

A17.20

Dear Friend,

DAVID BRUCE: CONSCIENTIOUS OBJECTOR.

On 21 July 1988 David Bruce was sentenced to six years imprisonment for refusing to serve in the SADF. On April 2 1990 he was released on warning after the Appeal Court had set aside the sentence and referred the case back to the Johannesburg Magistrate's Court.

David's refusal to do military service was based on the political role of the SADF in upholding a racist system. His decision was influenced by his mother's experience as a Jewish child in Nazi Germany. This decision has been vindicated by recent revelations of the existence and actions of the SADF's Civil Co-operation Bureau.

Conscientious Objectors are not criminals. They should not be treated as criminals. The fact that Dave has served twenty months in prison is already an injustice. In the light of President de Klerk's promise to release political prisoners not convicted of crimes of violence both David Bruce and Charles Bester should now be released unconditionally. Any further punishment would be a gross injustice.

You are invited to support this call by signing the enclosed declaration. We plan to submit it directly to the authorities and to release it to the media.

Thank you.

Yours sincerely
Conscientious Objectors Support Group.

P.O. Box 591
Kengray, Johannesburg
2100

DECLARATION.

I CALL FOR THE UNCONDITIONAL RELEASE OF DAVID BRUCE AND CHARLES BESTER, THE WITHDRAWAL OF CHARGES AGAINST OBJECTORS AND THE QUASHING OF CONVICTIONS FOR CONSCIENTIOUS OBJECTION.

Name (please print).....

Occupation/Title

Signature

Date.....

THE TRIAL OF DAVID BRUCE
CHARGED WITH REFUSING TO SERVE IN THE S.A.D.F..

STATE: The accused is hereby charged with refusing to serve in the S.A. Defence Force.

COURT: Do you understand the charge against you?

ACCUSED: Yes I do.

THE ACCUSED PLEADS NOT GUILTY.

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DEFENCE: May it please your worship. I [Mr. Edwin Cameron] appear on behalf of the accused.

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EVIDENCE OF STATE WITNESS - STAFF-SERGEANT JOHAN FLATTERY.

STATE: You are employed by the Military Police, is that correct?

WITNESS: Yes your worship.

STATE: In what capacity?

WITNESS: I am an investigator...stationed at Witwatersrand provost unit.

STATE: Now on 5 August 1987 were you also employed in the same capacity?

WITNESS: In the same capacity...and I was in charge of military police services at the time of the [August 1987] intake of the national servicemen at Milner Park showgrounds.

STATE: Now could you tell the court what happened?

WITNESS: Your worship, a youngster who was called up for his national service was brought to me.

STATE: If you refer to the youngster, who was that youngster?

WITNESS: It was the accused your worship. A report was made to me. I questioned the accused and he stated that he was not prepared to do national service. I explained to him...that there were other avenues of doing national service without [serving in] a combat unit such as in a medical section, alternatively in the administrative side or as a chef where he would not be required to do actual fighting. He could not accept that...He stuck to his original statement that he was not prepared to do national service...Your worship, I then explained to him again that the military set-up in South Africa was not one where we go out to fight battles. We are for the safekeeping of the country.

STATE: Your worship, with due respect?

COURT: Just a moment please? It would be appreciated if anyone who...

wishes to attend this hearing would remain silent. Any of the members of the public who cannot behave themselves will be ordered to leave the court immediately. The court hopes that this warning is quite clear to everybody. Thank you.

STATE: Would you proceed?

WITNESS: I explained to him...that the defence force was actually for the defence of the country. He said he understood that, but he was not prepared to do national service under an apartheid regime. I then let the accused go...with a warning that prosecution would be instituted at a later stage.

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STATE: Now if I understand you correctly, the accused in fact did report on 5 August?

WITNESS: That is correct but he refused to go ahead with his military training.

STATE: Now is there any alternative for the accused, if for one or other he reason feels that he does not want to do his military service? Is there any channel he can use, any representations he can file in order to solve the problem?

WITNESS: Representations can be made directly to the Exemption Board at defence headquarters...

STATE: Did you explain this to the accused?

WITNESS: Yes your worship.

STATE: Did he at any stage file any such representations according to your knowledge?

WITNESS: I had insight into his personal file your worship and there was no such representations made.

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CROSS-EXAMINATION OF STATE WITNESS BY DEFENCE.

DEFENCE: Staff-sergeant, you say that there is a possibility of making representations directly to the Exemption Board at Defence H/Q?

WITNESS: Yes your worship.

DEFENCE: What are the powers of the Board? Are you aware?

WITNESS: No I am not aware of all the powers of the Board...but if he has got a strong case to put to the Board it will be considered on merit that I can assure the court.

DEFENCE: A case of what sort?

WITNESS: We have instances like medical disablement, study purposes. Those are two of the grounds generally considered...

DEFENCE: For exemption?

WITNESS: For exemption or deferment...

DEFENCE: And were you suggesting that any grounds that might be considered

by the Board were open to to the accused...?

WITNESS: I was.

DEFENCE: What possible ground do you suggest would have been open to the accused?

WITNESS: I am no position to say...

DEFENCE: Well in fairness sergeant you have given the court the impression that there was a ground open to the accused and I would like to ask you to tell the court whether you know whether there was in fact a ground open to the accused?

WITNESS: Yes...If the accused was not prepared to partake in the defence department in a combat situation he can be referred to another unit where they will do medical services or the chef side of it...or alternatively the administrative services...

DEFENCE: Have you dealt with such cases sergeant?

WITNESS: Quite a number, yes...

DEFENCE: And do you deal with them administratively?

WITNESS: No sir I refer them to the Exemption Board, with advice from the military police side that we consider him not fit for combat. And then it is considered by the Exemption Board. The decision is entirely theirs and final.

DEFENCE: And are decisions made to put people into entirely different call-up divisions or battalions from what they were initially assigned to?

WITNESS: It can be done, yes...

DEFENCE: Do you know of such cases?

WITNESS: Yes...

DEFENCE: Now you say you refer people to the Exemption Board. In what sort of circumstances have you made such reference?

WITNESS: ...It does not happen very often, but we do find people that are scared of a rifle and they cannot handle it. Those people we do refer and where there is a physical disablement that prevents him from handling a fire-arm, we also refer him to the other side, where there is no combat situation for him.

DEFENCE: Have you dealt with people who have said that they object to serving in a combatant capacity in the S.A.D.F. for political reasons...?

WITNESS: No not for political reasons...

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DEFENCE: You asked the accused whether he was scared of combat, did you not?

WITNESS: I did...and he replied that he was not scared...He said he was prepared to fight.



DEFENCE: So it was a moral and a political reason he gave to you?  
WITNESS: That was obvious your worship.  
DEFENCE: Was that the first time you had encountered such an objection sergeant?  
WITNESS: Yes it was my first case of this nature...  
DEFENCE: If he had indicated that he was not refusing to serve absolutely but only that he did not want to carry arms in the S.A.D.F., how would you have treated him?  
WITNESS: I would have referred him to the Exemption Board...for a transfer to a unit where he would not have to serve in a combat situation.  
DEFENCE: But you do not know how the Exemption Board would have dealt with a political objection, do you?  
WITNESS: No I do not...  
DEFENCE: For all you know the Exemption Board might not consider political objections from people who do not want to do combatant services?  
WITNESS: To my knowledge...the Exemption Board will not consider political objections as a reason.  
DEFENCE: Now staff-sergeant you mentioned the Exemption Board. Did you not have in mind The Board for Religious Objection?  
WITNESS: No. That is a totally different branch sir.

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DEFENCE: But that did not apply in this case, did it?
WITNESS: Not at all sir.
DEFENCE: Did you discuss that with the accused?
WITNESS: I did your worship.
DEFENCE: And what did he say to you?
WITNESS: He was still very serious about his situation as far as refusing to serve under the present government...
DEFENCE: And did he tell you the reason why he refused to serve in the army under the present government?
WITNESS: Yes he did...He said that he was not going to support the government in their effort to suppress the other side of the nation. That he was "not prepared to support apartheid" were his distinct words ...
DEFENCE: Did he say that the S.A.D.F was being used to uphold a racist system?
WITNESS: That is right. Those were his words your worship.
DEFENCE: Did you give the accused advice?
WITNESS: Yes...I did...My advice to him was to join the defence department and that way stay out of prison.
DEFENCE: Did you respect him though for his moral and political decision in not doing this?
WITNESS: Yes your worship I did.
DEFENCE: Just one other aspect I would like to clarify, staff-sergeant. The accused in fact reported...on 5 August to Milner Park where everyone was assembling to be taken into the S.A.D.F.?
WITNESS: Yes...he did.
DEFENCE: And you in fact had certain telephone conversations with him a

few months later...Is that not so?

WITNESS: Yes your worship.

DEFENCE: And he answered your calls when you left messages?

WITNESS: He did.

DEFENCE: And he came when you made an appointment with him?

WITNESS: That is correct.

DEFENCE: At your offices at military police headquarters?

WITNESS: At our military police headquarters...

DEFENCE: Thank you your worship.

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COURT ADJOURNS

COURT: This matter is now postponed as agreed between the defence and the state...until tomorrow the 20 July 1988....

COURT RESUMES

EVIDENCE OF THE ACCUSED - DAVID BRUCE

DEFENCE: Mr Bruce when were you born?

ACCUSED: I was born on 15 June 1963...and grew up in Johannesburg...in a fairly close family environment.

DEFENCE: To which schools did you go?

ACCUSED: ...I first went to Michael Mount Waldorf School...that was [for] primary school and then I went to Parktown Boys High School.

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DEFENCE: Where you matriculated?

ACCUSED: Yes in 1981...Then I went to the University of the Witwatersrand. ...I did a BA there...and graduated at the end of 1987.

DEFENCE: You partly supported yourself during those years at university?

ACCUSED: Yes I did...I worked part-time at a shop in Hillbrow for four and a half years.

DEFENCE: Did you have any organisational involvement on campus?

ACCUSED: Yes...From the beginning of 1982 until midway through 1983 I was involved in an organisation called Projects Committee, which is a sub-committee of the S.R.C. and then after that I was involved in a student newspaper on campus called "Wits Student", for almost three years.

DEFENCE: Mr Bruce you are charged with contravening the Defence Act by refusing to do military service to which you are liable. We actually heard evidence yesterday that you registered while you were still at school... is that correct?

ACCUSED: Yes...when I was in Std. 8.

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DEFENCE: What is your attitude towards completing the service for which you are liable?

ACCUSED: Well my feeling is that because of my understanding of the role that the S.A.D.F. plays in this country... I am not actually



prepared to serve in the S.A.D.F.

DEFENCE: I would like you to explain to the court how you came to hold that conviction about your liability to service...

ACCUSED: Well I am...not sure when...to start, but from quite an early age I was aware of being opposed to racism...When I was in primary school I... became aware of the kind of thing that happened in Germany during the period of the holocaust and...became aware that... my mother's family had suffered as a result of those things and as a result of racism. So...from quite an early age, I became aware of being opposed to racism and I also became aware...of the fact that I was living in a society that was itself fundamentally racist, and so I was...aware of being opposed to the...present political system in some way from...when I was in primary school.

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DEFENCE: From what I understand...the focus of your objection from the time when you were fairly young, was the concept of racism?

ACCUSED: That is right yes.

DEFENCE: Of what faith are you?

ACCUSED: Well I am Jewish...through descent from my mother.

DEFENCE: ...Can you tell the court very briefly how your mother's Jewish origin...affected your home upbringing?

ACCUSED: Well I...had a Jewish upbringing in the sense that I went to...a Jewish school...on Saturday mornings and things like that...up to the time that I had my Bahmitzvh...And yes, I would just like to say I think most Jewish people who grow up...develop some kind of awareness of the kind of things that happened in Nazi Germany. I mean they [are] taught [about] them in Jewish schools and things like that.

DEFENCE: Are you aware of what happened to your mother after Germany...?

ACCUSED: Well...I was aware that in some ways my mother's family had suffered as a result of the things that happened there, but ...because...it was a very sensitive thing...we did not really...talk about it at home.

DEFENCE: The defence will be calling your mother to give evidence about her own experiences. You said that you were aware from an early age...of strong feelings about racism. I would like to ask you, what do you understand by racism?

ACCUSED: Well I mean my present understanding of racism is that it is...[a] system of beliefs by which people of another race group are dehumanised in some way...

DEFENCE: Do you regard the S.A. political and social system as racist?

ACCUSED: Yes...to me it appears to be quite obvious that...a fundamentally racist political system exists in this country because...the majority of the people...are excluded from ...full citizenship...on the grounds of their race...

DEFENCE: ...Now why has that had some influence on your decision to refuse to serve in the S.A. Defence Force?

ACCUSED: Well it is related to...my understanding...of my own position...When I was growing up I became...aware of...what had happened in Germany and I became aware that what had happened there was a result of...racism. So in some ways I...saw

racism...as something that ...personally threatened me. You see, it was not just something that...threatened other people in this country. It was something that I saw as...threatening to me [personally]. And so it was...a natural...progression for me to become opposed to racism as a whole in this country.

DEFENCE: Why [do you] refuse to serve in the S.A.D.F. for that reason?

ACCUSED: Well my understanding of the role that the S.A.D.F. plays in this country, is that it is not the role of a neutral peace keeping force or...[of a National Army] defending this country against an external threat...[Rather] the basic function which the S.A.D.F. plays in this country is one of upholding and defending a racist political system.

DEFENCE: Do you have any view about the different roles that the S.A.D.F. plays regionally and civilly and in terms of the political structure of South Africa, which reinforced your decision?

ACCUSED: Yes well...my understanding of the role that the S.A.D.F. plays is based...on my understanding of say the role which it has played in the townships...For example my understanding of the way that it intervened in Crossroads is that it was in a...blatantly partisan kind of way...which favoured particular forces who were themselves involved...with the present system of government in this country. My understanding also sir of their involvement in Namibia is that they serve there as an army of occupation; that...the role that they played there is based on what they perceive to be the security interests of the S.A. political system. I mean I do not know if I should go into this in more depth.

DEFENCE: Do you not think that there could be some role for you in the S.A.D.F. which did not involve your upholding the system to which you are opposed?

ACCUSED: Well sir I understand that at times the S.A.D.F. does do valuable and useful things that...for instance...it assisted people who were affected by the floods. So...I would not find involving myself in something like that particularly objectionable, but it is in terms of the broad role that the S.A.D.F. plays in this country that I am not prepared to...involve myself in its structures.

DEFENCE: Does the S.A.D.F.'s activities in other countries, besides Namibia and Angola, [for example] in regional neighbours like Lesotho or Mozambique or Zimbabwe or Botswana, contribute to your beliefs in any way?

ACCUSED: Yes...my understanding is an understanding based on the broad role which the S.A.D.F. plays in the Southern African subcontinent [as a whole]. I do not know...[if] I can...answer questions on [every] specific aspect of this but I can give a general description.

DEFENCE: I think you have made your point of view clear. Mr Bruce are there any other factors ...[that you would like to comment on]? Are there any such factors which are also relevant to your decision [not to serve in the S.A.D.F.]?

ACCUSED: Yes...when I was at school, one of the subjects that I did was history and I became aware subsequently and even during the time that I was at school...that the history syllabus that we were

being taught was not actually the full picture of the history of this country and [that] in some ways [it] actively distorted the picture which [we] young people...have of...our own country ...I am also aware of the kind of restrictions that have been placed on the provision of information and...of the way in which say the S.A.B.C. controls the kind of information which it provides. [As a result] my feeling is that we are not...fully informed about what is going on in this country or about its history. [On the other hand] I feel that people who are conscripted to serve in an army are possibly being called on to sacrifice their lives...[Therefore they] should...have the right to be fully informed about what they are being asked to fight for.

DEFENCE: And you believe that is not happening at the moment?

ACCUSED: I do not think so. No not at all.

DEFENCE: I would like to focus again on the question which I asked you a some minutes ago, which was the development of your beliefs and your stand on this issue which has led you to take your stand...in the witness box today. You said that you remembered a particular point when your feelings started to take a focus, your feelings about not serving in the S.A.D.F.?

ACCUSED: Yes.

DEFENCE: Now you spent some time at university...and we had evidence yesterday from Sergeant Major Nieman that you obtained deferment for a number of years because of full-time registration at Wits?

ACCUSED: That is right yes.

DEFENCE: And that helped you in a sense to postpone the decision?

ACCUSED: Yes...when I finished school, part...of the reason why I...went to university was that I was going there because I actually wanted to avoid military service. So...it was not that I...had a particular career in ...[mind, or] some particular course of study that I particularly wanted to follow...Part of my understanding of why I chose to do a BA was that I was going to university to avoid going to the army.

DEFENCE: But in the meantime your feeling was growing stronger that you would not be able to serve in the army?

ACCUSED: Yes...events over the last years have...reinforced...that feeling.

DEFENCE: Were you being regularly called up before each deferment?

ACCUSED: Yes, I started receiving call-ups from when I was at school...in Std. 8 or in Std. 9...When you are at school the school authorities deal with your call-ups...but from when I was at university I regularly applied for deferment of my national service [myself].

DEFENCE: Now towards the end of 1986 you also received a call-up for February 1987, is that not so?

ACCUSED: That is right yes.

DEFENCE: Did you experience a period of anxiety in relation to your beliefs about your call-up at that time?

ACCUSED: Well yes. When I received the call-up for February 1987 I applied for deferment but I was not actually sure at that time if I would receive deferment of my national service or not. So throughout December and January I went through a period of complete

anxiety...I basically could not make up my mind what I was going to do about my call-up if I did not receive deferment.

DEFENCE: So you were actually in a state of indecision?

ACCUSED: Yes and...I finally received a deferment of my national service a week before I was due to report. Right up until that time I was actually undecided and so it was quite a period of anxiety and uncertainty for me.

DEFENCE: But since that uncertainty your feelings in fact came to a point where you have made the decision not to serve?

ACCUSED: Yes well...during the course of the next few months I realised that there was not much point in my trying to stay at university any longer...so as to avoid making a decision about my military service.

DEFENCE: In fact that course was open to you, was it not?

ACCUSED: To continue my studies? Yes it was...but

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ACCUSED: I decided not to do that. I decided rather that I had to do something about the question of my military service.

DEFENCE: I would like to turn with that Mr. Bruce to the question of your dealings with the S.A.D.F.. You have told us that you received a number of call-ups. You have now told us that you got to the point where you decided that you would definitely not serve and that you were not going to try and postpone the confrontation any longer...Is that correct?

ACCUSED: Yes that is right.

DEFENCE: You then received a call-up in the middle of 1987, did you not?

ACCUSED: Yes well in about May I decided that I was not going to apply for any further deferment of my military service and so towards the end of June I received a call-up for the 5th of August...And so on the 5th I went round to Sturrock Park as instructed on my call-up papers...I first approached the military policeman who was standing at the gate and told him that I had decided that I was not prepared to serve...and I asked him who I should speak to. He then took me down the ramp leading into Sturrock Park and first took me up to one of the majors - I think his name was Major Van Niekerk - who was standing on the ramp. The policeman explained to Major Van Niekerk what I had just said...And Major Van Niekerk asked me what my reasons were for not being prepared to serve in the S.A.D.F.. So I said to him that it was because I was fundamentally opposed to the apartheid system. And so Major Van Niekerk just took down my name and my S.A.D.F. number and said I could go.

DEFENCE: What happened then ?

ACCUSED: Well...another military policeman intervened in the situation



and...took me up to another senior officer who was standing on the ramp. This policeman was basically saying...that I was just being disobedient and that they should take me off to Phalaborwa and...sort me out, and get me in line...While he was talking to this second senior officer, Staff-Sergeant Flattery intervened... and said, "let me sort out the situation, I will speak to this young man"...What Staff-Sergeant Flattery was basically trying to do was find out if I was refusing to serve because I was afraid of combat situations...but I said no and things like, "I am doing it because I am opposed to the apartheid system and opposed to racism and I see the S.A.D.F. as being involved in upholding and defending that system and..."

DEFENCE: May I just interrupt. Are you a pacifist?

ACCUSED: No I am not a pacifist...I would be willing to serve in an army that is involved in fighting for the people of this country as a whole, that was not involved in fighting what I understand to be essentially a civil war.

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DEFENCE: Did he ask you about religious beliefs?

ACCUSED: [Yes]...and I said I was Jewish but that that was not the essential part of my decision. I mean, he was only asking me so that he could explain that Jewish national servicemen are provided for in the army, that they are...catered for and things like that.

DEFENCE: Did Staff-Sergeant Flattery ask you whether you had any injury?

ACCUSED: Yes, he asked me if I had anything wrong with me and I answered ...that I had slight problems with my knee, and so, he then said; "something like a knee is no problem. We can find you a job behind a desk."

DEFENCE: So in fact he indicated to you that a non-combatant position inside the S.A.D.F. would have been possible?

ACCUSED: Yes he did.

DEFENCE: What happened then?

ACCUSED: Well then he said to me, "you have not answered my question, are you doing this because you are afraid of combat situations". And I answered that as far as I understood it, anyone who is not afraid of those kind of situations is quite stupid but that if I supported the particular political system then I would [serve and]...would be prepared to face that kind of situation...Then another soldier who was there came and told Staff-Sergeant Flattery that...Military Head Quarters in Pretoria had said... that I could go and that they would be contacting me...So I then left and...heard nothing for the rest of the year.

DEFENCE: What happened next?

ACCUSED: Well at the beginning of January [1988], the military police 'phoned my mother and asked her to get me to write a letter to them explaining what my position was. I did not...do that and so towards the end of February they 'phoned again...and asked my mother to get me to get in touch with them. And so I 'phoned the military police and...spoke to Staff-Sergeant Flattery. He

arranged for me to go round to Military Police Head Quarters to make a statement on the 24th of February...I went for this appointment with Staff-Sergeant Flattery and then he first told me that he was going to be calling me up again in August and I answered that I was not...prepared to serve in the S.A.D.F. So then he said that he was going to have to charge me with refusing to serve in the S.A.D.F. and that he would be placing me under summary arrest...He also explained the possible penalties [I faced] under the Defence Act. Then he and some other national servicemen doing their national service in the military police spent the day...talking to me. Most of them thought that what I was doing [was mad]. They did not understand and just sort of said "why do you not go there and get it over and done with?" and [things like] "it is not actually such a big deal to do that." And basically during the course of the day I was, as I understand it, offered any posting in the S.A.D.F. which I might choose.

DEFENCE: Right of alternatives were again suggested at least?

ACCUSED: Yes.

DEFENCE: You were eventually arrested that day?

ACCUSED: Yes at about 9 o'clock that evening I was taken to Brixton police station and spent the night in the cells there. The next morning I had my first appearance in the Johannesburg magistrates courts where I was charged and released on warning...

DEFENCE: Mr. Bruce are you aware of the provisions in the Defence Act which relate to...religious objectors?

ACCUSED: Yes well, I am aware that there are provisions in the Defence Act for religious objectors but my understanding of these provisions is that they do not in any way apply to someone like me. I mean, I did not even consider applying to the Board for religious objectors because I am not a pacifist firstly and well [although] I do have sort of basic religious beliefs my objection is not based on [any] particular religious beliefs that I have but rather on my understanding of the situation in this country.

DEFENCE: Are you aware of...friends or acquaintances of yours or [other] people...who had left the country because they do not want to do military service?

ACCUSED: Yes, yes I have got very close friends...who left the country. Round about the time that I made this decision [not to serve] a couple of my friends visited me. They were sort of saying, "what are you going to do about this and why do you not come overseas [with us] to America?"

DEFENCE: Why did you not go overseas?

ACCUSED: Well I was born in this country and I have always ...regarded myself as being in some way committed to this country and to its future. I also see myself as being particularly committed to opposing racism and to finding some kind of future for this country without racism. You know I would like [to stay and] to be involved with that...

DEFENCE: And that is why you are facing the consequences of your decision?

ACCUSED: Yes I suppose so, yes.

DEFENCE: What is your view of other persons who have to make the same choice as you have to?

ACCUSED: ...I am not trying to suggest to other people that they should take the same decision as me but I would see myself as, in some way, appealing to people to take some kind of stand against

racism rather than trying to suggest to people that they take the same course of action as I did.

DEFENCE: So you do not, while you believe what you are doing is right, ...condemn other people?

ACCUSED: Not at all, no.

DEFENCE: Thank you your worship.

CROSS-EXAMINATION OF THE ACCUSED BY THE STATE.

STATE: So it is because of political objections...that you refuse to serve in the S.A.D.F., is that correct?

ACCUSED: Well as I understand it, it is quite a basic thing for me not to be prepared to serve in the S.A.D.F.

STATE: Is it political?

ACCUSED: I mean I could understand it as a political or moral or even a kind of self interest thing. I am not prepared to [serve because] I feel personally threatened by racism and so I feel it is in my own personal interests to take some kind of [stand] to oppose racism.

STATE: And you have a lot of friends that...have the same beliefs as you have, is that correct?

ACCUSED: The same?

STATE: More or less the same views as you have, in as far as being opposed to racism and not wanting to serve in the S.A.D.F.?

ACCUSED: Yes most of my friends are opposed to racism and would be unhappy about serving in the S.A.D.F.

STATE: Now, if I understand you correctly, you do not deny any allegation put to you? You do admit that during the period mentioned in the charge sheet, you were liable for military service in terms of section 22 of the Act, is that correct?

ACCUSED: Yes in terms of the law I was required to render military service, that is correct.

STATE: And you...did not deny that you refused to do this service...?

ACCUSED: No, I do not deny that.

STATE: And also that you were quite aware as to the fact that you were committing an offence by refusing to abide?

ACCUSED: Well I do not regard it as an offence [but] I do know that it is legally classified as an offence.

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STATE: And you also knew exactly what the consequences were?

ACCUSED: Well I am still waiting to see what the consequences will be.

STATE: But you know what the Penalty Clause provides for? You know what the maximum sentence can be?

ACCUSED: I have read those sections of the Defence Act, yes.

STATE: ...What I cannot understand is how you are prepared to go to jail because of your beliefs knowing the probable sentence. I mean what is the purpose of that...when you have already indicated you do not want to persuade or influence other people that have the same beliefs as you have...?

ACCUSED: On the most basic level, the purpose of this decision for me is to resolve quite a major dilemma in my own life: what I was going



to do about my military service.

STATE: You said that your views started when you were in primary school, is that correct?...

ACCUSED: When I was in primary school I became aware of racism as something that exists.

STATE: And would you agree that from your primary school [days] up until now...there has been a tendency to move away from racism, is that correct?

ACCUSED: No, it is much more complicated than that. I agree that on the one hand there has been some kind of deracialisation in the country, but on the other hand there are people who are now talking about fighting a war for the white future of our country. I mean I went to a BBB meeting a few weeks ago and there were people there talking about removing people, black people, from this country and things like that.

STATE: Ten years ago there would not have been a black or coloured employer in the state. You are aware of that fact, are you not?

ACCUSED: I acknowledge that...significant changes have taken place in the country...but I am not sure what conclusions one should make from being aware of these changes.

STATE: Yes but what I find strange is that since 1979 you applied for deferment of your training on the basis that you were a student and...were busy with your studies at Wits University after you had already formed the views you have described to the court, is that correct?

ACCUSED: That is right yes, I was a student at Wits University;...a fulltime student.

STATE: Up to when?

ACCUSED: Up to the end of last year [1987].

STATE: ...And last year [in 1987] you also applied...for a deferment?

ACCUSED: No you see I decided in round about May that I was going to have to make some kind of decision about what I was going to do about my military service. So I decided not to apply for any further deferment...My understanding was that this whole process would drag out for quite a long time and that I would be able to complete my year of studies at Wits University...Well I mean I have been proved correct, it is now a year after I was due to report for my call-up.

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STATE: You did mention that you are aware of the fact that the S.A.D.F. ...do certain good things and certain bad things, that is...they also do good, not only bad. Is that correct?

ACCUSED: Yes I would agree with that.

STATE: Your worship I would request the court to warn the people who apparently have no respect for the court to behave properly...

COURT: Thank you Mrs. Prosecutor. The court furnished a warning yesterday...The court will issue this final warning again today. If anyone wishes to be present inside the court, he is welcome to do so, but then it is expected from all such persons to behave properly, due to the fact that this is a court of order. It is definitely not a circus. If anyone cannot behave him or herself,

- that person will be ordered to leave the court immediately...
Thank you Mrs. Prosecutor.
- STATE: Thank you your worship...Would you see the S.A. Police force in the same light as you see the S.A.D.F.?
- ACCUSED: Yes, I see them in a similar light...
- STATE: I mean if you had the opportunity...to do your training as a police officer for a period of 4 years, would you have done that?
- ACCUSED: I do not think so, no.
- STATE: For what reason?
- ACCUSED: Well my understanding is that the S.A.P...may well play quite a useful role in the area where I live in terms of...protecting people and things like that. But in the townships their role is basically one of suppressing...protests against the present system of government. I mean I am aware, for instance, that 19 people were shot by the S.A. Police at Uitenhage, so I would not be particularly inclined to involve myself in such an organisation.
- STATE: And you base these allegations on what you have heard and... read in the newspapers, is that correct?
- ACCUSED: I am fully convinced that 19 people were shot by the S.A. Police at Uitenhage.
- STATE: You have never been there whilst they were operating in any of the townships, is that correct?
- ACCUSED: I do not think there are very many people who dispute that fact.
- STATE: I am asking you a question, please answer me. I mean you have never been there?
- ACCUSED: To Uitenhage?
- STATE: No, I mean you have never been in a black township where you saw exactly what happened...during unrest, during normal times, etc. Is that correct?
- ACCUSED: I have been yes. I have been to some of the townships whilst some elections were taking place and...I saw the kind of things that the police were involved in during that././.
- STATE: And the useful things that the police officers do and that the S.A.D.F. do also include the blacks, not so?
- ACCUSED: Well no, my understanding././.
- STATE: For instance particularly././.
- ACCUSED: What I have heard is that in the black townships the police do not actually play such a useful function. That they actually././.
- STATE: Now I am sure that you would like to have your mother protected against bombs, terrorism, etc. You would not like to come home one day and find out that your mother had been killed in a bomb attack at the station or wherever, is that correct?
- ACCUSED: I would not like to find out that my mother had been killed in a bomb attack.
- STATE: And who do you expect has to protect yourself, myself and the whole country against bomb attacks in the suburban areas where hundreds of people are; black, white, coloured, Chinese, whatever?
- ACCUSED: Yes...I think one has to look at why these things are taking place and I do not think that I would be protecting my mother by serving in defence of a racist political system.
- STATE: You are not answering the question. You expect protection from

the state, but that is where it stops, you do not want to assist in giving that protection...

ACCUSED: My understanding is that the state does not...protect very many people...but that...in some ways it is actually an enemy of many of the people in this country...You know, for instance, I understand that many many black people in this country do see the S.A.P. and the S.A. Army as...being involved in actively oppressing them. I understand that hundreds or [maybe] thousands of young black South Africans have been shot in the streets of this country by the S.A.P and the S.A. Army and so I think that you have to look at the basic reasons for conflict in this country ...It is not enough to talk about terrorism and bombs. You have to look at why those bombs are going off.

STATE: You still did not answer the question...Who do you expect should protect your mother for instance...against terrorist attacks, bombs, etc.?

ACCUSED: ...I am not sure who you are referring to as terrorists, but..././.

STATE: Forget the [terrorists but what about] bomb attacks for instance. Whoever are responsible..././.

ACCUSED: ...I do not think there would be bomb attacks [if]..././.

STATE: You need some protection not so? You want her to be protected? And that function, I put it to you, lies with the police officers and the S.A.D.F.

ACCUSED: Yes, but my understanding is that whilst they have been talking about protecting people in this country the conflict...has actually been intensifying. There are more and more bombs going off. There are more and more people being killed as a result of these kind of things...So I do not think that it ...would be addressing the issue in any kind of way by me going to serve in the S.A.D.F. I do not think I would actually be protecting the people of this country or my mother by serving in the S.A.D.F.

STATE: And the people who are mostly killed in the bomb attacks, funny enough, are blacks?...

ACCUSED: [Yes,] in a war situation it is usually innocent people who die. That is the horrible truth of the matter.

STATE: Now...in the outset of the trial your defence on your behalf refused to make admissions and [yet] it is quite clear from your evidence that nothing is really in dispute. Thus what the state fails to understand is, why the trial? Do you want to be regarded as some sort of martyr for your beliefs or what is your problem?

ACCUSED: I do not regard myself as being guilty of any kind of offence. [Therefore] I do not see why I should plead guilty of an offence.

STATE: I want to refer you to a certain remark that you made...when the sergeant asked you whether [or not] you were afraid to be in a combat situation and you said; "a person who is not, is stupid". Now I want to know what you think a person is that knows he is most probably going to jail and still puts himself in a position where he has no option [other] than to go to jail.

ACCUSED: I did not choose the options.

STATE: Did you not have the opportunity to..././.

ACCUSED: I had five options..././.

STATE: Just a minute. Did you not have the opportunity to serve in any section you wished in the S.A.D.F. that was not directly linked

to combat situations or to the promotion of racism or the oppression of blacks or whatever?

ACCUSED: I was called up to serve in the S.A. Defence Force...in 7 S.A. Infantry Battalion...I was called up to serve in an institution which, as far as I understand it, is directly involved in upholding a racist political system by violence. Whatever section ...I was in, I would, as I understand it, be part of an institution, which is involved very basically in perpetrating the violence of a racist political system. I am not prepared to do that.

STATE: Apart from that, you have indicated to the court, you had the opportunity to leave the country and go to Germany or wherever with your friends who are apparently staying there at the moment. That option was open to you. I mean you could have left the country if you are so unhappy about the situation?

ACCUSED: ...Yes but for me to be able to say that what happened in Nazi Germany was wrong or for me to be able to...condemn what happened there...I had to be able to say to myself that if I had been a German soldier...in Germany, at that time, I would actually have taken a stand against what was going on there at that time. It is an important thing for me to be able to say that I would not have become involved or entangled in that particular political system. So for me, leaving the country would be...running away from racism...My mother is a refugee from racism. I am not prepared to be another refugee from racism.

STATE: Well what I cannot understand is if you are so vitally opposed to the regime that we have in this country...why you choose to stay here and not leave?

ACCUSED: No I...really like this country and I actually have a very deep attachment to it. It is only the particular political system that we have...at the moment that I object to...But because I do not like the particular political system that we have here, that does not mean I do not have a very deep attachment to it and to the people that stay here.

STATE: The committees that you were involved in at the university, were they political committees?

ACCUSED: ...The one was [connected] with a student newspaper and it was basically a political././.

STATE: Now what prevented you from trying to...get over your ideas and your views through that forum and proceeding with that rather than going to sit in jail?

ACCUSED: Because I realised that I had the decision about what I was going to do about my service in the S.A.D.F. hanging over me from when I was in Std 8 or 9. So [eventually] I reached the stage where I just got tired of...avoiding making a decision. Do you understand?

STATE: Now lastly I put it to you that although you do not agree that you are guilty in terms of your personal beliefs, you are guilty in terms of the section of the Act. Do you agree with that?

ACCUSED: That is for the court to decide.

STATE: You have already admitted all the elements. What is there left over then?

ACCUSED: I pleaded not guilty to the charges.

STATE: The court has no option. You have already admitted each and every element. The court has no option././.

ACCUSED: That is for the court to decide, that is for the court to decide.

STATE: But to convict you?

ACCUSED: That is for the court to decide. Am I compelled to answer this [question]?

STATE: You can just comment whatever [way] you want to.

ACCUSED: No, I do not have any comment.

STATE: Thank you your worship.

COURT: Thank you Mr. Bruce you may stand down...

THE STATE ADDRESSES THE COURT ON THE MERITS OF ITS CASE.

THE DEFENCE ADDRESSES THE COURT ON THE MERITS OF ITS CASE.

JUDGMENT.

COURT: According to the charge sheet the accused in this matter is David Bruce, white male, 24 years of age...The accused stood trial on the...charge of refusing to serve in the S.A. Defence Force in accordance with his liabilities to render such service... The accused pleaded not guilty to the charge... Several exhibits, being affidavits, were handed in as evidence and several witnesses testified in this matter. Without elaborating on the evidence, the court can regard the following to be common cause. In the first place that on the alleged date, being 5 August 1987, the accused had been liable for service in the S.A. Defence Force, that he by means of the correct procedure received the call-up instructions, that on that day he also reported at the alleged place, but that he thereupon refused to do the alleged service...Accordingly none of the elements of this offence as set out in the Act have been in dispute and accordingly the court is satisfied that all elements of the offence have been proved and the ACCUSED IS ACCORDINGLY CONVICTED...AS CHARGED...

EVIDENCE IN MITIGATION.

COURT: Mr. Cameron in mitigation?

DEFENCE: Thank you your worship...I call the accused's mother, Mrs. Bruce.

EVIDENCE OF DEFENCE WITNESS - MRS. URSULA BRUCE.

DEFENCE: Mrs. Bruce you are the mother of the accused, David Bruce?

WITNESS: Correct.

DEFENCE: Perhaps, I wonder if it is possible to ask you just to speak up a little bit Mrs. Bruce? You were in court when the accused gave his evidence?

WITNESS: Yes, I was in court.

DEFENCE: And I asked him whether he...grew up in your household?

WITNESS: He did until four years ago, but in those four years he has also been in close touch with us.

DEFENCE: ...So would you describe your family links as being fairly close?

WITNESS: I think so.

DEFENCE: Mrs. Bruce you were not born in South Africa?

WITNESS: No.

DEFENCE: How long have you lived in South Africa?

WITNESS: Just under 50 years...I came here in April 1939.

DEFENCE: Where were you born?

WITNESS: Near Frankfurt in Germany.

DEFENCE: Are you of Jewish descent?

WITNESS: I am.

DEFENCE: Why did you leave Germany?

WITNESS: It was impossible to remain there because the pressure on people of the Jewish faith and other people not regarded as being purely Arian, was becoming ominous and very frightening. Therefore some years before I actually arrived here, my parents made the decision to leave.

DEFENCE: Mrs. Bruce I am going to ask you various questions about your experiences before you left Germany. I would just like to make one thing clear, you were sighted [not blind] when you left Germany?

WITNESS: I was.

DEFENCE: Mrs. Bruce you have just told the court that the pressure on groups that were regarded as not being purely Arian, including the Jewish people of Germany, was becoming ominous. Can you tell the court how that affected you?

WITNESS: It is difficult for me to describe the early part of it, I think I was too young. I became increasingly aware of a growing sense of fear among the adults, a growing furtiveness, people were afraid of speaking to one another and people in the community at large were avoiding us. We were increasingly being excluded from activities and normal civil contact and access to normal places of entertainment and commerce.

DEFENCE: Mrs. Bruce when you left Germany you were barely 10 years old?

WITNESS: Yes.

DEFENCE: Were you in school when you left?

WITNESS: No, I had been expelled under an act passed, I think it was in 1938, which precluded Jewish children from attending school where they would be in contact with Arian children.

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DEFENCE: Was there a Jewish school to which you could go when you were expelled from the Arian school?

WITNESS: No, the Jewish community was too small and apart from myself there was, at the time, only one other Jewish child in the village where we lived.

DEFENCE: So you were unable to receive any schooling after being expelled?

WITNESS: That is correct.

DEFENCE: How did you keep up with school work?

WITNESS: One of the children at school, largely prompted by her mother, used to come to us secretly and let me copy the work from her exercise books.



DEFENCE: Was this child pressurised to stop visiting you?

WITNESS: Very much so by the leader of the female counterpart or the Hitler Youth. She was threatened repeatedly.

DEFENCE: She was threatened with what...?

WITNESS: That was never very clear to me, but I know that she was on one occasion called out of our garden and ordered to go home at once.

DEFENCE: Were there amenities in the little village from which you and your family were excluded because you were Jewish?

WITNESS: Towards the end of our stay, we had access to practically nothing. My uncle was not even able to visit the barber shop, because it was said that a brush and razor used on a filthy Jew could not be used on Arian customers.

DEFENCE: So did shops [and other] amenities put up signs refusing entrance to Jews?

WITNESS: Yes.

DEFENCE: Was there anything from which you as the child were excluded?

WITNESS: [Yes.] Things that were important to me [as a child] like carnival parties. On one occasion [I was denied] the opportunity to attend a pantomime in which a child I knew was taking part, I thought it a great tragedy at the time.

DEFENCE: What effect did these experiences have on you as a child?

WITNESS: I became very frightened because I could sense a fear and hostility around me. The anti-Jewish activities came to a head on 9 November 1938. Although I did not know it at the time, it was what is now known as "The Crystal Night". I have read about these things since but at that time what had happened was not known, I think, to people inside [Germany], even to adults; that is that a young Jewish expatriate in Paris had shot and killed a Roman police attache and it was used as an opportunity for a very large scale pogrom in which...a large number of synagogues in the country were burnt and a very large number of people were arrested.

DEFENCE: How did that affect your family individually in your village?

WITNESS: My family at the time consisted of two aunts and my mother living in a house with an elderly lodger...and myself. The SS presented themselves at our door and commanded that we report to the police station.

DEFENCE: How did your family respond?

WITNESS: My mother took me out into the fields to hide. She was afraid I think most of all of being separated from me and also of having her passport taken away, which would have meant that she could not leave Germany to join my father. My aunt hid in the garden until they were informed that the people who had come to arrest us and burn the house, were in a pub some distance away and had become too drunk to carry out whatever they had had in mind.

DEFENCE: Was there a synagogue in the little village?

WITNESS: There was a very old synagogue. It was not burnt because the street consisted mainly of wooden houses and to start a fire somewhere in the middle of the street, would have set the larger part of the village ablaze, but on the following morning the headmaster of the local school took the children down and instructed them to break up the synagogue, which they did very effectively.



COURT: Sorry Mr. Cameron, just before you continue, can you just indicate to the court the relevance of this evidence in regard to this matter please?

DEFENCE: Certainly your worship...The defence will argue in mitigation that the accused person before a South African court who refuses to do military service because of convictions about the racist political system, should be regarded with extenuation by the court. That...fact...should be taken into account in sentencing the accused person. And in this particular case your worship, the accused's beliefs were formed in a close family environment in which the horrific experiences of his mother, his aunts, his grandparents and his entire close family, most of whom were wiped out in the holocaust, made an impression on his early mind as he testified and as his mother will in due course testify. In that respect your worship I submit that this evidence is cardinal.

COURT: Thank you Mr. Cameron, you may continue.

DEFENCE: Thank you. You were saying that the synagogue in Oberdolendorff was destroyed by the headmaster and a group of thugs Mrs. Bruce?

WITNESS: Children in the school. I do not know that you could call them thugs because they were doing what they were ordered to do. I am not even sure that they fully understood what the indications *implied* were. It was lovely being...told for once to wreck a place.

DEFENCE: Mrs. Bruce there were five Jewish families in the little village. What happened to those five families?

WITNESS: One lady who had been married, no she was English and was able to leave with her daughter. The other three families were deported to various extermination camps and my mother and I were able to join my father here shortly before the war broke out.

DEFENCE: Your father had come to South Africa?

WITNESS: Yes in February 1937 and we were able to join him just over two years later once he got his permanent residence which he had difficulty in getting because of the Aliens Act.

DEFENCE: Mrs. Bruce what happened to the two aunts with whom you were living in the village?

WITNESS: They were deported to Auswitz and did not survive.

DEFENCE: What happened to your grandfather?

WITNESS: He was taken to Therazian Stadt at a very advanced age. He was I think 83 or 84 and he died there.

DEFENCE: How many of your immediate family members died because of the holocaust?

WITNESS: Taking the very closest family both on my father's and mother's side, there were 12. There were others in addition to the 12 who were less closely related.

DEFENCE: Mrs. Bruce I would like you to try and tell the court what effect these horrific experiences have upon your views as a South African of 50 years?

WITNESS: My views are very ambivalent because obviously I have a deep sense of gratitude and obligation to South Africa and to the South African society who once gave us shelter, but at the same time, I cannot avoid being very very aware of certain points of similarity between the system as it was under the Nazis and the system which prevails here. I am not suggesting that South Africa is in any way comparable with Germany, but if you have once



experienced racism I think you become terribly aware of it as it manifests itself, even when you yourself are not affected.

DEFENCE: You said that you thought that there was some points of similarity between the country in which you...spent your first ten years and South Africa. Could you briefly tell the court what you mean by that?

WITNESS: Well if I may be permitted to quote just two examples, first of all the concept that any group of human beings is different from another group, that genetically it is inferior or less reliable or less intelligent, anything of that nature, I think dehumanises and degrades the people who are conceived of in that way, but I think ultimately it also dehumanises the conceivers...The other point of similarity which troubles me very much is the matter of forced removals...To take people forcibly, sometimes in army lorries, from their environment and dump them somewhere in the veld where there are no adequate facilities of food, housing or any other basic amenities is not gas-ovens, but it is also not dissimilar from the kind of environment to which people were conveyed in a place like Therazian Stadt where they were just left to die from lack of food and sanitation.

DEFENCE: Mrs. Bruce if we can return to your family environment, can you give the court an assessment of the effect your experiences have had inside your family?

WITNESS: I think that in every family, in all probability, the experiences and value judgements of the parents are somehow passed on to the children, that is after all how we continue our various social perceptions. I think that David, by his own evidence, has said that my experiences have affected him. I should like to think that I did not brainwash him and make him perceive himself as an avenger of any kind. But I do think that those perceptions and general value judgements within the family have helped to form his attitudes and opinions.

DEFENCE: Have you discussed the choice David has made, the choice to be convicted and to stay in this country and face the penalty?

WITNESS: We discussed it a great deal ever since he faced us with his decision which was just over 14 months ago. And we did point out all the implications and alternatives to him. I think he has discussed it with a Rabbi and also with close friends, but he has decided that he wishes to go through with this and in a way we are proud of him, although we are terribly appalled at the severity of the sentence and also at the lack of alternatives there seems to be for anybody with strong moral convictions.

DEFENCE: How would you have felt if your son, David, had in fact gone into the South African Defence Force?

WITNESS: I think I would have resigned myself to it as many mothers have done. I would have had misgivings, but I would certainly not have influenced him because I respect his ability to make his own choices.

DEFENCE: Thank you your worship.

NO CROSS-EXAMINATION OF THE WITNESS BY THE STATE.

COURT: Any other witnesses Mr. Cameron?

DEFENCE: Yes your worship, but I must ask the court if possible for an



indulgence your worship. We have a witness, an expert witness, who is a professional person, whom we were not able to ask to be on standby today.

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COURT: Will the 25th of July be suitable for you Mr. Cameron?
DEFENCE: Yes your worship.

THE COURT ADJOURNS - UNTIL 25 JULY 1988 - THE COURT RESUMES

EVIDENCE OF DEFENCE WITNESS - DR. NTATU MOTLANA.

DEFENCE: Dr. Motlana you are a medical doctor practising in Soweto?
WITNESS: I am your worship.

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DEFENCE: How long have you been in general practice?

WITNESS: It is now 30 years. I practice at various places in Soweto, at various clinics and surgeries...

DEFENCE: Dr. Motlana you also hold a leadership role in the wider community in South Africa. Can you tell the court briefly what your leadership experience is?

WITNESS: Your worship I was involved with the African National Congress from the age of 18 until the organisation was banned. Then I was involved in the Black Community Programmes until that was also banned. Then the Committee of Ten and for the past 11 years I have been the founder president of the Soweto Civic Association...[which] was formed in 1977 in response to the crises which arose after the Soweto uprising in 1976.

DEFENCE: Dr. Motlana the defence has called you for two reasons. The accused is being convicted of refusal to serve in the S.A.D.F. and he told the court that the reason why he refused was that the S.A.D.F. upholds a racist system. I would like to ask you firstly of your personal experience...and then after that I would like to turn to the question of the broader community's attitude towards the S.A.D.F. Can we start with the first question. I would like to ask you whether you...can testify to the court about the racism which you experienced in the system in South Africa?

WITNESS: ...I would like to say, your worship, that the whole South African system, its legal system, health, is purely based on the racism we referred to. I can recall as a student at high school, at university, as a houseman at Baragwanath, how that racism has permeated our educational system, which as you know, has been a scene of protest and of strikes. I myself resigned and led another 18 [doctors] out from Baragwanath Hospital in 1956...over the question of discrimination and racism.

DEFENCE: Was that because of differential pay and differential service conditions?

WITNESS: Mostly because of differential service conditions...where we found ourselves shut off from promotion and from access to specialist qualifications. I myself would have been a



gynaecologist if it were not for the discrimination [which existed] when we walked out. In addition at that time they paid a black doctor 60% of what they paid white doctors. But more than that, as far as the broader community is concerned, Baragwanath has been in the news recently because in that hospital where I trained, the bed occupancy has always been around 300% when the nearest hospital to Baragwanath, namely the South Rand Hospital, never has anything like a 50% bed occupancy. Let alone the General Hospital in town where wards are still closed because they have not got the patients...the nurses...or the doctors.

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DEFENCE: Dr. Motlana you spoke about discriminatory service conditions when you were a doctor. Now that presumably has changed; presumably black and white doctors in Government service are not paid differently any more?

WITNESS: They are not paid differently your worship. It took us almost 30 years of battle to have that corrected...as far as the salary conditions are concerned, but there are very many other areas of discrimination which still persist. For instance, housing and travel allowances for black doctors are very different from those given to white doctors. These discriminating conditions still persist.

DEFENCE: Dr. Motlana you spoke a few moments ago about racism. Can you tell the court in one sentence, or perhaps two, what you understand by racism?

WITNESS: Racism I would say your worship is a condition, a system in which the value of a man, his position in society, in the schools, in hospitals, is gauged purely...on the basis of the amount of melanin he has under his epidermis and also his original origin...

DEFENCE: Dr. Motlana could you tell the court what the major ways are in which attitudes based upon race still affect the lives of most South Africans?...

WITNESS: I think the most important aspects of that manifestation your worship would be in a series of laws that underpin the S.A. Constitution. I refer here to the Land Act which has allocated 87% of the land surface of our country for white occupation and ownership and only 13% to black ownership. I must refer here sir to the Constitution...which makes no provision at all for black representation in Parliament...Thus there is no way they can influence those discriminatory practices which are [enforced through] such laws as the Group Areas Act and the Population Registration Act, which underpin discrimination in this country.

DEFENCE: Thank you doctor I would like to turn now to the second question...Could you tell the court please how the community in Soweto...regards the S.A.D.F.?

WITNESS: The S.A.D.F. your worship together, I am afraid, with other security forces like the police, are regarded, have always been regarded, as an arm of Government, intended to reinforce, to maintain, to support, that racist system I have referred to. There was a time for instance when the only crime that the police seemed interested in in a place like Soweto, would have been liquor, pass laws and the possession of fire-arms. If you went to the police to report that your daughter had been raped or that your house had been broken into, if you were lucky, they would

the police to report that your daughter had been raped or that your house had been broken into, if you were lucky, they would

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DR. MOTLANA

turn up 36 hours later. Now a few years back that police duty was turned over to the army and the attitude of the army has changed dramatically because whereas we were told that police were there to maintain law and order in the townships and that the army was intended to protect and maintain the integrity of our borders against external aggression, suddenly we saw army units in the black townships. I can never forget my first visit to New Brighton your worship where I found an army unit sitting atop an old abandoned beer-hall with machine-gun nests and a nest of search lights which I was told they turn onto the township at night. In addition we are aware as black South Africans that outside every major black township like Soweto, Quamasho, New Brighton, there is an army base and we asked ourselves why this army base is not established along the Orange River, along the Limpopo or the Indian Ocean for that matter to protect our borders. Instead it seems that the army is out there to protect White South Africa from Black South Africa. And the only danger that White South Africa fears from Black South Africa, is that they may claim their heritage, namely the right to vote. And that is what the army, your worship, I would maintain, is perceived as; an arm intended purely for the maintenance of white supremacy.

DEFENCE: Dr. Motlana does the S.A.D.F. not play a purely law and order maintenance role against elements in the townships who create trouble and engage in lawless conduct?

WITNESS: I would deny that the army plays such a role. If any proof is required first consider the role of the army in the recent and ongoing rent boycott. I can recall, your worship, sitting in my rooms and being rung up by a woman who said, "come and see what is happening in Mofolo where the army has cordoned off a section of Mofolo Village. The army units are going from house to house, evicting people and seizing their property."

DEFENCE: That was a report made to you?

WITNESS: That is right.

DEFENCE: Dr. Motlana can we then turn to the last aspect which is connected to that...As far as your knowledge is concerned, can you tell the court what the attitude of the broader black community would be towards a person, like the accused in this case, who refuses to serve in the S.A.D.F.?

WITNESS: Your worship, the attitude of the community would be that the accused is indeed a hero. Already among my friends this case is being discussed and there is great admiration for a young man who can take such a...principled stand over the question of racism. They would find it most unjust that such a man should be sentenced for the kind of beliefs he holds, because many of them do indeed believe that the army is out there to maintain a racist structure in this country.

DEFENCE: Thank you doctor. Thank you your worship.

CROSS-EXAMINATION OF DEFENCE WITNESS BY THE STATE.

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STATE: Would you not agree that over the years, starting from 1957 up to now, that the lives of the black people in South Africa have become less affected by racism...Could you not agree to that?



WITNESS: I would not because [whilst] I think one must concede that as far as some aspects of our lives are concerned there has been an improvement, one could refer to some employment practices, in the mines for instance, in health, in the increase of blacks in the civil service and so on and so forth, these [are all] peripheral areas of our lives:...but the racism we are talking about is entrenched in our constitution...The fact for instance that blacks actually had representation in Parliament in 1912 and 1920 and this was accepted by whites [shows] that we blacks have in fact lost political power over the years.

STATE: Would you not to a certain extent agree that racism goes both ways. Because a person is white, his life is to a certain extent negatively affected by the fact of being a white, the same way that it sometimes happens with say a black person or an Indian or whatever. Do you agree with that?

WITNESS: Oh I agree entirely that you whites are not any freer than other races because of the racism you maintain. In fact the struggle in South Africa is [also] to free whites from racism.

STATE: ...You are quite aware of the rent boycott in Soweto...and that people are refusing to pay for water and electricity...Now I put it to you that if a white person is ten Rand behind with his rent or with his water and lights, the service would immediately be cut off whereas...there are lots of people in the black townships that owe the board or the municipality there...thousands of Rands and still their services were not cut off. What do you call that?

WITNESS: Let me address you in this fashion your worship, that the white person who refuses to pay his electricity bill will indeed deserve to be punished because, let us take a hypothetical case of a resident of...Verwoerdburg. The rates for electricity and water would have been determined by a council that the citizens ...had elected. That council, in the meeting that those good citizens would probably have attended, would then have decided on the rates they ought to pay for the improvement and maintenance of the streets and facilities in Verwoerdburg. In a place like Soweto or in any of the other black townships, there would have been an advisory council or no council at all a few years back and some official from the local authority would have determined what they should pay.

STATE: Have you ever been to such a meeting?

WITNESS: Meeting?

STATE: Yes.

WITNESS: I think we misunderstand each other././.

STATE: OK, let me rather put it to you this way: you say that you feel your beliefs are the same or similar to that of the broader black community...Why is it then necessary that people are forced to stay away when it is stay away day if your fellow black men feel the same way as you do?...

WITNESS: Your worship I had hoped to react to the question about the ten Rand for services. You stopped me.

STATE: But answer my question please?

WITNESS: No please, I mean I was trying to explain to you why a black refuses to pay ten Rand for electricity and you stopped me midway. I was going to show you that it is because of the lack of representation, the lack of legitimacy of the council in Soweto which has set those rates. The people refuse to pay rent because they say that the local authority in Soweto is unrepresentative.



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