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SAAKNOMMER: CC 482/85

DELMAS

1986-09-15

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST EN

ASSESSORE: MNR. W.F. KRUGEL

PROF. W.A. JOUBERT

NAMENS DIE STAAT:

ADV. P.B. JACOBS

ADV. P. FICK

ADV. W. HANEKOM

NAMENS DIE VERDEDIGING:

ADV. A. CHASKALSON

ADV. G. BIZOS

ADV. K. TIP

ADV. Z.M. YACOOB

ADV. G.J. MARCUS

149

TOLK:

MNR. B.S.N. SKOSANA

KLAGTE:

(SIEN AKTE VAN BESKULDIGING)

PLEIT:

AL DIE BESKULDIGDES: ONSKULDIG

KONTRAKTEURS:

LUBBE OPNAMES

COURT RESUMES ON 15 SEPTEMBER 1986.IN CAMERA WITNESS NO. 24, d.s.s.

CROSS-EXAMINATION BY MR BIZOS (continued) : In your evidence-in-chief you told us that you had a hand or you took part in the composition of the song appearing on page 31(f) of EXHIBIT V(1) Across the River we shall get them, et cetera. -- That is true.

Perhaps you could tell us where did you get the tune from, where did you and your fellow composers get the tune from? -- What I know is the wording in the tune. Otherwise(10) where this tune comes from, that I do not know.

Let us then ask you. Is it because you heard it when it was being sung? Who is responsible for the tune? -- The people responsible for the tune I left them behind, that is in the camps and I am therefore not in a position to tell what their names are.

I am not interested in their names, did you actually take part in the composition or had you started the composition or were you a minor contributor or a main contributor to the words? -- I had a part to play when this was composed. (20)

So, you helped put the words together? -- Yes, that is true.

Across the River. Which river did you have in mind? -- We had Limpopo river in mind.

At the northern border? -- Yes.

With their children we shall get them. What did you mean by that? When you composed or helped to compose it, what did you mean by that? -- What we meant was, we are going to get the Boers with their children on arrival in (30)

South/...

South Africa.

What did you mean by get them? -- That meant we were going to kill them.

Are you telling His Lordship that you helped to compose a song which called for the killing of children? -- That is true, while being on the other side, that is with the ANC I did part in the composition of this song in that respect.

Do I understand - will you agree that when a person composes a song one expresses one's innermost feelings, one's desires and one's ... -- Yes, I agree with you on that. (10)

Was that your true feeling? -- At the time, yes.

You see, because what do you say to your previous evidence that people sing figuratively and not literally? Do you remember your evidence before the adjournment over the weekend? -- Yes, that is true. I quite remember what my evidence was before the adjournment, but that was pertaining to something else. You are referring to a different subject altogether. I am now giving my opinion about this particular song we are discussing and the interpretation I have given here is exactly what was happening at the time. (20)

What were you discussing at the time? What did you refer to previously? -- We were discussing songs, but not the particular song referred to now.

So, you make a distinction of this particular song that you were responsible for or partly responsible for composing it? - That is true, because with this song I was involved myself and I know the song conveyed the feelings of the composers at the time and I was one of the composers. With the other songs I was not there at the time of their being composed. (30)

Would/...

Would you please have a look at the song on page 28(a) of the same exhibit. This is the song that speaks of Hlanganani Basebenzi. Do you know the origin of this tune? -- No, I do not know the origin of the tune in that form and if my memory serves me well, I did not make mention of that song, that is amongst the songs I have mentioned.

COURT : I seem to recall that that was skipped. It is the workers song.

MR BIZOS : Do you know this workers song at all? -- Which one is this one? (10)

Hlanganani Basebenzi, unite workers? -- No, I do not know that song.

Well I am just putting to you that this a well-known song to the tune of Hlanganani ma Christo which is said four times. Perhaps I should put this to you. Is the usual way of singing that there is a lead and a response? -- That is true.

Because of the talent that you have in singing and composing, would you agree that Hlanganani ma Christo could quite easily be uttered and recognised by a leader if you (20) change it to Hlanganani Basebenzi? -- As I have already said, this is a new song to me. I do not know the song at all. So, I would not be able to lead it, even if I would be asked to lead the song and therefore I cannot comment on it.

I am merely giving it to you as an example. If someone started singing Hlanganani ma Christo and you were in the audience, it would have been the easiest thing in the world for you even though you have not heard it before to respond Hlanganani? -- It was going to be difficult for me. (30)

Why/...

Why? If the leader says Hlanganani ma Christo or Hlanganani Basebenzi, why would it be difficult for you to respond Hlanganani together in a chorus with the other people? -- My difficulty is that I have already said that I do not know the song. Therefore I would not know what to say in background to the leading person of the song.

We will leave it at that. If we take - do you agree that the work place has given rise to many songs among Black people in South Africa?-- No, I do not know that. That is news to me because of my having been absent from South Africa. I just came back. I do not know what was happening. (10)

Also of course you have never really worked in South Africa? -- Yes, that is true. I have not been employed in South Africa.

Do you know whether these folk songs, work songs, those that have their origin in books of hymns which is a secret weapon in this case, because there is no copyright are even used as tunes by recording companies and the SABC for various purposes? -- Well, I do not agree with that, because I do not know about it. (20)

Is that because your South African experience is limited? -- Yes, that is true.

COURT : Were you listening to the SABC in Luanda? -- No, we used to listen to the BBC and the Voice of America.

MR BIZOS : And Radio Freedom? -- Yes, that is true.

I want to take as an example the praise song in particular.

COURT : In general?

MR BIZOS : In general. Did you sing any praise song praising the late Chief Albert Luthuli? -- No, I did not.

Never? -- No, I do not remember singing that. (30)

Throughout/...

Throughout your stay for eight years, you never remember singing about Albert Luthuli? -- In the period of the nine years that I had been there, I do not remember singing that song.

Do you recall or were you told who the late Chief Albert Luthuli was? -- Yes, I do.

Was it part of the history that you were taught? -- Yes, that is part of the history.

And is he an honoured figure in the Black community as you know it? -- Yes, that is true. (10)

And was he so held out at the camps? -- Yes, but not like before.

Not like before when? -- What I mean is, during the year 1978/79 comparatively speaking starting from the 80's, he was no longer that popular in the camps.

But let us talk about 1978 and 1979. Whilst he was popular, did you not sing his praise and songs? -- No, I did not.

And what about Mrs Helen Joseph. Did you not sing her praises? -- Well, we did sing about her. (20)

And the late Dr Aggett, did you sing his praises? -- No, I have not.

And the praises of the late Mr Steve Biko? -- No, I did not.

When you say you did not, you are confining yourself to your group and your camp? -- I confine that to my group which was living with me in the camp, that we did not.

How large was your group? -- It was not more than sixty.

So, your total experience is confined to this group of sixty? -- Not necessarily that. (30)

What/...

What? -- What I mean is, in my group we were about sixty and therefore I have been referring to us as the sixty in number, but I am not limiting that to the sixty, because we used to go out to other camps and sing with other people and therefore my experience of singing is not limited to the sixty.

How large were the groups that you were in in other camps? -- It was a big group.

How big were the groups as a whole? How big is a platoon?  
-- 33. (10)

And what is the command structure above the platoon? --  
About 7 to 8.

Above? -- Above the platoon commander.

Would it be easy whilst you were singing a song praising a particular person to substitute the name of another person in praise? -- Yes, that would happen.

And did this happen? -- Yes, it did happen.

And that depends on the mood of the leader? -- Yes, that is so.

And the others would follow? -- Yes, that is true. (20)

In relation to the first song on EXHIBIT V(3) Sizoliluela Silandele o Thambo, do you know the origin of that tune? --  
Are you familiar with that song at all? -- It sounds as if I hear that song for the first time today.

You do not know it as a popular wedding song - tune of a wedding song? --No, that I do not know.

Nor as a praise song of which the name can be changed at the will of the people concerned? -- Yes, I understand.

Do you have any comment to make in that regard?

COURT : He does not know the tune or the song. How can (30)  
he/...

he comment?

MR BIZOS : Similar songs, let us put it that way.

COURT : He does not know this one, how can he say it is similar?

MR BIZOS : We will leave it at that. Were you ever involved in any boyscout activity? -- No.

Do you know whether or not among the African scout groups there is a leader who shouts, for some reason or other, historical reason, Oliver and when running around the camp fire and the troops so to speak responds Zeeeeee? -- No, (10) that is new to me. I hear that for the first time.

In relation to Alutha continua. Where were you in 1974? -- I was still at home and a pupil of a school.

And you must then have been sixteen years of age and fairly a-political? -- No, I did not have any knowledge about what was happening politically.

Did you ever learn as to whether the Black people as a whole in South Africa wellcomed to use the language of slogans, wellcomed the expulsion of colonialism from Mozambique and Angola? -- Do you mean the people in South Africa or do (20) you mean the people in general or otherwise?

The Black people in South Africa or a substantial portion of the people in South Africa? -- No, I did not know anything about that.

And you do not know whether this slogan Alutha continua, whether it was the - whether or not it was the slogan of the people of Mozambique generally who wanted to rid themselves of Portuguese colonialism? -- No, I did not know at that time.

Nor do you know whether or not Alutha continua became (30) the/...



the slogan of the Mozambican government on the basis that they really had to struggle for real independence and economic independence and everything else and whether this Alutha continua is still the slogan used by Mr Samora Machel for instance at times when he is even shown on the SABC television? -- What I know about this Alutha continua from the countries which are colonised by the Portuguese like Angola, Mozambique, Guinea-Bissau, because it is just a change from English or interpreter from English to this language in Portuguese that the struggle goes on, then (10) Alutha continua.

And of course, I think that everyone knows that Viva is really an almost internationally used word for long life? -- Not everybody knows that.

Well, you know it? What do you say for hurrah in these parts that you have been travelling in? What do you say at birthday parties, do you ever use Viva at birthday parties? -- Yes.

At birthday parties? -- Yes.

And do you say Viva? -- No.

(20)

You do not say Viva? -- No.

This expression Hayi Hayi, did you not say this when you were a young kid in Soweto? Was this not an adolescent game that you were playing, shouting Hayi Hayi? -- No, there is no such. I hear about that for the first time in this court.

Did you find that the ANC borrowed slogans or sayings from whoever it could including the bible or the slogans of the Portuguese or former Portuguese territories? Did you find that was happening? -- There are occasions where (30)

it/...

it happens in that fashion.

COURT : Can you remember one? -- Yes, I can.

Which one? -- Like Alutha continua. Those are Portuguese words, but they are used by the ANC also.

Could you tell us what the first part is? Victory is certain? -- Alutha continua Victoria a cetera.

MR BIZOS : Did you ever hear the slogan An injury to one is an injury to all? -- Yes, I know this as a slogan of SACTU, South African Congress of Trade Unions.

And as far as you are concerned it is an exclusive (10) slogan of SACTU and it is only used by SACTU? --No, because of the fact that I know the SACTU, ANC and South African Communist Party, this is an alliance. Therefore the slogan is being used by the ANC and the other one as well, which is An injury to one is an injury to all.

And you have no knowledge of anyone else using that slogan? -- No.

And if you were to - if I were to say to you An injury to one is an injury to all, and whether this was an ANC/SACTU/Communist Party slogan, you would say yes, that is (20) alliance, this unholy alliance's slogan? -- Yes, that is what I would say.

Because I am going to suggest to you that you should go to Corinthians 12:26 An injury to one is an injury to all. -- I am listening.

And you did not know anything about that? -- No, I did not. This is new to me.

Did you ever hear the slogan Each one Teach one? -- No, I have not heard it. It is for the first time that I hear about that one as well. (30)

The/...

The use of the raised fist or clenched fist, do you know whether it is used generally as a symbol of unity?

COURT : Do you mean world wide or in the South African context?

MR BIZOS : Perhaps I should take it in both. -- If it was said world wide then I will say no, I do not know.

Were you too young to remember that the first, second and third winners of the olympic games in a particular event, when they went to take their prizes in the early 60's, all three of them Americans raised their clenched (10) fist?

COURT : What was it known as, the Black Power salute?

MR BIZOS : Well, this is how it was named, but I do not think they were members of the ANC. -- No, I hear about that for the first time.

Have you heard before whether trade unions in the western world have used the clenched fist as a symbol of unity for a long time? -- No, I hear about that for the first time.

Is it your experience that for the last 20 or 25 years whether it has become a symbol of unity and strength and (20) victory and overcoming all those things, it is really an expression of emotion? -- Yes, that is true.

And that it has become almost universal. I want to give you a few examples. It is used by sportsmen for having scored a goal or jumped a particular height or having scored a try? -- Are you talking about internal or external - out of South Africa?

Well, what do you say, because most of your outdoor life has been spent outside South Africa, would you say that that is so outside South Africa? -- No, I would say (30)

outside/...

outside South Africa is a different thing, because there are different slogans of showing happiness and so forth.

Did you see any of the persons that I have mentioned throwing up their right arm with a clenched fist overseas, on the field or on television? -- Like I have said from the onset that I have not seen them, the different slogans that people show overcoming games.

Let me just ask you this. Have you seen people outside South Africa throwing their clenched fist out whenever of the things that I have mentioned to you happened? -- No. (10)

You have not seen it? -- No, not so far.

You have never seen anybody scoring a goal jumping up in the air and throwing his clenched fist up? -- Well, I think in a football match I once saw it.

Oh, you did see it? -- Yes.

Have you started following soccer in South Africa since your return? Even on television or on the field? -- Yes, on the TV.

Do you know what the emblem of the Bloemfontein Caltic football team in the first division is? -- No, I do not (20) know.

WITNESS STANDS DOWN.

COURT ADJOURNS.

COURT RESUMES.

IN CAMERA WITNESS NO. 24, still under oath

CROSS-EXAMINATION BY MR BIZOS (continued) : Before I put any more of the songs, there is just something that I want to put to you. Would you agree that you are completely out of touch with the South African or you were completely out of touch with the South African reality between 1977 and 1985 when you came back? -- I knew very little about what (30)

was/...

was happening in South Africa.

You see, because I want to give you an example. You have told us in your evidence-in-chief about this clenched fist.--Yes.

Do you know of a film or was it ever shown to you called Fist? -- No, It was not. I have not seen it.

Because I want to tell you - you think that it is the ANC sign, sometimes it is described as the Black Power sign. Fist, I am going to put to you or a clenched fist has been a symbol of worker unity, both nationally and interna- (10)  
tionally since the late 40's. Can you make any comment on that? -- I would not dispute that, but all I know is that I was told and trained about that and told within my training by the ANC that this is a sign of the ANC.

But did it claim it as a sign of its own, exclusively its own, its trade mark? -- What I knew was, this is a sign for the ANC only.

Let me try and put to you a little bit of modern history and then you can tell us whether you still have faith in the absolute accuracy of what you were told. The Fede- (20)  
rated Interstate Trackers which in the acronym is fist ...

(Court intervenes)

COURT : Where are they from?

MR BIZOS : In America. -- I did not know that.

It has a logo with a fist like just the one you showed us in the witness-box? -- Yes.

And fist written on top an acronym for the Federated Interstate Trackers? -- Yes, I understand.

I want to tell you that there has been a film shown in South Africa for years and more especially, both on (30)  
commercial/...

commercial circuit and also by trade unions which has the message that his Federated Interstate Trackers that formed this united body and called it Fist, how much they achieved for themselves by being united? -- Yes, I understand.

And that this sign is used since the late 40's by trade unions, by workers, by people who feel the advantage of unity throughout the world? -- Yes, I understand that.

If that is correct, then your organisation wrongly says that it is an exclusive sign? -- Well, that I would not know, because that was the way in which I was taught. (10)

Could you please have a look at EXHIBIT C(1) to (143) volume 7. The first one that I want you to have a look at is C(26) song number 27. It has got a Roman VIII on top, the page. You told us that you sang that song? -- Yes.

Would you say that that was an ANC sing-song? -- Yes, we were taught this song in the camps of the ANC and that is where we sung it.

Can you say whether the ANC claims it as its song as well? -- I would not say so. It was not orally conveyed to me that way, except to say that I came to know this (20) song being taught by the ANC while being with the ANC.

You do not know whether it is an international song or whether it is sang by the trade union movement and more particular in the labour party in England? -- No, that I do not know.

If we could go back in the same volume to song number 13 of C(126). Do you know the origin of that song? -- No, I do not know. If I am not mistaken this song is the one which was sung by the women going to Pretoria during the reference books march. (30)

And/...

And I take it that you have learnt enough history to know who Mr Strydom was? -- I do not quite remember.

You do not know who was the Prime Minister of South African in 1956? -- No, I did not know that.

And you therefore would not be able - well, I think that you have said that the women sang it. We will leave it at that. Whilst we are there, could we just please turn to - it is numbered in a strange way. If Your Lordship turns to the last one, I referred Your Lordship to the VIII. That was the Red Flag song, song number 27. There (10) is an unnumbered page, but the page starting thereafter in 1649 to St George's Hill. The song that I want to refer to is the one that is marked 2 at the bottom of that page. Do you know the tune of that song? -- Yes, I do.

Do you agree that it is an old township song? -- No, I do not know it as an old township tune. I only know it as a tune from the ANC outside the country.

You would not be able to deny ... (Court intervenes)

COURT : Could we just get clarity. I think both of you are mixing up two things. The words of the song and the (20) tune. Are you putting it that it is a township tune not song?

MR BIZOS : No, it is a township tune to which a calypso type of situation applies.

COURT : Are you saying it is an ANC song as far as the words are concerned or an ANC tune as well? -- I am saying it is an ANC tune and song because this I was taught by the ANC outside the country.

MR BIZOS : And you are unable to admit or deny that this catchy tune, so to speak, has been used to criticise people (30) who/...

who in the opinion of other people from the 50's on were thought not to be acting in the best interest of the Black people at least in the opinion of the singers? -- Yes, that I understand. If I may ask, what I understand now, we are busy talking about tunes and here and there there are songs included in what is being put. I am not quite clear what tunes are these and what bearing is there on the tunes on which I have to answer. If only I could be clear on that.

COURT : What counsel wants to establish is that in some instances it may be the words, but in some instances the (10) tune is a tune which has had a long life already in the townships and elsewhere and is not a sole and exclusive product of the ANC? -- Now I do understand.

MR BIZOS : You see, in this particular case, what I am putting to you is that it was not only the tune, but that these words were there used of the predecessors of the Matanzimas and the Buthelezi and others who had fallen into disfavour by the people singing the song? -- I understand that, yes.

Could you please have a look at - well, I do not (20) think it is really necessary to look at it, but it is referred to for instance in V(3) page 9 Siyaya Epitoli. Do you know when Siyaya was first sang? -- No, I only came to know about it for the first time on my arrival outside the country within the ANC.

If I were to suggest to you that it was in the 1950's, you will not be able to admit or deny it? -- I would not be able to dispute or comment about it because I was not there during the 50's.

Did you as a Black man feel shortly before you left (30)

for/...



for Swaziland, did you feel that you and your parents were excluded from a meaningful say in the government of South Africa? -- No, I did not know that.

You did not know that? -- No, I did not.

As an 18 year old you thought that you did not want any political rights? -- No, why I left the country I was going to school.

COURT : Just tell me. Did you land up in a school or did you have schooling? How did it come about that you landed with the ANC? -- Yes, what happened is, I attended a school(10) in Swaziland for about a year and three months. While being a pupil at that school, I was then recruited.

MR BIZOS : Do you know whether your parents or whether a substantial body of Black people in South Africa felt strongly about having a say in the central government of the country? -- No, I only came to know about that outside the country when I was being taught by the ANC that that is the position.

And you do not know whether or not there was long before the ANC went over to the policy of violence or the object of overthrowing the State by violence, whether people in (20) South Africa were singing Siyaya Epitoli as an expression of their desire to have a meaningful say in the government of South Africa? -- No, I did not know that.

Could you please turn to EXHIBIT V(10) page 2 the song marked song number 1. When did you hear that for the first time? -- If I am not mistaken I came to hear about this song for the first time outside the country.

Are you able to admit or deny that this song with these words is a church hymn of a number of sometimes they call themselves independent, sometimes they call themselves (30)

locally/...

locally inspired churches and that this is a tune sang with those words about the people who vacillate, the people who ran away, in those very words. It was sung in congregations of these independent churches for a long time? -- I would not comment on this because I only came to know about this song for the first time while I was in the camps of the ANC.

Without wishing any disrespect to those churches, I am informed that it is sang at the time of the collection? -- Well, I hear about this for the first time. I am bound to (10) accept it that way, but I do not know anything about that.

You cannot admit or deny it? -- I do not know. I cannot.

And finally I would like to refer you to volume V(11) page 3 song number 9 Ziwelele. Could you just have a look at that. Do you know anything about the tune of that song? -- I know the tune which I was taught by the ANC outside the country.

You have never heard it as a traditional song? -- I heard of the song or I heard the song in a traditional form which is a traditional song. (20)

COURT : Where? -- That is when I was still in South Africa.

MR BIZOS : Do you agree that the substitution of the traditional words with words like Angola or whatever else you want to add is an easy operation for anyone who is familiar with the traditional tune? -- Yes, that is true.

My Lord, there is only one outstanding matter and that is Your Lordship will recall that we handed in a photostatic copy of a Sechaba which was not handed in by the State. We asked the State to make the original available.

COURT : This would then be AAE(31)? (30)

MR BIZOS/...

MR BIZOS : That is so, but the original has not been forthcoming. I want to place our position in regard to that ...  
(Court intervenes)

COURT : Could we just have clarity now. Have you completed with this witness?

MR BIZOS : Subject to this and a note which has just ...  
(Court intervenes)

COURT : Very well then.

MR BIZOS : We do not concede the admissibility of the documents, but we do not want to be faced with the situation (10) that our copy is considered any different or less admissible or more admissible or less inadmissible than any of the others.

COURT : May we pause there. Throughout I have made mention of the photocopies being handed in, that there should be clarity on them and that there should be agreement. I am still waiting for both sides to tell me which are disputed and which are not. I do not want at the end of the closure of the State case or at the end of the case or on appeal somebody taking a point and saying well, the originals (20) are not before Court, so therefore there is no proper documentation before Court. You are only one document AAE(31).

I am concerned about all the documents before Court. There has to be clarity on this. If there is any document about which there is an uncertainty, the original will have to be brought to court so that I can compare it. The original can then go back to the library where it comes from. I have been so far prepared to accept photocopies. I think in most cases if not all of them, it would be rather silly to require the original to be produced, but it has to be checked (30)

and/...

and we cannot just leave this in the air. The same applies to the Sechaba. If the State has the original, I do not require the original provided you can assure me both sides that this is exactly as the original is.

MR BIZOS : The library that we took it from, would be reluctant to allow an original ... (Court intervenes)

COURT : Well, they can always be subpoenaed. There is no difficulty with that.

MR BIZOS : We are reasonably certain that the State must have a copy of this in its possession. (10)

COURT : That is rather difficult, because it may be in an office in Worcester and the State in its narrower sense may not know it, it would be much easier to get the original and compare it with the copy and have an agreement. Or get somebody to go to the Jan Smuts Library, but the same applies to all the other documents and I wanted to proceed on the basis that unless a party informs me that this document in the form of a copy is not admitted, it is taken by both sides that it is admitted to be exactly in conformity with the original and on that basis I think we should proceed. (20)

MR BIZOS : I am pleased to take it on this basis. What I want to make clear is that we are satisfied that it is a copy not that it is otherwise admissible.

COURT : No, I mean had you produced the original Sechaba you would have been in the same position as with this copy. I was thinking of all these newspapers that have not been produced but photocopies of articles have been produced and I have not heard a thing yet about all those newspaper articles and so we go on. (30)

MR BIZOS/...

MR BIZOS : The State agreed on all except two related to Sergeant Branders. The full page has become available and we intend showing them to Our Learned Friend, Mr Fick.

COURT : I cannot force the State to concede that this copy is in conformity with the original, but I do not intend to have an argument about it later on. If there is any difficulty about it today, the subpoena must go out today. We get the man from Jan Smuts with his documents, and we will sort it out. It will be a nuisance, but it has to be done that way. Then as far as the transcripts are concerned, (10) I also want clarity on the transcripts with the pages and the lines where there is a difference so that we can start listening to the tapes.

MR BIZOS : Can I finish with the witness and then we can go over to that?

COURT : I think so.

MR BIZOS : There is just one other aspect that I want to put to you. Did you feel homesick whilst you were there in the camps? -- Yes, I did. That is true.

I dare say that you were not alone in that feeling? --(20)  
That is true.

And I take it that you did not only sing freedom song but you sang love songs, drinking songs, traditional songs? -- No, we are freedom fighters, we are not singing drinking songs.

Or love songs? -- Yes, those we did sing.

And traditional songs that reminded you of the country back home? -- Yes, we did sing those.

And different people would bring in different traditional songs from various parts of the country? -- Yes, that is (30)

true/...

true.

And did it happen sometimes that the keen cadre would, keen freedom fighter would change the words ad-lib words of these traditional songs whilst ... (Court intervenes)

COURT : Do you mean putting in the name of his own beloved in the love song?

MR BIZOS : Yes, of his own beloved or his own leader or his own favourite person. -- Yes, that is true.

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I am told that this process has even got a generalised name. It is known as an indlamu, sort of sing-song ses- (10) sion or where you sing in order to satisfy yourself and you change songs around and that sort of thing? -- No, there is no such.

Thank you, My Lord.

COURT : In evidence-in-chief you were asked about the speeches of President Thambo on behalf of the national executive of the ANC in which the New Year's messages were set out. You were asked about the 1983 one and about the 1985 one but you were not asked about the 1984 one. Did you have occasion to listen to and/or read that speech, the January (20) 1984 message or were you away at the time and did not have an opportunity to read it? -- I had the opportunity of reading the message as well as listening to the message from Radio Freedom.

Will you have a look at EXHIBIT ABA(35). Have a good look at it and take your time. -- On reading this now here there are certain portions I remember, portions that I can say I have read about before, but in view of the fact, as I have said earlier that this happened long ago in 1984, as this is a 1984 statement, I cannot say with certainty (30)

that/...

that I saw this particular document.

HERONDERVRAGING DEUR MNR. FICK : Geen vrae.

GEEN VERDERE VRAE.

MNR. FICK : Die Staat wil op hierdie stadium vra vir 'n verdrag na môre. Ons het gereël dat die volgende getuie beskikbaar sal wees môreoggend.

HOF : Hoe lank dink u gaan die saak nog duur? Afhangend van die kruisverhoor?

MNR. FICK : Afhangende daarvan sal ons dit in hierdie week voltooi. (10)

HOF : Nou die kwessie van die transkripsies. Wat is die posisie daar? Die kwessie van die fotostate?

MNR. FICK : Wat die fotostate betref, wat die koerante betref, het ons ooreengekom soos mnr. Bizos gemeld het. Daar is net twee dokumente uitstaande. Die ander fotostate sal ek en mnr. Tip nou na gaan kyk. Wat die transkripsies betref is mnr. Jacobs en mnr. Kam(?) op die oomblik besig om dit uit te sorteer. Ons het 'n dokument vanoggend van die verdediging ontvang oor die dele waaroor hulle nie saamstem met die Staat nie. Hulle is besig om te luister saam met 'n(20) tolk vanoggend en ek kan aan die Hof meld ons het ook 'n dokument opgestel, die verdediging is besig om daarna te kyk met betrekking tot die getuienis van drie verdere getuies wie se getuienis uitgeskakel word. Die dokument is voor my. Ek sal dit ophandig sodra die verdediging sê hulle is tevrede met die korrektheid daarvan.

HOF : Wanneer sal ons weet wat die posisie is met die transkripsies? Wanneer hulle klaar geluister het?

MNR. FICK : Sodra hulle klaar is.

HOF : Ek wil hê u moet hulle versoek om die tellernommers(30) neer/...

neer te skryf waar daar h probleem is, sodat ons hom gou kan vind en nie die hele band hoef deur te speel nie.

MR BIZOS : In relation to the transcripts, there is no serious problem except for one meeting. That is the Huhudi meeting.

COURT : That is a difficult one, it would seem.

MR BIZOS : It is difficult. The difficulty on our instructions is that the vernacular has not been properly transcribed. It is a paraphrase really. We did not want to rely - the accused, I may say, with the greatest respect, have worked (10) hard on this and we have found that there has been general agreement in relation to their suggestions and the State has practically accepted everything - in the past everything that they have said, but in order to satisfy ourselves and to ask actually an objective person we did ask someone at the university to listen to it and they say that the transcript or the transcription into the vernacular is really a paraphrase ... (Court intervenes)

COURT : Of what he said?

MR BIZOS : Of what he said. (20)

COURT : The difficulty that arises is that my assessors and myself cannot listen to that tape and then decide what is said in the vernacular.

MR BIZOS : No, it is an indistinct - there is this problem with the language. I am telling Your Lordship and the Learned assessors and the State of the difficulty that we have in relation to that. We do not know what the attitude of the State is going to be. If we cannot make an admission, we do not want to spend a lot of time on it. Perhaps we could exchange views of what this independent person has told us. (30)

It /...



It is apparently written down in no particular language. Your Lordship will recall that I put something of that to the young witness with the St. 8 education, but we actually checked it subsequently to that and there is this difficulty. We do not want to make an admission which is not founded on the facts, but for the best it is not a big problem. We do not know what to do about this Huhudi matter.

COURT : Well, as far as the Huhudi one is concerned, would it be possible for you to set down your version of what it should be. It may well be that the State accepts that. (10)

MR BIZOS : Well, we will try and do something. The other matter of course is that we do intend applying to Your Lordship to recall at least possibly two more witnesses that have already given evidence before Your Lordship. What I would ask in regard to that is that we will tell the State, I do not know whether Mr Tip has already done it, it was suggested that he should, liaise with Mr Fick in that regard, that these witnesses should be made available to be at court at short notice.

COURT : Can we not have that application now, then at the (20) end of the next witness's evidence we will know whether they will have to be here or not.

MR BIZOS : There is a problem about that and that is - I took steps as a result of this becoming apparent - that we would have to seek permission, not in the one case, but in the two other cases, to make the records available to this Court from the presiding officers in those cases and I did not want to do that without permission but today Mrs Heaten(?) Nichols has undertaken to try and arrange that.

(30)

COURT /...

COURT : We cannot expect those witnesses to sit around here at court on the off chance that they might be called when we do not even know when the cross-examination will finish and what the end result of the application will be. It would be advisable that that type of application be brought as soon as possible so that everyone knows where he stands.

MR BIZOS : As soon as the embargo on these records has been lifted, then we intend making that application. What I am saying is that they do not have to be in the immediate vicinity of the court, but that we will give the State due (10) notice so that if Your Lordship does decide that they - will be able to have them here within a reasonable period. It is towards the end and we want to do that before the end of the State case.

COURT ADJOURNS UNTIL 16 SEPTEMBER 1986.

## **DELMAS TREASON TRIAL 1985-1989**

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