

DAVEYTON

The state case as set out in the further particulars (p.78) is that since September 1984 to February 1985 ERAPO (East Rand Peoples Organisation) organised in Daveyton and intimidation, violence and riots occurred.

In 1984 and 1985 ERAPO and COSAS were active in Daveyton. ERAPO agitated against the council and objected to increased rent, water and electricity tariffs. People were physically prevented from paying rent. They requested councillors to resign and they pamphletered.

The defence criticism of warrant officer Fourie who gave this evidence ignores the fact that accused No 21 in cross-examination conceded that in April 1984 ERAPO, which is an affiliate of the UDF, attended the Daleside workshop on Black local authorities and took up the campaign against Black local authorities. The aim was to destroy the Black local authorities. Exh U.4(b) and (c).

Already during November 1983 there had been an intensive campaign against the Black local authority elections in Daveyton, conducted by the UDF's affiliate ERAPO and co-ordinated by the UDF. This was

reported by the secretary to the UDF general council meeting of 10 December 1983 which ERAPO attended. Exhs N.2 and N.3.

Exh C.99, a report on a civic workshop found in the UDF offices Johannesburg on 23 July 1985 and written during 1984 or 1985 states that ERAPO won the scrapping of the rent increases in Daveyton last year and that it is engaged in a campaign against the rent increases planning to take up a "councillors must resign" campaign.

Exh C.118 an emergency UDF working document under the letter-head of Transvaal regional office dated 25 September 1984 found on 15 February 1985 in possession of E A Saloojee national treasurer of the UDF in Johannesburg mentions the UDF's victories of the past few weeks and in the light of detentions and suppressive measures suggests the immediate establishment of inter alia an East Rand Area Committee including Daveyton amongst other townships, with assignment the community, worker and student struggles.

As area committees consist of affiliates this presupposes that the UDF presence in Daveyton be effected there through its affiliates ERAPO or COSAS or both.

The area committee was in fact formed, as is recorded in the minutes of the REC Transvaal, 11 October 1984 (wrongly dated 11 September 1984). Exh S.10. On 7 December 1984 the Evaluation Commission reported to the REC that the East Rand Area Committee was not functioning and that it was hoped that it would begin functioning before the end of the year. Exh S.17.

The UDF News of October 1984 (exh W.42 p.2) propaganda sheet for the UDF, came out in full support of the boycotting pupils, proudly stating that the students were organised by COSAS, a UDF affiliate, and referring to the fact that there were 160 000 on boycott in various townships of whom 5 000 in Daveyton.

Although the involvement of ERAPO and COSAS in the events at Daveyton was at the centre of attention no member of these organisations was called to testify. As so often, we had to make do with the evidence of outsiders.

School boycotts started in Daveyton on 9 August 1984. We reject the version of the defence that they were spontaneous arising out of an instruction by the principal of H B Nyathi secondary school that pupils clean up the school grounds. The timing, nature of the demands, co-ordination and duration all point to a national COSAS orchestrated

demonstration to coincide with the elections for the Tri-cameral parliament. We found Mabena an untruthful witness. Our reasons are set out in annexure Z.

On 9 August 1984 the scholars of H B Nyathi during school hours marched to Davey high school singing freedom songs and shouting slogans and after disrupting that school marched for Mabuya high school, having been joined by the pupils of Davey high school.

The march was illegal. Exh CA.2. The police had to stop it, as was their duty. They were dispersed by the police who used tear-smoke and sjamboks. Undaunted the scholars regrouped on 10 August 1984. Again schools were disrupted. Children gathered outside and did not enter the class-rooms. Pupils from Davey high school and H B Nyathi joined forces. There was singing of freedom songs, placards were held aloft and they again set off for Mabuya high school. They did not reach it. The police again dispersed them with tear-smoke. The manner in which the marchers approached the police on 9 and 10 August was clearly confrontational.

On Monday 13 August 1984 the pupils again gathered in the school yard, but refused to attend classes. Pupils from Davey high school ran into the yard of H B Nyathi secondary school, chased by two policemen.

From 9 August 1984 there was a school boycott at these three schools. It lasted throughout the rest of 1984.

There was sporadic unrest in Daveyton, road obstructions were erected, vehicles were stopped and robbed, especially delivery vehicles. There was also sporadic stone-throwing. The police from time to time dispersed pupils who were gathering on the streets.

Then a pamphlet (exh ABA.65) was distributed by leaders of COSAS and ERAPO stating that the boycott on 9 August 1984 had started off peacefully with justified demands "but the authorities responded with tear-gas, sjamboks and bullets, mercilessly beating up innocent children and mothers ... Throughout the country thousands of pupils are making the same demands. Everywhere the authorities are responding with violence". The notice further called for a meeting of the students as classes had been suspended.

On 14 August 1984 Patrick Phala, a pupil 18 years old, was shot by the police. We had no evidence of the circumstances. He died on 29 August 1984. The news of his death led to serious rioting in Daveyton. During the course thereof on 29 and 30 August 1984 three other children were shot by the police.

It is common cause that from September 1984 to February 1985 there was unrest in Daveyton. Stones were thrown at schools, which were damaged, a bottle-stoor was set alight as was a cinema, beerhalls were damaged and houses too, buses were stoned by groups of people and bus services were withdrawn, stones were thrown at vehicles which were transporting commuters, various road-blockades were set up and impeded traffic, some of these consisted of burning objects, groups threw stones at police patrols, petrolbombs were thrown at the police, commuters returning from work and passengers alighting from buses were assaulted. Throughout this period there were school boycotts.

On 8 September 1984 the funeral of the aforementioned four unrest victims was held. Aubrey Nxumalo and Star Motswege leaders of COSAS and ERAPO had called a meeting and suggested a joint funeral which they arranged and took over. They converted it into a political rally. On the programme (exh CA.29) which ERAPO issued, there were speakers from COSAS, SOYCO, ERAPO and UDF. It concludes with "May their souls rest in peace. Forward to a Peoples Government." The bereaved family did not even know what the UDF was! The Master of Ceremonies at the funeral was Star Motswege of COSAS.

Not only the programme indicated that the four deceased had been engaged in the freedom struggle. A video of sections of the proceedings at the funeral (exh 42) shows that thousands of scholars in school uniforms loudly chanted in unison "Tambo, Tambo" over and

over again. There was also a freedom song about Mandela and a song praising Umkhonto we Sizwe - armed wing of the ANC - by a group dancing around amongst the coffins. There was a COSAS banner "Forward with democratic SRC's".

Bishop D Tutu told the crowd:

" Freedom is not cheap, to achieve true freedom means to be engaged in the liberation struggle and in a struggle there will always be casualties. "

Warrant officer Fourie, who kept observation, and whose evidence we accept added that there were placards of COSAS, ERAPO and the UDF. Lapel badges in black, green and yellow were worn. After the funeral there were riots. Road obstructions were erected, houses were attacked as were the police and vehicles, the liquor outlets of the council were set alight, a march to the police station was dispersed by the police.

The defence led evidence that there had not been a call for violence at this funeral. We set out our comments on the witnesses who said this in annexure Z. Mrs Mbonani was not candid with the court and, as was to be expected in the circumstances, very unobservant. S Phala was a false witness in material respects and could not follow the English speeches. Mrs Monyokoseli arrived late

and stood in a throng at the gate. She heard bishop Tutu speak on apartheid and oppression. The government oppressed the people. When people voice their grievances the response is shooting. There is nothing wrong with a march procession as long as it is a peaceful one. He called on the children to calm down. God was on their side.

Hardly a conciliatory speech, as the government is accused of oppressing the people and shooting innocent children participating in a legal march. The fact that the march had been illegal and that three of the children had been killed during serious rioting was conveniently forgotten.

We cannot make a definite finding whether there was a call for violence by the speakers at this funeral. The nature of the violence thereafter indicates that it was mainly directed at specific targets.

On 5 and 6 November 1984 a stay-away was held. In advance pamphlets, of which exh ABA.64 (exh Z.1) is an example, were distributed. In part it reads:

" Your sweat and toil has brought guns and hippos. It has invited the police and the army to be in our houses, hostels and compounds. It has made masters to be proud and arrogant. It has made the Government undermine our integrity, dignity and respect as people of South Africa. Your sweat, toil



" and energy has been abused for ages and centuries, for decades and generations. Blood of your children has been shed in vain and shame. Rise, you, the oppressed and the down-trodden. Wake up, you, the oppressed and the exploited. Stand up, you, the deceived and the fooled. "

The pamphlet then calls for the students, residents, taxi owners, hostel inhabitants and business owners to support the stay-away. During the stay-away taxi owners were threatened, people were prevented from boarding taxi's and buses, and road obstructions were erected by youths. Transport came to a standstill. This stay-away followed a call by COSAS to show solidarity with the scholars' complaints. We deal with it elsewhere in this judgment.

On the first day of the stay-away Sibongile Kubeka was shot by the security forces from a moving vehicle. According to Mrs Martha Peter it was done without reason. We place a question-mark over her evidence for reasons set out in annexure Z. There was no other evidence on this incident and there is nothing to lead to a conclusion that this shooting led to renewed violence. Mrs Monykoseli who spoke at her funeral said she had been killed during the riots. There was no suggestion she had been murdered as the defence would have us believe.

The funeral was held on 17 November 1984. Mrs Monyokoseli testified that there was no call for violence at the funeral where she spoke. She stated that the police without cause drove a vehicle over a bath-tub which had been put outside for the washing of the hands ceremony. We have no reason to doubt this evidence. It was not refuted. There is no evidence that anybody retaliated. Warrant officer Fourie testified that after that funeral there were again riots, road obstructions, stone-throwing and the damage of vehicles.

We cannot find that this violence was instigated by ERAPO.

In passing it must be stated that "the students" ie COSAS, had (according to Mr Ngubo, a defence witness) decided that the councillors were collaborators and that they may not attend funerals. There were accordingly no councillors present at the funerals of the unrest victims.

The defence submitted that it was not ERAPO that effectively opposed the councillors but the Daveyton Action Committee. This committee was formed in June 1984 when there was an announcement of increased charges. It also had three ERAPO members who did not oppose negotiations with the council. It is, however, significant that they withdrew when a delegation was sent to see the chief commissioner and that they never inquired thereafter about the outcome. As exhs CA.31 and CA.32 on which the state relies have not

been proved, this matter cannot be properly ventilated. The increase was in fact dropped. The action committee reported back to the community on 8 July 1984 and disbanded. They were probably regarded as sell-outs as four of their houses were burnt down in November 1984. They play no role during the relevant period.

We came to the following conclusion in respect of Daveyton:

1. ERAPO backed by the UDF opposed the Black local authority system.
2. COSAS backed by the UDF opposed the "Bantu education system".
3. There was close co-operation between the leadership of these two bodies, COSAS and ERAPO.
4. The school boycott and stay-away were called and supported by COSAS.
5. For the purposes of the charges under the Internal Security Act exh AB.7(6) found with P Camay an active supporter of the UDF [in terms of section 69(1)] proves prima facie that ERAPO was one of the organisations that were behind the stay-away [section 69(4)].

6. The school boycott and stay-away were accompanied by violence. Scholars confronted the police.

7. This violence and the confrontation with authority (the police and the DET) were seen by the leadership of the UDF, COSAS and ERAPO as part and parcel of the liberation struggle which the UDF took steps to support locally.

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

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