is singling out the Conservative Party for this.

30

MR BIZOS: No, I am talking about the Conservative Party that did not allow people to go into the town library. Is that correct?

MR DERBY-LEWIS: That is correct, Mr Chairman. So did the National Party, so did other political parties.

MR BIZOS: I do not know whether that was so, but even if it was, let us just deal with the Conservative Party today. 10

CHAIRPERSON: Mr Bizos, I thought you were setting out to show that Mr Derby-Lewis was a racist?

MR BIZOS: Yes.

CHAIRPERSON: Now you are pointing the fact that it is the Conservative Party that was racist.

MR BIZOS: Yes, well ...

CHAIRPERSON: Could you not just confine your ...

MR BIZOS: To ...

CHAIRPERSON: ... criticism to Mr Derby-Lewis. 20

MR BIZOS: Yes, I will do that, Mr Chairman. This will go in as another exhibit. It will be ...

CHAIRPERSON: EXHIBIT R13.

MR BIZOS: R13. Thank you, Mr Chairman.

JUDGE WILSON: Have you changed the number of the letter from R11 to R12, because I have changed the number on your R11 to R12.

MR BIZOS: As it pleases. 30

CHAIRPERSON: Yes.

JUDGE WILSON: To put it in proper context.

MR MPSHE: Mr Chairman, the actual

MR DERBY-LEWIS: Yes, sorry, Mr Chairman, before, I have just been handed a copy of R12. May I just obtain the Committee's opinion on this. I have been told that while I am under cross-examination, I am not allowed to consult with anybody regarding the matters on which I am being cross-examined. Now, Mr Chairman, this document I did not draw up and I will need to consult somebody to find out the exact detail of the background of this letter. Am I entitled to do that?

10

CHAIRPERSON: Which document are you talking about?

MR DERBY-LEWIS: I am talking about R12, Mr Chairman.

CHAIRPERSON: That was the document that was obtained from your wife's computer?

20

MR DERBY-LEWIS: That is correct, Mr Chairman.

CHAIRPERSON: Yes. Well, now, I do not think you have denied that it came from your wife's computer, have you?

MR DERBY-LEWIS: This does not come from my wife's computer, Mr Chairman.

CHAIRPERSON: Oh.

MR DERBY-LEWIS: It is obviously not a computer produced, in fact, it looks to me like a typewriter.

30

CHAIRPERSON: Yes.

MR DERBY-LEWIS: So, I, it is, unless I may be wrong, it may be the printer that was used to produce this, produces another typeface, but this is not the typeface of my wife or my own computer which is produced by the printer.

CHAIRPERSON: Yes.

MR DERBY-LEWIS: I know, I am aware of the printer.

MR BIZOS: May I

MR DERBY-LEWIS: That is why.

MR BIZOS: May I suggest, Mr Chairman, that before he is re-examined, I am sure that his counsel can ask Mrs Derby-Lewis where it comes from or not.

MR DERBY-LEWIS: Mr Chairman, ...

CHAIRPERSON: Are you in a position to say, Mr Bizos, whether that document comes from the computer or whether it was a document typed by somebody in the police?

MR BIZOS: We were told that it was printed out of Mrs Derby-Lewis' computer. This is what we were told.

CHAIRPERSON: Thank you. Well, now, you will have an opportunity to deal with this ...

MR BIZOS: Yes.

CHAIRPERSON: ... and consult with your counsel once the cross-examination is over.

JUDGE WILSON: Did the hand-written bit also come out of the computer?

MR DERBY-LEWIS: Yes.

MR BIZOS: Which hand-written portion, Mr Chairman.

JUDGE WILSON: "Not such a good friend".

MR BIZOS: Let me just clarify the position. The computer was taken away and there was a hard drive. It comes out of the hard drive found in Mrs Derby-Lewis' computer and printed on the Police printer. No, that is my handwriting, Mr Chairman.

JUDGE WILSON: Oh, so you are writing comments on documents that you are handing in as exhibits. I do not think you should, Mr Bizos.

MR BIZOS: It was the only copy that I had, Mr Chairman. I apologise. Please ignore my, the marginal note that I made. Had I noticed it, I would have scratched it out, Mr Chairman.

MR DERBY-LEWIS: Mr Chairman, with respect, may I just make one comment regarding this?

CHAIRPERSON: Yes.

MR DERBY-LEWIS: I must express my surprise that the SAP are still in possession of documents which belong to my wife after she was found not guilty of any crime by the Supreme Court of the Witwatersrand, and I query the motives and if this is part of the continued pressuring of us, Mr Chairman, then I want to express

my strongest disapproval of this. I do not think this is acceptable behaviour.

CHAIRPERSON: Well, I think it is a matter that can be raised with the authorities and that is the police from whose files this document has been obtained. That is a matter between you or your wife, rather, and the police. She is entitled to demand everything that belongs to her which they have taken away.

10

MR DERBY-LEWIS: Thank you, Mr Chairman.

CHAIRPERSON: Yes. Can we proceed?

MR BIZOS: Yes, Mr Chairman.

MR DERBY-LEWIS: Sorry, Mr Chairman, I am still waiting to see the statement that Mr Bizos is using regarding Dr Buthulezi or is that finished now?

MR BIZOS: That is finished.

CHAIRPERSON: Yes.

20

MR BIZOS: It is being copied and you will get a copy and if you want to say anything about it in re-examination you will have ample opportunity.

MR DERBY-LEWIS: Okay, Mr Chairman, thank you.

MR BIZOS: You, have you had an opportunity of looking at R5, which is the statement of Mr Jerome Cronin with annexures?

MR DERBY-LEWIS: Mr Chairman, I must state that I received it together with R4, but I have not had an opportunity to have a

30

look at it, because I have been, obviously, been involved with more pressing matters and I believed that the time for that would come when the time arrives for witnesses to be cross-examined and I could then prepare myself at the stage.

MR BIZOS: Well, what I want to put to you in general terms is this, that this statement has annexures attached to it of public statements made by Mr Chris Hani at various functions from 1991 to shortly before his death and what I want to put to you is that this public record of Mr Hani's utterances are completely in conflict with the picture that you and the applicant, the first applicant tried to paint of Mr Hani. Did you bother, from 1991 to 1993, to read or inform yourself what the position of Mr Hani was in relation to the future of South Africa?

MR DERBY-LEWIS: Mr Chairman, the perception that I had of Mr Hani I obtained from the media which I, with which I am familiar. I do not know whether that documentation contains references from them or whether it is other documentation, because I have not perused the document, but ...

MR BIZOS: Well, ...

MR DERBY-LEWIS: ... my perception of ...

MR BIZOS: Well, let me tell you that they were statements made on public platforms, on a radio programme, statements at

CODESA and elsewhere which were given the widest publicity. Did it come to your notice or did you close your eyes and ears ...

MR DERBY-LEWIS: No.

MR BIZOS: to everything that the person that you decided to murder had been saying for the last three years, the last three years of his life?

MR DERBY-LEWIS: Mr Chairman, I think that people are familiar with the basic Communist technique and that is repeat a lie often enough and it becomes the truth.

CHAIRPERSON: I do not think that is the, you are required to make a comment on that. That is a matter for argument.

MR DERBY-LEWIS: Yes.

CHAIRPERSON: Did you read these reports that appeared from time to time which reflected the thinking of Mr Hanı from between 1990 to 1993?

MR DERBY-LEWIS: I am not sure, Mr Chairman, because I am not sure which reports is, Mr Bizos is referring to, but I can say that I noticed reports about Mr Hanı. I mentioned in testimony that I had based my decision to target Mr Hanı after a press report in February which reported that Mr Hanı was agitating to obtain weaponry back from Angola into South Africa. So I was aware of some, but I do not, I cannot give a blanket statement and say I was aware of everything, Mr Chairman, and ...

MR BIZOS: Well, ...

MR DERBY-LEWIS: ... and certainly, I have never heard Mr Hanani on a radio programme nor have I watched him on television.

MR BIZOS: It is a pity that you did not take an opportunity, even now, to read them even though you had about ten days, but in any event, do I understand your answer that whatever Mr Hanani may have said, you would have dismissed as unimportant. You had your own ideas about Mr Hanani?

MR DERBY-LEWIS: No, I did not say that, Mr Chairman. I said I ... (intervention)

MR BIZOS: What did you say, Sir?

MR DERBY-LEWIS: I said that I had read some reports on Mr Hanani and that I did not believe that the reports that I had read of this man of peace were truthful. I have also been told, Mr Chairman, for example, that he was a practising Christian at the time of his death and, yet, I am aware of a report, I do not, I am not sure whether it was on a radio programme or a TV programme where Mr Hanani was being interviewed and I was advised that he stated categorically during that interview that he did not believe in God. So, I think you can understand my difficulty, Mr Chairman, what is said and what is done are conflicting poles of one another and so ... (intervention)

MR BIZOS: You did not care what he said and you did not try and weigh up what he was saying over this period of three years before deciding whether he was the anti-Christ that you had to kill.

MR DERBY-LEWIS: Mr Chairman, it, I believe I am correct in saying that it was the general perception amongst people on the right that Mr Hani and his Communist Party were only interested in one thing and that was the attainment of power, not democracy, the attainment of power, and that they would do everything in their power to achieve that end. 10

MR BIZOS: The "everything" was that the majority of the people of South Africa would vote for them into office?

MR DERBY-LEWIS: Mr Chairman, I am convinced that had the Communist Party stood in the election, that would not have been the case. The Communist Party and the Communist members rode in on the back of the populist African National Congress whom they knew had the support they required to attain power. 20

MR BIZOS: Do you trust the judgement of the people of South Africa over yours sometimes, Mr Derby-Lewis?

MR DERBY-LEWIS: Mr Chairman, each person is entitled to his own opinion. I too am entitled to an opinion.

MR BIZOS: Mr Derby-Lewis, you did not bother to find out anything about Mr Chris Hani's attitude during this period. 30

CHAIRPERSON: Mr Chairman, there was - sorry, I thought you had finished.

MR BIZOS: I am going to ask the Committee's permission to show something recorded a few days before his death for you, for the Committee and you to see.

MR DERBY-LEWIS: Thank you, Mr Chairman. 10

MR BIZOS: On the 6th of, it was on the 6th of April 1993, Mr Chairman.

MR DERBY-LEWIS: Sorry, Mr Chairman, can Mr Bizos just repeat that date?

MR BIZOS: The 6th of April.

MR DERBY-LEWIS: 6th of April 1993, thank you.

MR BIZOS: Four days before his death.

MR DERBY-LEWIS: I see they had no problem showing Dr Hartzenberg from a similar angle. 20

CHAIRPERSON: Please put it louder.

MR DERBY-LEWIS: Volume. The speaker.

RECORDING STARTED:

MR HANI: ... for a, for democratic elections.

PRESENTER: Chris Hani said the recent violence in Natal and the PWV region was cause for concern.

MR HANI: The ambushing of the ordinary, you know, White kids and women along some of our 30

highways is something that is not acceptable and I am saying to these Comrades here that every member of the ANC should be a combatant by these type of things, a fighter for peace.

PRESENTER: The crowd then marched to Modderbee Prison where scores of East Rand activists are allegedly being ill-treated or held without trial. The ANC and its affiliates claim that they were.

RECORDING ENDED

MR BIZOS: You saw, did you, Mr Derby-Lewis, the late Mr Hani calling for peace and for the success of the negotiations? That is the man that you killed, Mr Derby-Lewis.

MR DERBY-LEWIS: Yes, Mr Chairman.

MR BIZOS: Mr Derby-Lewis, you made an attempt to apologise, firstly, in your statement where you actually apologise to the people on your side and the trouble that you gave them by your arrest. Is that correct?

MR DERBY-LEWIS: Yes, that is correct, Mr Chairman.

MR BIZOS: No apology for the killing of Mr Hani?

MR DERBY-LEWIS: No, Mr Chairman.

MR BIZOS: In the absence of Mrs Hani, you took the opportunity of not even checking whether she was present or not and you purported to apologise to her.

MR DERBY-LEWIS: Mr Chairman, up until the time that I made my statement, I was aware that Mrs Hani was in the audience. I had no information that she had left and I really believed that she was present, because I wanted to speak to her anyway. 10

MR BIZOS: And then you, when you saw that she was here, you said certain words purporting to be an apology to her. Have you apologised about wasting a valuable life that may have made a valuable contribution to the people of South Africa, Mr Derby-Lewis?

MR DERBY-LEWIS: Mr Chairman, with respect, may I ask is this a condition and is this something over which the Committee should then be subjected to evidence? My impression was that an apology was not necessary and not part of the whole function of this Committee. 20

CHAIRPERSON: Well, Mr Bizos, the Act does not require an applicant to apologise for what he did. He is required to make a full disclosure of what he did.

MR BIZOS: I am not unmindful. The question was not for the purposes, but in order to test his sincerity on the supposed apologies to Mrs Hani, Mr Chairman. It is not only, I am not 30

asking as a question of law. I am asking as to whether this person that is before you has ever expressed regret for killing a person who could have made a valuable contribution to the political life of this country or not.

MR DERBY-LEWIS: Mr Chairman, no. How can I ever apologise for an act of war. War is war. I have not heard the ANC apologising, the perpetrators of these deeds for apologising for killing people in pubs and blowing them up in Wimpy Bars. I have heard no apologies for that, Mr Chairman. Those people are just as important as Mr Hani was.

MR BIZOS: We are dealing with your case today and let us confine ourselves ...

MR DERBY-LEWIS: Yes, Mr Chairman.

MR BIZOS: ... to your case Mr Derby-Lewis.

CHAIRPERSON: Anyway, the upshot of it all is that as far as Mr Derby-Lewis is concerned, he regarded what he did as an act of war and that ... (intervention)

MR BIZOS: And he does ...

CHAIRPERSON: ... and there was no need for him to apologise.

MR BIZOS: Yes.

CHAIRPERSON: Let us move on from there, Mr Bizos.

MR DERBY-LEWIS: Mr Chairman, may I also state that my apology to Mrs Hani and her children was done in an attempt to

reach out a hand of reconciliation to her which I hoped, very sincerely, that she would have taken. That was my intention, Mr Chairman.

CHAIRPERSON: I understand.

MR DERBY-LEWIS: And I can understand the anger of these people and I do not criticise them for that, Mr Chairman. I understand.

10

MR BIZOS: You killed a person as an act of war who, four days before his death, was calling among a multitude of people, for peace, Mr Derby-Lewis.

MR DERBY-LEWIS: Mr Chairman, he called among a multitude of his people. He did not phone me up and say, listen, I am going to make this speech. He did not phone, he did not advise Dr Hartzenberg as one of the leaders or Dr Treurnicht as one of the leaders that he was a man of peace. I want, Mr Chairman, I am quite sure that senior members of the CP will confirm that at no time did Mr Hani ever bring his intentions, excuse me, his intentions to the attention of the Conservative Party or the right.

20

So, how would we know about that, Mr Chairman, unless we watched the TV programmes, which I have already said, I have not watched.

MR BIZOS: You were invited to CODESA and you refused not to go.

30

MR DERBY-LEWIS: Mr Chairman ... (intervention)

MR BIZOS: How can you put the blame on Mr Hani ...

MR DERBY-LEWIS: Mr Chairman ... (intervention)

MR BIZOS: ... for not taking part in the political process and then say that you killed him because you did not know that he was calling for peace?

10

MR DERBY-LEWIS: May I reply, Mr Chairman?

CHAIRPERSON: I think your party's attitude towards CODESA is a matter on which you have already given evidence.

MR DERBY-LEWIS: It is on record, Mr Chairman,

CHAIRPERSON: Yes.

MR DERBY-LEWIS: ... that we refused to participate, because it was to do with the betrayal and sell-out of our people and the loss of our country.

20

CHAIRPERSON: Yes.

MR BIZOS: "The amnesty process is for the purpose of achieving reconciliation".

Mr Derby-Lewis. You have already told us that you do not believe in the united South Africa, you do not believe in common citizenship and you are not prepared to apologise for killing a man who was calling for peace four days before his death. Is that a fair summary of your evidence, Mr Derby-Lewis?

30

MR DERBY-LEWIS: No, Mr Chairman. What Mr Bizos is doing now is he is selectively quoting out of the new Constitution which was not in existence at the time of Mr Hani's assassination and which also says that I am entitled to freedom of political expression or is there, am I misunderstanding this whole document?

10

Please, Mr Chairman, let me place on record that I think that, that Constitution is a good Constitution when one considers what the objective of the Constitution is. I can see much to praise in that Constitution, but the fact remains, Mr Chairman, that nothing can convince me that my peoples' right to self-determination is wrong. I cannot accept that, Mr Chairman, and if I said I was sorry, I would actually be admitting that, and I would then become worse than just a liar.

MR BIZOS: And if the vast majority of the people of South Africa have decided that we are going to be a united country and not a fragmented country, which you call self-determination, and you are free, will you take steps to render inoperative the words of the preamble of the Constitution, Mr Derby-Lewis?

20

MR DERBY-LEWIS: Mr Chairman, the Constitution is a reality and it is quite correct, as Mr Bizos says, that the majority of the people have indicated their approval of that and how can I then want to force my will on those people over their own affairs.

30

They are perfectly entitled to that, Mr Chairman. But surely, Mr Chairman, if one looks at world history, surely, Mr Chairman, if, even if one looks at South African history, recent and in the long term, it is clear, for example, that when the British compelled the Afrikaner to come into the Union of South Africa, we know the history of that, it was written into the Constitution at the time, categorically, that the Union of South Africa was the land of White South Africans.

10

And, Mr Chairman, in the process of drawing up that Constitution and doing what they did with the boundaries of the country and remembering that certain trust lands were not part of, part and parcel of the Union of South Africa, they were recognised as belonging to the various peoples who were still located within the boundaries.

20

And considering, Mr Chairman, that the British Government established Lesotho as the independent territory for the South Sotho people and considering that the Swazis got the territory of Swaziland and that the Tswanas were accorded Bophuthatswana, Mr Chairman, I do not think it was unreasonable at that time, I do not think it was unreasonable at that time for White South Africa also to be accorded a territory and I think that in the interests of peace and reconciliation, that was done.

30

Mr Chairman, we in the Conservative Party, have always questioned, we've always questioned, Mr Chairman, whether the people who were allowed to vote in 1994 were actually entitled to vote in view of the perfidy of the total political dishonesty perpetrated by Mr de Klerk whom, as I testified, was aware of the fact in 1990 already, that he no longer represented the people that he entered into negotiations on behalf of, and he was using the military and the SAP to protect his position in spite of the fact that he broke a mandate. We had a rotten Constitution at the time. We were not able, in terms of our Constitution, to take Mr de Klerk to court. Otherwise I can assure you, Mr Chairman, had that possibility been contained in the Constitution at that time, Mr F W de Klerk would have been impeached for what he did, because he, by his own admission, betrayed the mandate given to him by the voter.

So, that is the background, Mr Chairman, and I think that makes it clear how I feel on that and why I still believe that we Afrikaners are entitled to a territory of our own where we can exercise self-determination over our own affairs in Southern Africa, wherever it may be.

MR BIZOS: Having listened to you, Mr Derby-Lewis, can I summarise it by saying that you do not accept the legitimacy of the present Government?

MR DERBY-LEWIS: Mr Chairman, we made it very clear when the election was about to be held that we in the Conservative Party were not going to participate in that election, because participation would give legitimacy to the election result. We ... (intervention)

MR BIZOS: I did not ask you what your parties attitude was. The question was, do you accept the legitimacy of the present Government? 10

MR DERBY-LEWIS: Mr Chairman, whether we accept it or not, it is a legitimate Government.

MR BIZOS: I am asking you ...

MR DERBY-LEWIS: I accept, yes, Mr Chairman, yes, I accept the legitimacy of the Government as it is, because, in any case ... (intervention)

MR BIZOS: As a democratically elected Government? 20

MR DERBY-LEWIS: Yes.

MR BIZOS: The long speech that you made did not sound as coming from a person who told the Committee that he has given up politics.

MR DERBY-LEWIS: Mr Chairman, I have this knowledge. Am I now expected to withhold this from the Committee, because I am leaving the political arena? Mr Bizos invited those, that reply that I gave him. He actually looked for it and I gave it to him. 30

Mr Chairman Now he criticises me and tries to use that as the basis for a statement that I am going to, not going to leave politics. If I sound like a politician, Mr Chairman, I am sorry. I am a man of my people and that is all that I have ever tried to be and I have already assured this Committee that my plans are to now enjoy some of my life, because I have been involved solely in politics and everyone knows that, Mr Chairman, and that is why people outside are saying that this is the classical example of a political crime, because those people who know me, Mr Chairman, my opponents included, know that I would have no other motivation to perpetrate something as bad as that ...(intervention)

10

MR BIZOS: Yes.

MR DERBY-LEWIS: ... for me.

MR BIZOS: Mr Derby-Lewis, I am going to put to you that you are not a representative of the Afrikaner people. The vast majority of Afrikaners disassociate themselves from you altogether. Would you accept that?

20

MR DERBY-LEWIS: Mr Chairman, I would challenge Mr Bizos to use his good offices with President Mandela and to invite a referendum on the question from him. I think he would be very surprised at the outcome.

MR BIZOS: You have tried, on a number of occasions, to make a, to make personal references to me. I have ignored them all, I

30

will ignore this one as well, Mr Derby-Lewis. Just answer my questions please. Did the vast majority of the Afrikaners vote, despite your parties call not to vote?

MR DERBY-LEWIS: That is debatable, Mr Chairman. It depends on how you interpret the election result.

MR BIZOS: Well ...

MR DERBY-LEWIS: I, ...

MR BIZOS: Well, ...

MR DERBY-LEWIS: My interpretation, Mr Chairman
(intervention)

MR BIZOS: You do not accept it?

MR DERBY-LEWIS: I do not accept that the vast majority of the Afrikaners

MR BIZOS: Yes.

MR DERBY-LEWIS: ... voted in favour of ...

MR BIZOS: Yes.

MR DERBY-LEWIS: ... participation, no.

MR BIZOS: Yes, and, Mr Derby-Lewis, the time has come for me to put to you what we will submit to the Committee you did and why we will argue you did it.

Firstly, you did it, because you have a sense of self-importance which is not justified by the facts. That you had no authority from any political party, liberation movement or organ

of State to commit the murder that you committed. Do you agree with me so far?

MR DERBY-LEWIS: Mr Chairman, I am not prepared to comment on this, because these statements are so ridiculous that they do not deserve comment.

MR BIZOS: Well, you say no comment. Very well, we, I can carry on. Secondly, --

MR DERBY-LEWIS: Thirdly, Mr Chairman.

MR BIZOS: Thirdly, thank you, ...

MR DERBY-LEWIS: Yes, pleasure.

MR BIZOS: That you did not act alone with Mr Walus and that you acted together with your wife and a number of people, including those who or those who reconnoitred the houses of the people on the list, supplied you with a gun and a silencer and, probably, others that neither you nor Mr Walus chose to disclose.

That your act is completely out of proportion to any harm done to you or to anyone else and that you committed this murder when you saw that your racist policies had no chance of success, because the country was about to enter into a historical settlement in which racism would play no part

CHAIRPERSON: You are telling him that that is what you will submit?

MR BIZOS: This is what - do you want to make any comment?

MR DERBY-LEWIS: Mr Chairman, may I consult with my advocate? I think that then indicates the end of the cross-examination.

CHAIRPERSON: Have you made all the points that you were going to submit, Mr Bizos? 10

MR BIZOS: Yes, in broad outline, Mr Chairman, we have done that.

CHAIRPERSON: Very well. Well, we will leave it at that, because I do not regard that as a question.

MR BIZOS: If he wants to comment on it, Mr Chairman, I did not want to take anyone by surprise.

CHAIRPERSON: Yes, anyway.

MR BIZOS: Yes.

CHAIRPERSON: These are the submissions that are going to be made and you are afforded an opportunity, if you wish, to comment on them. 20

MR DERBY-LEWIS: I just want to say that I have already commented on the first two, Mr Chairman, and my comment applies similarly, equally to the other two. It is nonsense.

CHAIRPERSON: Thank you.

MR BIZOS: Finally, that you have failed to bring yourself within Section 22 and 3 of the Promotion of National Unity and Reconciliation Act number 34 of 1955.

MR DERBY-LEWIS: Sorry, Mr Chairman, would I, I was under the impression Mr Bizos had ended. Would you please repeat that... 10

MR BIZOS: I am just making a legal submission.

MR DERBY-LEWIS: I just want the section's numbers please, Mr Chairman

MR BIZOS: Yes, 20, sub-section two and three of the Promotion of National Unity and Reconciliation. Mr Chairman, that is all I want to put to this witness at this stage.

CHAIRPERSON: Thank you.

MR BIZOS: I may indicate, Mr Chairman, that information is being filtered through to us as a result of these proceedings and as it looks as if we will not be finishing it this session, I will ask for leave in order to put further specific allegations to the witness once the information is confirmed, Mr Chairman. 20

CHAIRPERSON: Which may or may not happen?

MR BIZOS: Which may or may not happen.

CHAIRPERSON: Yes.

NO FURTHER QUESTIONS BY MR BIZOS

CHAIRPERSON: Mr Mpshe, are there questions you wish to put to this witness?

MR MPSHE: Mr Chairman, I am not in a position to put questions at this stage, Mr Chairman. I had questions and some of them may have been covered by Advocate Bizos, but I will need time to check whether what I am going to ask has already been covered by him. So much has been said, I cannot commence right now.

10

CHAIRPERSON: Yes, it is most unlikely that anything has been left for anybody else to ask.

MR MPSHE: Mr Chairman, I want to believe that he may have done everything, but I want to satisfy myself.

CHAIRPERSON: He may have asked more than he ought to have as well.

20

MR MPSHE: Sorry, Mr Chairman.

CHAIRPERSON: He may have asked more than he ought to have.

MR MPSHE: Yes, Mr Chairman, he may have done so.

CHAIRPERSON: That is not intended to be a criticism of you, Mr Bizos. It is just a compliment to your enthusiasm.

MR BIZOS: I am not embarrassed by your statement, Mr Chairman. I, you have given me a patient hearing for which I want to thank you and the members of the Committee.

30

CHAIRPERSON: Mrs van der Walt, are there any questions you wish to put?

MS VAN DER WALT: There are no questions.

NO CROSS-EXAMINATION BY MS VAN DER WALT

CHAIRPERSON: Thank you. Mr Prinsloo, do you wish to re-examine your witness? 10

MR PRINSLOO: I would like to re-examine the witness, Mr Chairman.

CHAIRPERSON: Yes, please do.

MR PRINSLOO: Am I to understand that Mr Mpshe is not going to cross-examine the witness?

CHAIRPERSON: Well, it is not likely.

MR PRINSLOO: Not likely?

CHAIRPERSON: Not likely. 20

MR PRINSLOO: I think to cross-examine then, obviously, I..

CHAIRPERSON: If he cross-examines I will give you another chance arising out of whatever happens.

MR PRINSLOO: Mr Chairman, at this stage, may I ask the Committee's indulgence for me to go through all these questions, there is a number, but at the end it may only be a few questions that I will have to put to the witness. It will save time if the Committee will grant me that indulgence. Also, to clear up the documents that Mr Bizos put to the witness. 30

CHAIRPERSON: There has undoubtedly been extensive questioning of Mr Derby-Lewis, there has undoubtedly been reference to a large number of documents and I am satisfied that you are entitled to some time to consider the position before you re-examine your witness. I am going to afford you the opportunity to consider your position before you re-examine Mr Derby-Lewis. Mr Bizos .(intervention)

10

MR PRINSLOO: Thank you, Mr Chairman.

CHAIRPERSON: Mr Bizos, I am now going to adjourn today's proceedings until 09:30 tomorrow morning.

MR PRINSLOO: I am indebted to you. Thank you, Mr Chairman.

CHAIRPERSON: The Committee will now adjourn until 09:30 tomorrow morning.

20

COMMITTEE ADJOURNS

30

ON RESUMPTION ON 20.08.97 - DAY 8

MR BRINK: Yes Mr Chairman

CHAIRPERSON: Mr Mpshe are there any questions you wish to put to the applicant?

MR MPSHE: Yes Mr Chairman, thank you.

CHAIRPERSON: Please do so.

CLIVE DERBY LEWIS: (s.u.a.)

CROSS-EXAMINATION BY MR MPSHE: Thank you.

Mr Derby-Lewis I am going to take you back to your evidence-in-chief, just towards the beginning of your evidence on the 12th of August.

MR DERBY-LEWIS: Yes Mr Chairman.

MR MPSHE: And I'll quote to you what you said. You testified you said that,

"Hani was a soldier for his people. He was in the ANC's own parameters a military target, in the ANC's own parameters a military target".

MR DERBY-LEWIS: Yes Mr Chairman.

MR MPSHE: I want you to explain to this Committee what you mean there by when you say "he was a military target".

MR DERBY-LEWIS: Well Mr Chairman out of his various involvement, his involvement as a soldier, as a member of Umkhonto weSizwe, as a senior member of Umkhonto weSizwe he would obviously be a military target as well as a political target.

MR MPSHE: Are you suggesting by saying "military target" that you have within your knowledge information that he was being targeted by other people other than yourselves?

MR DERBY-LEWIS: Mr Chairman I recall hearing on a TV programme which I watched while I was in prison where they had a summary of the late Mr Chris Hani and they mentioned that he had been targeted, if I remember correctly, the dates were 1980 by the SAP, 1982 by the SANDF and then there had been another unknown, an attempt of unknown origin on him I believe it was in August 1992.

MR MPSHE: Now further on in your evidence again you refer to Hani and you say Hani was trying to get rid of Nelson Mandela. I refer here to Operation Vula, you recall that?

MR DERBY-LEWIS: That's correct Mr Chairman.

MR MPSHE: This included certain members of the ANC leadership. Now I don't understand that statement when you say he wanted to assassinate Nelson Mandela and this included certain members of the ANC as meaning that other members within the ANC camp wanted to assassinate Mandela, or that Hani wanted to assassinate Mandela and other members?

MR DERBY-LEWIS: No, that in terms of Operation Vula President Mandela and other senior members of the ANC were targeted for elimination.

MR MPSHE: Could you mention their names?

MR DERBY-LEWIS: I don't - I can give you a copy of the newspaper report ... (intervention)

MR MPSHE: Is it per hit-list that was handed in?

MR DERBY-LEWIS: No it's per a newspaper report in the Rapport Newspaper which was talking about the exposé of a secret document which, I am not sure who had discovered it, I mean the details are in the clipping, but I believe it was either Military Intelligence or somebody like that had disclosed the details of this plot.

MR MPSHE: Now let's turn over to your application, that is Bundle A Mr Chairman, I am moving to page 17 thereof, page 17 paragraph 3 thereof under 9A(f).

MR DERBY-LEWIS: Yes Mr Chairman.

MR MPSHE: I will quote it for you. You say -

"Although I proposed to delay the actual execution of the assassination of Chris Hani until I'd given it further thought, I, however, accepted an associate and myself would execute it on the day in question"

Now my question is how long did it take you to plan the execution?

MR DERBY-LEWIS: We targeted, as I testified Mr Chairman, we targeted the late Mr Hani in February and he was executed in April. So it's approximately two months.

MR MPSHE: It's approximately two months.

MR DERBY-LEWIS: Correct.

MR MPSHE: Now if it had taken you so long, two months to plan the assassination why did you now decide to delay what you had planned for two months?

MR DERBY-LEWIS: Mr Chairman, as I had testified previously it was still for me, in my very being, something which was very difficult to carry out although I had already made the decision. It wasn't easy.

MR MPSHE: Ja, I am interested in that which made it not easy for you, what are those things that motivated you to decide about the delay that made you not to accept it readily?

MR DERBY-LEWIS: Well Mr Chairman, as I mentioned in my testimony I had had this dream which forebode, in fact in the process of the dream I saw myself being imprisoned, being cashiered as an officer and being imprisoned, and I thought that that had some sort-of connection to what we were planning to do.

MR MPSHE: And I want to believe, if I am right, that that particular dream made you realise that what you intend doing may be a wrong thing you want to do?

MR DERBY-LEWIS: Mr Chairman (intervention)

MR MPSHE: And that caused the thought to delay, not so?

MR DERBY-LEWIS: Mr Chairman even in war time it is not easy to kill somebody face-to-face.

CHAIRPERSON: The question is whether the dream caused you to delay the execution?

MR DERBY-LEWIS: The dream caused me to want to think about it further Mr Chairman, yes.

MR MPSHE: Right. Which means then it has cast doubt on your plans and on your targeting of Hani? 10

MR DERBY-LEWIS: No Mr Chairman.

MR MPSHE: It didn't do that?

MR DERBY-LEWIS: Not really, because as I said when I heard that it had been done, and I heard that it had been performed by Walus I fully associated myself with that, with the deed.

MR MPSHE: Can't we again further say that the delay was caused perhaps by your conscience not agreeing with your intentions? 20

MR DERBY-LEWIS: No Mr Chairman, I just wanted time to further consider the whole aspect of assassination.

MR MPSHE: Despite the two months, the obtaining of a firearm from Venter, obtaining of the silencer, travelling with the firearm from Krugersdorp to Cape Town, you still were not satisfied whether what you were doing is to be done?

MR DERBY-LEWIS: Mr Chairman I must repeat what I have already testified and that is that as far as the execution of the deed was concerned it was Walus' prerogative to decide the detail and when to do it. 30

MR MPSHE: Yes but Walus was in your hands, not so?

MR DERBY-LEWIS: Not really Mr Chairman.

MR MPSHE: You provided him with the gun, you told him who the target was.

MR DERBY-LEWIS: Yes.

MR MPSHE: And if you wanted to stop this you could have stopped - told him that wait a bit I still have to think about this.

MR DERBY-LEWIS: But I didn't do that Mr Chairman.

MR MPSHE: Despite the intention to ... (intervention)

MR DERBY-LEWIS: Despite my doubts I didn't do that. I ... (intervention)

MR MPSHE: I will tell you why you doubted, you doubted because you knew what you intended doing was not the right thing to be done.

MR DERBY-LEWIS: No what I said Mr Chairman is that it wasn't an easy thing to do.

MS KHAMPEPE: Sorry Mr Mpshe, may I interpose. Mr Derby-Lewis, what I don't understand is why you didn't tell Mr Walus about the decision to delay?

MR DERBY-LEWIS: Well as I testified Mr Chairman I was responsible for supplying him with subsonic ammunition and I wasn't able to obtain the subsonic ammunition, so that in itself served to delay, I believed, I was not aware of the fact that Mr Walus had a 9mm pistol. When I saw him with a pistol which he

used to carry on his ankle it was a much smaller calibre pistol and I didn't know he had a 9mm until I actually read in the newspaper that he'd gone and purchased his own 9mm ammunition, using his own licensed weapon as the justification or the access to that ammunition

MS KHAMPEPE: But I still do not understand why you simply did not tell him that you had decided to delay the decision to assassinate Mr Hani or that you were now ambivalent to proceed with the assassination.

MR DERBY-LEWIS: No I wasn't really ambivalent Mr Chairman, I was just giving myself time to consider something which was not easy to perform. We had made the decision.

MS KHAMPEPE: Thank you Mr Mpshe

MR MPSHE: Thank you. Let's turn to page 18.

MR DERBY-LEWIS: Yes Mr Chairman

MR MPSHE: Line 12 of that long paragraph, line 12 starting with,

"We in the CP..."

MR DERBY-LEWIS: Yes Mr Chairman

MR MPSHE: "We in the CP had been committed to the non-violent option...."

then you write in capital letters

"FOR AS LONG AS THE DEMOCRATIC
PROCESS REMAINED OPEN TO US"

MR DERBY-LEWIS: Yes Mr Chairman.

MR MPSHE: "...and our chances of gaining power through the democratic process were growing by the day".

MR DERBY-LEWIS: That's correct Mr Chairman.

MR MPSHE: I fail to understand this, where you say,

"FOR AS LONG AS THE DEMOCRATIC PROCESS
REMAINED OPEN TO US"

I think at this time when you did the planning and the assassination, the democratic process was taking place, negotiations were taking place.

MR DERBY-LEWIS: No Mr Chairman, not as far as the CP was concerned. The CP had already CODESA because CODESA was talking about sharing power and the CP is very clear in its attitude in that regard. The CP says if you share power you lose power. When I referred to the democratic process here Mr Chairman there is only one democratic process available to unseat an illegitimate regime and that is to vote them out at the polls, and when the National Party under Mr de Klerk stopped Parliamentary by-elections it was then clear that it was no longer possible to unseat them out of the parliamentary control because how would we ever get a majority in Parliament without by-elections.

MR MPSHE: Yes Mr Derby-Lewis but it doesn't mean that the CP was excluded from the whole negotiations, you could have still been in there and you were actually in there as a member of an opposition that was formed by the right-wingers, and you the CP withdrew.

MR DERBY-LEWIS: Mr Chairman the CP is very clearly on record that they would not participate in CODESA because of what CODESA was all about. The CP also objected to the fact, Mr Chairman, that in spite of the fact that the National Party regime at the time knew that they were not acting on a mandate from the majority of the people who supposedly elected them to power proceeded with that, and I mean we have already repeated and we have tendered evidence to the effect that even Mr de Klerk himself admitted that he was not acting in terms of the mandate he received.

MR MPSHE: At that time was the CP not a party or a member to the Volksfront that was formed by Constand Viljoen when negotiations were taking place?

MR DERBY-LEWIS: Mr Chairman General Constand Viljoen, with all due respect, only joined the right-wing action after the assassination of the late Mr Chris Hani. He wasn't involved before that.

MR MPSHE: I see. But I am going to refer you to AC1.

MR DERBY-LEWIS: Yes Mr Chairman.

MR MPSHE: On the basis of what you said that he joined in later you may answer my question differently, but I still want to refer you to it.

MR DERBY-LEWIS: Please Mr Chairman.

MR MPSHE: Mr Chairman AC1 is given to Committee members, it is a one page thing which I gave the secretaries to give to Committee members. All parties do have a copy. It is an extract from the Vryheidsfront as delivered, as a submission by Constand Viljoen representing Vryheidsfront to the Truth Commission.

10

MR DERBY-LEWIS: I assumed as much Mr Chairman.

MR MPSHE: On the 6th February 1997. And I want to refer you to paragraph C thereof and tell me if what he says there was applicable then to yourself, that is the CP.

MR DERBY-LEWIS: Shall I read it Mr Chairman?

20

MR MPSHE: Yes.

MR DERBY-LEWIS: The paragraph C starts off as follows Mr Chairman-

"The demands of the Volksfront were being fed into the political system. The Conservative Party decided to leave the multi-party talks out of protest of not being heard. This action of withdrawal from negotiations was unilateral by this party. It was not a Volksfront decision and the Directorate of Generals were not consulted."

30

and it goes on to say – must I read the following paragraph as well?

MR MPSHE: No, no just the paragraph ... (intervention)

MR DERBY-LEWIS: I would actually like to read the following paragraph ... (intervention)

MR MPSHE: Okay do so.

MR DERBY-LEWIS: Because I think it's important.

MR MPSHE: Do so.

MR DERBY-LEWIS: -

"As the negotiation process was part of the strategic thinking of the Directorate the decision was then taken between the Chairman of the Volksfront Raad, Dr Hartzenberg, and the Directorate to start a secret process of bilateral negotiations with the ANC. This led to a meeting between the Directorate of the Volksfront and Mr Mandela in August 1993".

I wish to remind the Committee Mr Chairman that the assassination of the late Mr Chris Hani took place on the 10th of April 1993 and the establishment of the Volksfront, as I have already testified, and this Directorate of Generals only took place after the assassination of the late Mr Chris Hani.

MR MPSHE: Yes Mr Derby-Lewis, be it as it may, the paragraph that you have read about secret negotiations is that not an indication that even before the assassination of Chris Hani

there was still room for negotiations and that it was even done by your own leader, Hartzenberg?

MR DERBY-LEWIS: Mr Chairman that was after the assassination of Mr Hani.

MR MPSHE: Yes, what I am saying is that this is an indication that even before that it still could have been done, it could be done even after the assassination. So there was still room open for a democratic process for the CP. 10

MR DERBY-LEWIS: Mr Chairman, as I have testified the whole concept of the Volksfront and the Directorate of Generals was initiated as a result of what we expected the reaction would be after the assassination of the late Mr Chris Hani. So in fact this is testimony to - it actually confirms what we anticipated would happen, that there would be chaos, there would be a lot of uncertainty, there would be a gap, it would bring Afrikaner leaders together, which it did, the Generals and everyone came to this Volksfront and in fact they even went so far Mr Chairman as to elect a Volksraad which had representation like Mr Terreblanche and General Viljoen and Dr Hartzenberg and many others from the right serving as members of that Volksraad. But as I say this action, this total action here, secret talks, the Volksfront and so on, only - it followed only as a result of what had happened. At that stage there was no talk and I can assure you Mr Chairman there was no intention of the Conservative 20 30

Party, to my knowledge, ever discussed in the caucus that we were entertaining the possibility of secret talks with the ANC.

JUDGE NGOEPE: Mr Derby-Lewis you are making a very sweeping statement to say that what the Directorate did was - their decision to go for example and see Mr Mandela was as a result of the killing of Mr Hanı, it's a very sweeping statement.

10

MR DERBY-LEWIS: No what I am saying Mr Chairman is that - I am not ... (intervention)

JUDGE NGOEPE: Sorry were you part of the Directorate?

MR DERBY-LEWIS: No I am not saying that the secret discussions, the decision about the secret discussions was initiated by us. What I am saying is that the coming together of Afrikaner leaders which led then to the formation of the Volksfront, and which then led further to secret talks with the ANC, which was an indirect follow-up, the most important point that I am trying to make Mr Chairman is that the Volksfront, which was a coming-together of Afrikaner leaders, or leaders on the right, only took place after the assassination of Mr Hanı, and I believe it was as a direct result of the assassination of Mr Hanı.

20

JUDGE NGOEPE: What do you mean by saying, "only took place after the assassination", are you implying that it was as a result of the assassination?

MR DERBY-LEWIS: I am saying it was one of the effects

30

JUDGE NGOEPE: Or are you only referring to a sequence of events?

MR DERBY-LEWIS: No I am actually saying it was, I see it as a direct result of the assassination.

JUDGE NGOEPE: But is - look at the first opening sentence there,

"As the negotiation process was part of the strategic thinking of the Directorate, a decision was then taken..."

etc, etc. That decision was as a result of the fact that, or the fact of strategic thinking flowing from the negotiation process, not flowing from the killing of Mr Hani.

MR DERBY-LEWIS: That may be Mr Chairman, but the formation of the Directorate was as a result of the killing of Mr Hani.

JUDGE NGOEPE: Well is that in fact the case or is that you are thinking?

MR DERBY-LEWIS: That is the factual situation Mr Chairman. There was no talk of this before the assassination of Mr Hani.

JUDGE NGOEPE: Was there no Directorate of - what do you call that - of Generals before the killing of Mr Hani?

MR DERBY-LEWIS: No Mr Chairman.

JUDGE NGOEPE: Why do you say it was as a result of that?

MR DERBY-LEWIS: Well Mr Chairman there is no other explanation for the formation of that Directorate. Because you see Mr Chairman when we finalised the whole mobilisation process the CP actually approached a retired General, General Bischoff to come in as the chief operator, to co-ordinate this mobilisation process, but he was the only general besides General Visser of the Police who was already a CP candidate and so on.

10

JUDGE NGOEPE: Mr Derby-Lewis we are entitled to know whether you are feeding us with your own opinion, which you are entitled to do, or you are giving us facts.

MR DERBY-LEWIS: Mr Chairman I ...(intervention)

JUDGE NGOEPE: Is it your view that the Directorate was formed as a result of the killing of Hani?

MR DERBY-LEWIS: Yes Mr Chairman.

20

JUDGE NGOEPE: That is your personal view?

MR DERBY-LEWIS: That is my personal view, yes.

JUDGE NGOEPE: Thank you.

MR DERBY-LEWIS: I can - sorry Mr Chairman, I am prepared to bring evidence that it is a fact as well, besides being my view. I am sure Mr Chairman that newspaper reports will confirm that and even the minutes of meetings held by the CP will confirm that.

JUDGE NGOEPE: I take your point.

30

MR DERBY-LEWIS: Okay.

MR MPSHE: Mr Derby-Lewis, page 22.

MR DERBY-LEWIS: Yes Mr Chairman.

MR MPSHE: First paragraph on the ... (intervention)

MR DERBY-LEWIS: Yes Mr Chairman.

MR MPSHE: First paragraph from line no.5. I am not going to read this, you have said this many a times during your opening address and your evidence-in-chief that whatever you have done must be seen in the light of what the ANC and other liberation movements did.

MR DERBY-LEWIS: Yes Mr Chairman.

MR MPSHE: Now I read from what you are saying here a tone of revenge ... (intervention)

MR DERBY-LEWIS: No Mr ... (intervention)

MR MPSHE: That you did this because the ANC and other liberation movements did the same thing, so you also had to do the same thing by killing Hani.

MR DERBY-LEWIS: No Mr Chairman that's not correct. What I was trying to do was to bring the whole act of the assassination of Mr Hani into its correct perspective. It was part of an existing war situation.

MR MPSHE: Is it not a justification by yourself as to why you did what you did?

MR DERBY-LEWIS: No Mr Chairman, I don't see it as that. As I explained I am trying to bring it into perspective, the whole

situation which reigned at the time, everyone was - because I know there was an outrage on the side of the supporters of Mr Hani for the deed, and I was just trying to point out that although I can understand the outrage there was also a lot of outrage over lots of deeds which occurred during the war situation.

MR MPSHE: Supposing I say to you, yes there was these disturbances, upheavals minus the killing of White women and children would you still justify the killing of Hani?

MR DERBY-LEWIS: It had nothing to do with the killing of White women and children specifically Mr Chairman, it was as a result of the war time climate which had been created, not only by the ANC but even by the National Party regime at the time.

MR MPSHE: Just turn to page 26

MR DERBY-LEWIS: Yes Mr Chairman

MR MPSHE: The first paragraph, line 3, I will read for you, or I will start from line 1.

"In the light of this the acts under review were committed on behalf of the Conservative Party".

Let us pause there a little bit. I know you've been questioned about this by my learned friend Advocate Bizos.

MR DERBY-LEWIS: Yes Mr Chairman.

MR MPSHE: As to the authority and the order by the Conservative Party, and you have said many a times that you were

acting for and on behalf of the Conservative Party, but my question ... (intervention)

MR DERBY-LEWIS: Sorry, and in support of.

MR MPSHE: And in support of.

MR DERBY-LEWIS: Yes.

MR MPSHE: Now my question to you is, was this a directive of any form from the top echelon of the CP? 10

MR DERBY-LEWIS: No Mr Chairman, I have made that clear because Mr Chairman I was part of the top echelon of the CP.

MR MPSHE: You were part of the top echelon of the CP?

MR DERBY-LEWIS: That's correct Mr Chairman.

MR MPSHE: But if I recall well you did not discuss this with other top echelons of this, of the CP?

MR DERBY-LEWIS: That's correct Mr Chairman. But I didn't see that I had to discuss it with them or even get their approval. I was in the top echelon and a decision like this, in view of what had preceded the action, I could take on my own. 20

MR MPSHE: But really if you are acting on behalf of and in support of and you were part of the top echelon wasn't it really necessary that you discuss this with the - with your colleagues in that forum?

MR DERBY-LEWIS: As I testified Mr Chairman, I was concentrating on absolute confidentiality and security and Mr Walus and I had specifically decided that we would only involve 30

the two of us, ourselves, only the two of us would know what was going on

MR MPSHE: Are you saying this was the arrangement, the plan was confidential, you didn't want the other members of the CP to know about it?

MR DERBY-LEWIS: That's correct, at that stage Mr Chairman.

MR MPSHE: Why?

MR DERBY-LEWIS: Although I intended informing them afterwards having seen how the plan progressed.

MR MPSHE: What made you not to want them to know this, did you suspect that they may stop you and say don't do this or it is not in keeping with the political climate?

MR DERBY-LEWIS: That was the furthest thought from my mind Mr Chairman. I was totally obsessed with confidentiality because I knew that we had been infiltrated and I didn't know who the infiltrators were. I had to be very careful, obviously in view of our decision to keep it confidential to the two of us.

MR MPSHE: Even from your very leader Hartzenberg?

MR DERBY-LEWIS: Correct Mr Chairman, I couldn't - I had given Mr Walus the undertaking as well that it would be totally confidential and I couldn't break that undertaking either.

MR MPSHE: Do I have to accept that you do not even trust Hartzenberg?

MR DERBY-LEWIS: Mr Chairman it's not a question of trusting Dr Hartzenberg, it was a question of total confidentiality. We had taken that decision as part of our discussion and I was not going to break that decision.

JUDGE WILSON: But if it was in the interests and on behalf of the CP why enter into total confidentiality with somebody who was not a member of the CP? 10

MR DERBY-LEWIS: Mr Chairman the reason why I entered into confidentiality with Mr Walus was because the two of us were totally involved with it.

MS KHAMPEPE: Mr Derby-Lewis why would you not discuss this with your leader? Your leader at that time was Dr Treurnicht

MR DERBY-LEWIS: Correct Mr Chairman. 20

MS KHAMPEPE: Why didn't you discuss it with Dr Treurnicht? I think from the evidence that you have already led before us you have made it patently clear that you shared a very special relationship with your leader.

MR DERBY-LEWIS: Yes Mr Chairman.

MS KHAMPEPE: In fact as I read the document that you ended up handing up to the Committee I became very envious of the relationship that you shared with your leader.

MR DERBY-LEWIS: Thank you Mr Chairman. 30

MS KHAMPEPE: And just to quote what you have said, you have stated that -

"Dr Treurnicht trusted me implicitly and I never gave him reason to regret this. I am not aware of any of my colleagues in the caucus enjoying a similar relationship with Dr Treurnicht, and subsequently also between his wife and mine".

10

MR DERBY-LEWIS: Yes Mr...

MS KHAMPEPE: -

"We were more than colleagues and I was proud to have been able to consider him also to be a friend".

MR DERBY-LEWIS: That's correct Mr Chairman.

MS KHAMPEPE: Now why didn't you mention such an important decision that you were about to embark upon?

20

MR DERBY-LEWIS: Mr Chairman as I testified ... (intervention)

JUDGE WILSON: Could you hear what was said there, because on my sound it was incredibly bad and someone was chipping in the whole time saying "not getting better, not getting better", could you hear Mr Derby-Lewis?

MR DERBY-LEWIS: I heard, thank you Mr Chairman. Mr Chairman as I have previously testified I actually cleared the principle with Dr Treurnicht when I had the discussion regarding what is the duty of a Christian in terms of the struggle or the war against the Anti-Christ? I was always ever conscious Mr

30

Chairman of not wanting to unnecessarily implicate anybody. I mean one always has to think in terms of the possibility that one will be arrested, that one will be caught because anything can happen, and as it turned out Mr Chairman it was a wise decision.

But I could never have allowed myself to be put into the situation where I was cross-examined and then asked, "did you clear it with Dr Treurnicht?", and then I have to say "no" when in fact I did. But I cleared the principle very clearly of killing against the Anti-Christ Mr Chairman. In my mind I believed that that was sufficient.

MS KHAMPEPE: But I understand that you had cleared previously with your leader the principle of killing with regard to issues of Anti-Christ, but this is not the same principle, I think
(intervention)

MR DERBY-LEWIS: No Mr Chairman ... (intervention)

MS KHAMPEPE: This involved the killing or the elimination of a leader of a political organisation.

MR DERBY-LEWIS: Mr Chairman who was also the leader of the Communist Party which was the vehicle of the Anti-Christ.

MS KHAMPEPE: Well then if that is so Mr Derby-Lewis I want to understand you clearly, if you had previously cleared that principle what would have prevented you from going back to him, you had this special relationship, and simply seeking direction or confirmation of what you were about to embark upon?

MR DERBY-LEWIS: As I have explained with regards other people Mr Chairman, we took a decision that only the two of us would be implicated so that if anything went wrong it would only be the two of us who would be caught and there was no way that I was going to expose my leader, with the respect that I had for him, both as a friend and as a colleague, to that risk.

10

MR MPSHE: Then Mr Derby-Lewis I don't understand you again now if you say you wanted only the two of you to be implicated and you didn't want to implicate your leader, then it means that you wanted to take this happening to be your happening together with () indistinct) and not to be the happening of the CP, because if you don't want to involve the leader of the CP you simply say you are keeping the CP out of the whole thing.

MR DERBY-LEWIS: Mr Chairman I didn't want to involve the leader in the risk of the deeds for obvious reasons I think I have made clear now Mr Chairman.

20

MR MPSHE: Let us continue on page 26.

MR DERBY-LEWIS: Okay Mr Chairman.

MR MPSHE: We stopped after the word "Conservative Party". I will continue.

As the applicants believed these acts would bring about a change in the country's direction.

MR DERBY-LEWIS: Correct Mr Chairman.

30

MR MPSHE: How really Mr Derby-Lewis, did you envisage a change in the country's direction if you yourself stated it clearly that you wanted to cause confusion and mayhem, how did you envisage a direction within a mayhem?

MR DERBY-LEWIS: No Mr Chairman, as I have stated here, we believed that these acts, in other words what we did would bring about a change in the country's direction. We were aware of the direction in which the country was moving, it was very clear to us and it was very clear to us that the National Party regime were already planning to abdicate power to the ANC/SACP alliance. That was very clear to us on the right although it seemed other people had difficulty identifying the threat. But that is why we did it Mr Chairman, to try and change the direction. And then it goes on further to say -

"A direction continually lambasted by the Conservative Party".

So if I wasn't acting on behalf of the Conservative Party Mr Chairman when they were criticising at every opportunity that direction, and if I wasn't acting in support of the Conservative Party then I fail to see what the whole purpose of the thing was.

MR MPSHE: But the actual person who, if I may use the word "angered" the right, as De Klerk at that time, as you referred to him, sometime in your evidence-in-chief that "he betrayed your nation" and he did things that he was not mandated to do, was he

not supposed to have been the actual target in order to direct the country's - to change the country's direction?

MR DERBY-LEWIS: Mr Chairman ...(intervention)

MR MPSHE: As the person who was causing all this.

MR DERBY-LEWIS: Mr Chairman as I testified earlier, can anyone imagine a reaction which was generated by the late Mr Chris Hani's assassination coming in reaction to the assassination of Mr de Klerk? I wonder if it would even have reached the newspapers Mr Chairman, with respect.

10

MR MPSHE: If my understanding of what you are saying is correct, you are saying to us, to this Committee, that Chris Hani was a more important target than de Klerk who was the then President causing all the changes?

MR DERBY-LEWIS: Mr Chairman I repeat, Mr de Klerk was not worth the (...indistinct), he was not worth the (...indistinct), whereas Mr Hani was the key, he was the ideal target. There wasn't a better target as a result of his involvement.

20

JUDGE WILSON: Can I clarify this, was the purpose of saying or of choosing Mr Hani, who held these very high offices and was in high regard as a target to provoke the ANC and the SACP into retaliation ...(intervention)

MR DERBY-LEWIS: No Mr Chairman ...(intervention)

JUDGE WILSON: To provoke them into stopping negotiations?

30

MR DERBY-LEWIS: Sorry, what we were trying to do was to provoke a general situation of conflict and chaos in the country and we knew that the only direction from which this chaos would be initiated would be from the radicals whose support we knew was totally behind the late Mr Chris Hani.

JUDGE WILSON: Well isn't that just what I put to you, you were seeking to provoke ... (intervention)

MR DERBY-LEWIS: That's correct.

JUDGE WILSON: ...chaos and mayhem from that section of the community.

MR DERBY-LEWIS: Correct Mr Chairman, I didn't understand the question in the....

JUDGE WILSON: And if there had been a certain amount of disturbance after Mr Hani's death, but it had not been the chaos and mayhem that you wanted would you have then continued with further assassinations?

MR DERBY-LEWIS: As I testified earlier Mr Chairman that was the plan. If it didn't have the desired effect then we would have to find another target and that's why I repudiated that address list as a hit list because there were some ridiculous people on there who would never, ever have been considered in terms of a target which would us to achieve our ends.

JUDGE WILSON: Yes but there are one or two people who would have made very good targets and the others may well have

been there, as has been suggested, to cover up the fact that this was a hit list.

MR DERBY-LEWIS: Mr Chairman I have testified previously that I had nothing to do with the preparation of that list. I had nothing to do with the final nine names that appeared on that list.

CHAIRPERSON: But I thought that it was part of your plan that some names, some innocuous names should be on the list?

MR DERBY-LEWIS: That's not correct Mr Chairman.

CHAIRPERSON: What was the idea then?

MR DERBY-LEWIS: Mr Chairman that was one of the stories that I fed the interrogators during the interrogation.

CHAIRPERSON: I beg your pardon.

MR DERBY-LEWIS: To mislead them, as I testified.

CHAIRPERSON: I see, but that was not the intention, this is what you told your interrogators?

MR DERBY-LEWIS: Mr Chairman I have testified here that I had nothing to do with drawing up that list so how could I have done that?

MS KHAMPEPE: Mr Derby-Lewis.

MR DERBY-LEWIS: Yes Ma'am.

MS KHAMPEPE: Just to make a follow-up on what you stated as having been one of your objectives for assassinating Mr Hani, and that is to plunge the country in a political chaos, now I want

to know what exactly, what kind of chaos did you envisage would take place with Mr Hani's assassination?

MR DERBY-LEWIS: Well Mr Chairman we anticipated that there would be a certain degree of unrest and we were hoping that before it escalated to too enormous proportions that the action would generate the coming together of Afrikaner leaders and that they would come in to fill the vacuum. As I testified also, I didn't anticipate being arrested and I was going to go back at a suitable time to my leaders, to the caucus in fact, not my leaders, to the caucus, my colleagues which I shared membership in the caucus, to motivate them to do something, but I had to give it a bit of time to see whether the action had the desired effect.

JUDGE WILSON: As I understand it, and correct me here, what you hoped was that once there was unrest and chaos the military and police would feel they had to take action. If they were not being given a strong lead by the Nationalist Party, which you didn't think they would get, there would be an opening there for the right-wing to step in, to combine with the army, combine with the police to bring about peace and sound government, is that what you were aiming at?

MR DERBY-LEWIS: That is quite correct Mr Chairman, and we considered that there were large elements within the generals ranks and the senior ranks, the brigadiers and the colonels of both

the SAP and the Defence Force who would have rallied rather to our side than to the side of the de Klerk regime.

CHAIRPERSON: So it now seems that there was a colossal miscalculation on your part?

MR DERBY-LEWIS: As it turned out Mr Chairman, as a result of the events of Bophutatswana, that was the time when it started going wrong, but up until then it was apparently quite an accurate calculation Mr Chairman.

CHAIRPERSON: Well now leaving aside whatever happened in Bophutatswana I can't see it being directly connected with the killing of Hani.

MR DERBY-LEWIS: Mr Chairman that followed as a result of a uniting of the people on the right.

CHAIRPERSON: No I am talking about the chaos. I am saying that this was a colossal miscalculation on your part in that the chaos did not result.

MR DERBY-LEWIS: No Mr Chairman chaos did result.

CHAIRPERSON: Was there?

MR DERBY-LEWIS: Yes Mr Chairman, there full of reports, in R3 it contains numerous references thereto.

CHAIRPERSON: Yes I understand, but is that what you really thought was chaos which would entitle, or which would afford your party or your group an opportunity to step in and take control?

MR DERBY-LEWIS: Certainly Mr Chairman, yes. As I testified earlier we weren't looking for massive deaths, numerous deaths and what have you, we were looking for a climate of uncertainty ... (intervention)

CHAIRPERSON: But then you had a climate of uncertainty in this country for quite a long time. 10

MR DERBY-LEWIS: Yes, but not the sort of climate which could motivate people into coming together and taking armed action Mr Chairman.

CHAIRPERSON: Did you not think that people within the ANC, the leadership of the ANC would go out of their way to ensure that the negotiation process is not derailed as a result of the killing of Hani?

MR DERBY-LEWIS: No Mr Chairman we did not. We actually thought that they would react and would almost give tacit support to the radicals who were causing the chaos. 20

CHAIRPERSON: And is that where your miscalculation came about?

MR DERBY-LEWIS: That's where it came about Mr Chairman.

CHAIRPERSON: The ANC stepped in and made sure that their appeal to the people to maintain calm is something which you didn't expect?

MR DERBY-LEWIS: That's correct Mr Chairman, and that coupled to the fact that I was arrested so quickly and then unable 30

to motivate my caucus colleagues was where the plan went awry as far as I was concerned.

CHAIRPERSON: Mr Derby-Lewis I have some difficulty in accepting what you are putting forward. Is it not correct that your miscalculation really was the fact that Walus was arrested so shortly after the offence was committed? ... (intervention) 10

MR DERBY-LEWIS: That was also, sorry ... (intervention)

CHAIRPERSON: Was that not the real miscalculation?

MR DERBY-LEWIS: That was also part of it Mr Chairman, I should have said perhaps the arrest of both he and I was not anticipated.

CHAIRPERSON: Because if he had not been arrested it is more than likely that you saw that there wasn't the chaos you expected and therefore you would then proceed to the next person on the list 20

MR DERBY-LEWIS: Not on that list Mr Chairman, but we would sit back and we would reconsider the situation and decide who would be the next target.

CHAIRPERSON: Yes. It would more likely be a target of people whose houses had already been reconnoitred by Walus?

MR DERBY-LEWIS: Sorry Mr Chairman?

CHAIRPERSON: It would probably be, the target would probably be persons whose houses had already been reconnoitred by Walus? 30

MR DERBY-LEWIS: Mr Chairman I was not aware of Mr Walus reconnoitring any residence other than Mr Hani's

CHAIRPERSON: Are there names on this list that you think would have been the next persons to be attacked?

MR DERBY-LEWIS: No Mr Chairman. As I mentioned we would have to get the radical element mobilised

CHAIRPERSON: Wouldn't Joe Slovo, the killing of Joe Slovo be another act of attacking the Anti-Christ?

MR DERBY-LEWIS: Yes but I don't believe it would have had the desired effect Mr Chairman and it wasn't targeting the Anti-Christ that was the whole crux of the issue.

CHAIRPERSON: No I mean the killing of Hani did not produce the kind of chaos, and of course Walus was arrested, had he not been arrested then it may well have been that the next person on the list would have been Joe Slovo?

MR DERBY-LEWIS: No Mr Chairman because he wouldn't qualify in terms of what we anticipated as the desired effect. We couldn't see people rising up to avenge the death of the late Mr Joe Slovo.

JUDGE WILSON: Wouldn't Mr Mandela have been the obvious target, the man who had stepped forward to preserve the peace, the man who had managed to quieten down his people, wasn't he the obvious person for you to remove?

MR DERBY-LEWIS: No Mr Chairman on the contrary because of that he wasn't (intervention)

JUDGE WILSON: But he had prevented you achieving what you wanted to.

MR DERBY-LEWIS: But our information Mr Chairman was that it was the radical elements within the ANC/SACP alliance who were opposing Mr Mandela. So for us to assassinate Mr Mandela would actually have been right in their kraal, as the Afrikaner says.

JUDGE WILSON: Why, they would then have been able to indulge in the violence they wanted to?

MR DERBY-LEWIS: But they would have, at the same time, Mr Chairman, been rid of the man of peace?

JUDGE WILSON: Yes.

MR DERBY-LEWIS: And then ... (intervention)

JUDGE WILSON: And that's what you have told us you wanted. You have told, as I understand you, that you wanted chaos and mayhem so the generals, the colonels would rally around to your support to prevent it.

MR DERBY-LEWIS: Mr Chairman I am saying that we did not consider Mr Mandela as a target at that stage, but it's quite possible that with our discussions it may have turned out that Mr Mandela would then be a suitable target. But at that stage we only had one target in mind, and as I testified, Mr Hani.

JUDGE WILSON: No my friend Judge Mall was asking you what would have happened after this, if Mr Walus had not been arrested, that you would have then selected other targets and he's asking you who they would be.

MR DERBY-LEWIS: Yes well let me then say Mr Chairman it is possible that Mr Mandela could have been a target as a result of our further discussions, but at that stage he was not a target.

CHAIRPERSON: Mr Mpshe have you finished?

MR MPSHE: I've still got ... (intervention)

CHAIRPERSON: You carry on.

MR MPSHE: Thank you. Mr Derby-Lewis you agreed yesterday when you were told that you were referred to as a racist, do you remember that?

MR DERBY-LEWIS: Yes Mr Chairman.

MR MPSHE: And certainly if people refer to you as a racist it means it is because of certain acts or behaviour on your part that you are labelled a racist, not so?

MR DERBY-LEWIS: Mr Chairman I see a racist as somebody who hates other people and I have never been found guilty or even proven to be hateful towards other people.

MR MPSHE: Yes but what I am saying is in order to be labelled a racist it means certain events had taken place, were made to take place by yourself to earn yourself the word racist, that's what I am saying.

MR DERBY-LEWIS: Mr Chairman what my reply to that is, is that that aspect is the interpretation of people in the media, it is not necessarily the truth. I will give you one example Mr Chairman. To accuse me of making a racist statement by saying that African people are not as technologically as advanced as Western people I don't see that as a racist statement, I see that as a statement of fact, and I think we just have to look around us to receive confirmation of that Mr Chairman. But I think the problem, my problem was, as far as the media was concerned Mr Chairman, was that I didn't try and duck and dive when it came to identifying the existing and real differences amongst the various peoples and I didn't criticise the differences Mr Chairman. What I did was I went further even and I complemented for example a difference, and I saw as a difference between Western man and African man the fact that African man had a far greater loyalty and a love and a concern about his whole family structure as did Western man and I admired that Mr Chairman in the African people's.

MR MPSHE: Mr Derby-Lewis if you could just respond to my questioning then we'll have a lot of progress. My statement to you was simply if you are labelled a racist or whatever it is because of your track record, yes or no?

MR DERBY-LEWIS: And I said Mr Chairman it is as a result of the perception of my track record by the media.

MR MPSHE: Alright. Let us see if you can explain some of the perceptions then that you mention ... (intervention)

MR DERBY-LEWIS: To what document are you referring? ... (intervention)

MR MPSHE: ...by the media. I am going to refer you. Bundle R3, Section B page 6 thereof.

MR DERBY-LEWIS: Page 6.

MR MPSHE: R3 Mr Chairman and members of the Committee.

MR DERBY-LEWIS: Page 6 Mr Chairman?

MR MPSHE: Yes. It reads " A contentious person with a long list of racist remarks behind him", page 6, Section B.

MR DERBY-LEWIS: Mr Chairman let me state that I have Section R3 and on my documentation here I've made a note that that statement was actually not included in this bundle when it was handed to us, so I don't know the contents.

MS KHAMPEPE: Mr Mpshe we don't have a page 6 in our bundle.

JUDGE WILSON: I have (...indistinct) 6.

MR DERBY-LEWIS: That's confirmation of what I've just said Mr Chairman.

MR MPSHE: In my bundle Mr Chairman, members of the Committee, given to us by George Bizos' team and they have it ... (intervention)

JUDGE WILSON: I have not got it in my papers, I have got a blank page where 6 ought to be.

MR DERBY-LEWIS: Mr Chairman may I state further that actually it's not only no.6 that's missing, it's no.5, no.6 and no.7 which I do not have and I am sure that applies to the bundle of the Committee as well. You've got 5?

JUDGE WILSON: We've got 5 but not 7.

MR DERBY-LEWIS: Sorry, sorry I have got 5 but I haven't got 6 and 7 and the same applies to the Committee. For some reason they've been excluded from our bundles.

MR MPSHE: Mr Chairman I want to make use of this page, may I hand this page to the Chair and copies will be made thereof.

CHAIRPERSON: They become page no.6?

MR MPSHE: The page no.6 I am told the Committee members don't have page no.6.

CHAIRPERSON: Yes we don't have them, but do carry on.

JUDGE WILSON: But nor does the witness Mr Mpshe.

MR DERBY-LEWIS: No I don't have it either Mr Chairman so I can't react on it.

MR MPSHE: Mr Chairman with indulgence can I cause copies to be made quickly?

CHAIRPERSON: Read it to Mr Derby-Lewis unless it's a very lengthy document.

MR MPSHE: Mr Chairman it is lengthy.

CHAIRPERSON: Well let's have copies made then.

MR MPSHE: Copies will be made. I will move to the next question, I will revert when the copies are provided.

Mr Derby-Lewis I want you to have a look at Bundle C from page 933. Bundle C consists of photos.

CHAIRPERSON: Is it Bundle C of R37

MR MPSHE: Bundle C of the AC Mr Chairman, thank you. Mr Chairman it consists of photos from page 933.

CHAIRPERSON: Yes.

MR MPSHE: At page 933 I want to have a look. (intervention)

MR DERBY-LEWIS: I haven't got that yet Mr Chairman, if I can just be granted an opportunity to obtain the document, it's apparently the court record Mr Chairman.

JUDGE WILSON: It's volume 12 of the court records.

MR DERBY-LEWIS: Yes.

JUDGE WILSON: I think this is the third.

MR DERBY-LEWIS: Yes. Thank you Mr Chairman. Bundle C I have a copy of Bundle C before me Mr Chairman.

MR MPSHE: Page 933.

MR DERBY-LEWIS: Page 933, yes Mr Chairman.

MR MPSHE: Mr Chairman and members of the Committee the showing of these pictures is not intended to provoke any emotions but just to lead him to what I want to ask Mr Chairman.

MR DERBY-LEWIS: I accept that Mr Chairman.

MR MPSHE: Thank you. I want you to have a look at photos on page 933 up till 936, just look at them.

MR DERBY-LEWIS: Yes Mr Chairman I have examined them, 933 to 936.

MR MPSHE: Thank you. Mr Derby-Lewis you testified the other time that you compiled your own application, am I correct? 10

MR DERBY-LEWIS: Yes, before I had legal representation, that's correct Mr Chairman.

MR MPSHE: And that would mean that the questions were asked on the application you understood what they were actually seeking to achieve from yourself?

MR DERBY-LEWIS: To the best of my knowledge, yes Mr Chairman.

MR MPSHE: Good. And further that you had to have insight into our enabling Act, that is the Promotion of National Unity Act? 20

MR DERBY-LEWIS: Yes Mr Chairman.

MR MPSHE: You looked at that one as well?

MR DERBY-LEWIS: Yes.

MR MPSHE: And you are acquainted with the provisions thereof?

MR DERBY-LEWIS: Yes Mr Chairman.

MR MPSHE: I am going to refer you particularly to Section 20 of the Act. I will read it for convenience. Section 20 subsection 30

3 paragraph F thereof. It is one of the guidelines. It is the last of the guidelines.

MR DERBY-LEWIS: Yes Mr Chairman.

MR MPSHE: I will read it for convenience.

MR DERBY-LEWIS: Yes.

MR MPSHE: "Where the particular act, omission or offence contemplated in Subsection 2 is an act associated with a political objective shall be decided with reference to the following criteria:"

and then I am quoting that criteria, F

MR DERBY-LEWIS: Yes Mr Chairman.

MR MPSHE: "The relationship between the act, omission or offence and the political objective pursued and in particular the directness and proximity of the relationship and the proportionality of the act, omission or offence with the objective pursued".

We stop there.

MR DERBY-LEWIS: Yes Mr Chairman.

MR MPSHE: Having seen the photos in Bundle C would you regard yourself to have satisfied the provisions of paragraph F?

MR DERBY-LEWIS: Mr Chairman I believe that if there was one act that qualifies in terms of that section it was the assassination of Mr Chris Hani.

MR MPSHE: What about the proportionality thereof?

MR DERBY-LEWIS: Exactly that Mr Chairman.

MR MPSHE: The manner in which it was being done.

MR DERBY-LEWIS: No Mr Chairman I don't ... (intervention)

JUDGE WILSON: That is not the proportionality test here, he was shot Mr Mpshe. The fact that the photographs you have referred to are singularly gory does not make it other than a shooting does it?

MR MPSHE: Yes Mr Chairman it does not make it anything other than the shooting but it makes it a shooting that was done in a brutal manner, that is the point I am trying to make.

JUDGE WILSON: Why do you say it was done in a brutal manner as compared with other shootings? Are not all shootings brutal, whether you shoot a man in the head or the body which happens in almost all killings?

MR MPSHE: Mr Chairman that may be so and I take the point

MR DERBY-LEWIS: Thank you Mr Chairman.

MR MPSHE: Mr Derby-Lewis, Mr Chairman and members of the Committee we now have copies of R3.

MR DERBY-LEWIS: Mr Chairman if I may with respect say this is a copy which has been reduced in size from the original thing

and it's very difficult to read. I am 61 years of age, as you see I wear glasses and it's really difficult to read this. I think other members may also have that problem. I don't know why it was reduced.

CHAIRPERSON: Mr Mpshe there is just no doubt that some of us will find it very, very difficult, the print is very small. 10

MR MPSHE: Yes Mr Chairman I am aware thereof, perhaps I will refer to it by means of question and check whether ... (intervention)

CHAIRPERSON: Yes please put your questions ... (intervention)

MR MPSHE: ... the witness will recall what is contained therein.

MR DERBY-LEWIS: Mr Chairman I have no objection to that I just pray your indulgence if I take a bit of time to read this before I reply to the questions. 20

CHAIRPERSON: Well let's listen to the question first it may not be necessary to read it.

MR DERBY-LEWIS: Certainly Mr Chairman.

CHAIRPERSON: Yes.

MR DERBY-LEWIS: Thank you.

MR MPSHE: Do you recall an instance wherein you were being reprimanded because you had said it was a pity that a Black man was not run down on the runway at the airport by the Zimbabwe lines, do you recall that? 30

MR DERBY-LEWIS: I am aware of that report Mr Chairman, yes.

MR MPSHE: Do you recall further that you were referred to as the racist by a magistrate who actually said that you qualify to the meaning of a racist in the dictionary?

MR DERBY-LEWIS: You mean a National Party Cabinet Minister's statement Mr Chairman?

MR MPSHE: A magistrate, a Landros.

MR DERBY-LEWIS: A magistrate, yes I am aware of that Mr Chairman.

MR MPSHE: Yes.

JUDGE WILSON: That appears quite clearly and in large print on B5, the page before the one you have referred to, R3, B5 there's a great deal of comment on this airport incident as there is in B4. We don't have to look at this tiny print.

MR MPSHE: Yes, Mr Chairman unfortunately I didn't look into B5 I went directly to this one but I will try to make use of what I have here by way of questions. I just ask for indulgence to read so that I could quote to him.

JUDGE WILSON: I think if you look Mr Mpshe the whole, almost all the B sections relates to this airport incident.

MR MPSHE: Yes Mr Chairman that may be so but page 6 I am referring to is not only the airport incident it is the airport incident, the incident where the magistrate made that remark and

other incidents quoted wherein Mr Derby-Lewis has been quoted as a racist.

Mr Chairman it may be difficult to go through this type of print but Derby-Lewis has already agreed to two questions that I have put to him and the intention is to endorse him being a - the fact that he's been referred to as a racist and I will continue with my questioning.

MR DERBY-LEWIS: Mr Chairman if I may just interrupt and say that I am at this stage confirming what you have stated in your question, but I expect to have an opportunity at the end of your question to motivate why this happened. And so if we can just take these instances slowly because there is a perfectly understandable explanation for each one of these so-called racist statements.

MR MPSHE: Mr Chairman with a bit of indulgence and it means we must go to each and every one of them because it is more than two in this article.

MR DERBY-LEWIS: Mr Chairman...(intervention)

MR MPSHE: There are more than two Mr Chairman, I will have to read them one-by-one.

MR DERBY-LEWIS: Sorry Mr Chairman. If one studies this whole question of "what a pity", under B, "racist remarks made by Clive Derby-Lewis", it must be apparent to the Committee that

the first five statements all refer to exactly the same incident and are not five separate incidents.

As far as this other document is concerned, with the small print, it refers to other statements and I have perfectly legitimate explanations regarding these instances. For example Mr Chairman it is true that a magistrate declared me a racist at a trial, but it is also true that when the Appeal Court to which I went to get the decision reversed and they granted me absolution, the Court actually in their judgment stated that there was nothing in the testimony offered to support the magistrate's remarks. So I mean how can I accept Mr Chairman that I am a racist on the basis of a Broederbond magistrate, who served in the same Broederbond organisation as my opponent in Krugersdorp and who were in cahoots together to discredit me in the eyes of the electorate of the Krugersdorp constituency. And Mr Chairman this is supported by a publication which the National Party issued in 1989 as a result of manipulating of the date of the hearing to make the date of the hearing coincide with just before the September '89 elections and in their propaganda document, issued by the National Party regime and my opponent that was the whole crux, "Magistrate declares Clive a racist", and that cost me votes Mr Chairman and it was a blatant lie as far as the detail was concerned. So Mr Chairman I must be given an opportunity to defend myself against these allegations. It's not a simple matter

of, is that statement on this – I think it is here, but it's not correct.

CHAIRPERSON: Right. Mr Mpshe are you going to traverse the ground that Mr Bizos already raised in cross-examination on the issue of whether Mr Derby-Lewis is a racist or not, or are you raising fresh material? 10

MR MPSHE: Mr Chairman I am raising fresh material.

CHAIRPERSON: Yes please do, Carry on.

MR MPSHE: Mr Chairman I will just refer to the other three incidents in the article. I will read for convenience, they are not so long and pause to get a comment from Mr Derby-Lewis for convenience of Committee members and those who can't read.

I will read Mr Derby-Lewis ...(intervention)

MR DERBY-LEWIS: Sorry Mr Chairman, can I just get this correct. The first incident was the airport and the second was the magistrate? 20

MR MPSHE: That's it.

MR DERBY-LEWIS: Thank you Mr Chairman.

MR MPSHE: The third, the fourth and the fifth are coming.

MR DERBY-LEWIS: Right, thank you Mr Chairman.

MR MPSHE: This is paragraph 7, I am just counting the paragraphs but I will read.

"He, in the course of the court case *inter alia* testified that he has spoken to at least 50 radical 30

Blacks and his practical experience is that a few of them can repair a toilet*

MR DERBY-LEWIS: Now Mr Chairman I would like to respond to that immediately. That statement is not correct as it stands in this newspaper. What I acknowledged during the court case, because the magistrate wanted to know whether I ever communicated with Blacks, and in the process of the cross-examination I stated to him yes I had. In fact I had spoken to more than 50 radical Blacks. And I can tell you Mr Chairman that I was speaking to people in the UDF when nobody else wanted anything to do with them including the National Party, because I was trying to find opportunities to put the CP's policy of separate development to as many people as possible. But Mr Chairman the context in which the 50 radicals and the toilet episode was concerned is totally out of context in terms of this report.

MR MPSHE: You have been misquoted?

MR DERBY-LEWIS: I have been, definitely. And I haven't been misquoted, this is not a quote of mine Mr Chairman, this is a report by a journalist stating what he says I said.

MR MPSHE: Alright, let us continue.

MR DERBY-LEWIS: Thank you Mr Chairman.

MR MPSHE: "He also testified that there are cultural differences between Whites and Blacks and that it is a fact that Blacks like to make babies"

Is it not a racist remark again?

MR DERBY-LEWIS: Mr Chairman let me repeat what has been read. I also, and I am going to say it in English,

"He also testified that there are cultural differences between Blacks and Whites".

is that racist? Or that's not the part you are talking about? 10

MR MPSHE: No.

MR DERBY-LEWIS: You are talking about the further part. And it is a fact that Black people like to have babies. Mr Chairman is that not a fact? Mr Chairman with respect I don't see anything wrong with that fact. In fact I would like to have many more babies.

CHAIRPERSON: Mr Derby-Lewis admits that he makes that statement, but disagrees with you that it was a racist remark. 20

MR DERBY-LEWIS: Correct.

MR MPSHE: Thank you Mr Chairman.

JUDGE NGOEPE: Well why didn't you add and say so yourself and say I too want to make children? The sting would have been taken out of the sentence.

MR DERBY-LEWIS: Mr Chairman we weren't talking about that, we were talking about my relationship with Blacks and I said earlier in that testimony that I admired the cultural difference of Blacks, between Blacks and Whites in that they were more family oriented. (intervention) 30

JUDGE NGOEPE: Mr Derby-Lewis don't pretend that you don't see the sting in this thing. The sting in this thing, the suggestion in this is that as compared to Whites Blacks want to make babies ... (intervention)

MR DERBY-LEWIS: But Mr Chairman ... (intervention)

JUDGE NGOEPE: Now you are coming with a statement to try and introduce some ambiguity in this sentence. 10

MR DERBY-LEWIS: Mr Chairman the point I am trying to make is that to use the word "om babas te maak" as my quotation why didn't they put my full quotation in?

JUDGE NGOEPE: That is not what I am asking you about.

MR DERBY-LEWIS: No Mr Chairman you are saying Mr Chairman that this has a sting in it and I am saying that using that small portion of what I said may quite correctly, as you say, have a sting in it ... (intervention) 20

JUDGE NGOEPE: Yes.

MR DERBY-LEWIS: But Mr Chairman to understand in what context that was said it must have the full sentence ... (intervention)

JUDGE NGOEPE: No we understand the context, we understand the context, you actually compare, you say there are differences between Whites and Blacks and then at the end thereof, in the context thereof, you say Blacks want to have babies. 30

MR DERBY-LEWIS: No Mr Chairman that's the point I am making, that second statement was not in the context of the first statement. It was probably even days apart, because I want to tell you Mr Chairman I sued Mr Wessels ... (intervention)

JUDGE NGOEPE: Well that is not what you said to the question, you only bring that up when I tell you that you are introducing something, try to introduce some ambiguity in the sentence.

MR DERBY-LEWIS: No Mr Chairman I am trying to refute this whole allegation that I am a racist with the use of selective quotations.

JUDGE NGOEPE: Well that's a strange way of refuting evidence.

MR DERBY-LEWIS: Mr Chairman it's not there in the context in which it was said and I must mention to this Committee that in spite of the fact that I was the person who brought a damages claim against Mr Wessels, Mr Wessels had three teams of advocates present at the trial and they were allowed by the magistrate to cross-examine me for four days and before even allowing my advocate then to call witnesses in my defence Mr Chairman the magistrate stopped the case and he said "I find Derby-Lewis is a racist" and that's that.

MS KHAMPEPE: Mr Derby-Lewis I must say I fail to understand what you are explaining. May I try and understand what you want to say to us.

MR DERBY-LEWIS: Please Mr Chairman.

MS KHAMPEPE: In what context did you allude to the fact that Blacks like to have babies? 10

MR DERBY-LEWIS: I don't remember Mr Chairman but it wasn't in the context of the cultural difference.

MS KHAMPEPE: If Mr Mpshe put his interpretation to what you stated therein how can you refute it if you can't remember in what context ... (intervention)

MR DERBY-LEWIS: Mr Chairman in a case like this where it is quite obvious that they are not quoting my full sentence I expected the understanding of the Committee in terms of that this would be used out of the context in which I stated it. I don't remember the details, as I said, I was under cross-examination for four days in a case which I initiated. And in fairness I think that if the Committee wants to carry on with this then I must be given the opportunity to go back, to take the testimony which was offered in court and to produce the whole statement I made before I can be judged a racist on a portion of what I said. That is my point Mr Chairman, with respect. 20

JUDGE NGOEPE: Well I did not hear you, I did not understand you as saying that you deny having said that. 30

MR DERBY-LEWIS: What I am saying Mr Chairman is it's out of context ... (intervention)

JUDGE NGOEPE: You are saying - you said the words were uttered in a context that you are today not able to remember.

MR DERBY-LEWIS: That is correct Mr Chairman. But it's with - Mr Chairman I am not a racist, I do not hate Black people, I don't hate yellow people, I don't hate Greeks, I don't anybody, but I am very proud of the fact Mr Chairman that I am an Afrikaner and I love my people.

JUDGE NGOEPE: Yes we hear you thank you.

MR DERBY-LEWIS: Thank you Mr Chairman.

MR MPSHE: The final question Mr Derby-Lewis then we will conclude. I will read again.

"Mr Derby-Lewis testified to the effect that in August 1986 he had said in an interview with a magazine that he would leave the country should a Black government come to rule South Africa, because Black people are paid more than they need to survive".

MR DERBY-LEWIS: With respect Mr Chairman it must be patently obvious that that whole statement is out of context with what I said. Nobody would make a statement in that context, certainly not I Mr Chairman. And I once again request that if this is accepted as the truth Mr Chairman that I then be permitted to obtain the court record of the evidence and then be allowed to

submit that at a later date to the Committee, if it is considered as evidence that I am a racist because I deny that categorically.

MR MPSHE: Mr Derby-Lewis in conclusion then I want to put it to you that you killed Chris Hani not for the reasons that you have stated to this Committee but you killed him because you saw this Black man who has the potential of a leader and who is going to take up government. That is all Mr Chairman.

MR DERBY-LEWIS: Mr Chairman I have already testified why Mr Hani was targeted and that is my testimony.

MR MPSHE: That concludes my questioning Mr Chairman. Thank you Mr Chairman.

NO FURTHER QUESTIONS BY MR MPSHE

ADV POTGIETER: Mr Derby-Lewis just to try and complete this catalogue of references to your apparent attitude. In volume R4, page 82, have you got that?

MR DERBY-LEWIS: Volume R4.

ADV POTGIETER: Page 82. It purports to be a profile sketch, it's a document in Afrikaans.

MR DERBY-LEWIS: Yes Mr Chairman I have it.

ADV POTGIETER: And this is a typed version of a hand-written document and this particular paragraph that I want to refer you to on page 82 is paragraph 3.7, that purports to be a typed version of paragraph 3.7 on page 75 of the hand-written document.

MR DERBY-LEWIS: Yes Mr Chairman.

ADV POTGIETER: Have you got that?

MR DERBY-LEWIS: Well I haven't got the hand-written document.

ADV POTGIETER: Won't you just page back to ... (intervention)

MR DERBY-LEWIS: This was not my hand-written document

10

ADV POTGIETER: I assume that, yes.

MR DERBY-LEWIS: Thank you.

ADV POTGIETER: Yes, I just want to ask you about the content of that paragraph.

MR DERBY-LEWIS: Of 3,7?

ADV POTGIETER: Yes. If you go to 75 you will see that 75 is the hand-written version of 3.7 on 82.

MR DERBY-LEWIS: Yes.

ADV POTGIETER: And in 3.7 on 82 there are some words which are left out and there seem to be some typographical errors which one can actually pick up from the hand-written version.

20

But in effect what this says it purports to refer to the Sunday Star of the 18th of April 1993 and it seems to be a paraphrasing of what apparently appeared in that newspaper. And it say that, referring to yourself,

"Was in 1987 elected as a CP member of Parliament...."

30

and then the word should be "verkondig", there's a typing error there.

"... and announced that Blacks should be kicked out of White universities and that Black persons would not become landowners under a CP government".

The word left out where the "XX" indicate is CP Government. Have you got that?

MR DERBY-LEWIS: I have Mr Chairman.

ADV POTGIETER: Have you got any comment on that one?

MR DERBY-LEWIS: Yes Mr Chairman, may I first as a follow-up of what I requested after Mr Mpshe came with various statements, may I just draw the Committee's attention to the "What a pity" statement. And I want to draw specifically the attention of the Committee to a statement which I made in Parliament regarding the whole incident. Because as a result of the possible misinterpretation of what had been said and whether what had been said as a result of the National Party regime's political antics Mr Chairman, I requested the opportunity to present a statement of clarification and it reads as follows:

"Commandant C J Derby-Lewis. Mr Chairman..."

Oh no this was my original speech, sorry I won't - I will read the reference to my actual, where I made the statement in the speech and it will be clear that what I said after "What a pity" was

PUBLISHER:

Publisher:- Historical Papers, The Library, University of the Witwatersrand

Location:- Johannesburg

©2010

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of paper documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

DOCUMENT DETAILS:

Document ID:- AK2883-A9

Document Title:- Volume 9 Review against TRC Amnesty Committee in the Applications of J.J. Walus and C. Derby-Lewis delivered at Cape Town on 7 April 1999