

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

(TRANSVAALSE PROVINSIALE AFDELING)

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PRETORIA

1987-08-11

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST

ASSESSOR: MNR. W.F. KRUGEL

NAMENS DIE STAAT:

ADV. P.B. JACOBS

ADV. P. FICK

ADV. W. HANEKOM

254

NAMENS DIE VERDEDIGING:

ADV. A. CHASKALSON

ADV. G. BIZOS

ADV. K. TIP

ADV. Z.M. YACOOB

ADV. G.J. MARCUS

TOLK:

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KLAGTE:

(SIEN AKTE VAN BESKULDIGING)

PLEIT:

AL DIE BESKULDIGDES: ONSKULDIG

KONTRAKTEURS:

LUBBE OPNAMES

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COURT RESUMES ON 11 AUGUST 1987.

POPO SIMON MOLEFE, still under oath

MNR. JACOBS : U Edele, beskuldigde nr. 17 is nie, volgens u verlot van gister, vandag by die hof nie.

FURTHER CROSS-EXAMINATION BY MR JACOBS : Mr Molefe, have you got A1 in front of you? -- I have not got it.

EXHIBIT A1. Will you have a look at page 43 and that is a speech of Aubrey Mokoena. It was delivered at the launch of the UDF? -- Yes, at the rally.

At the rally at the UDF? -- That is correct. (10)

Will you have a look at the second column, the last paragraph "That he brought the message to the people at the rally that the UDF is engaged in a struggle and the continent of Africa is strengthening his muscle, is rising in hope and is going ahead to the goal of liberation." That is also the message brought to the people that also UDF has got a goal of liberation. -- Well, as I understand this, this is referring to the continent of Africa. I do not know if he had the UDF in mind, but what comes out clearly here is the continent of Africa is strengthening its muscle, is rising in hope and is(20) going ahead to the goal of liberation. That is what we have read now.

Do you agree that South Africa is part of the continent of Africa? -- I agree.

And you read further he is referring to you "But we cannot have a struggle within a struggle. Everybody is invited to come under the big umbrella of UDF." -- That I see.

And this brought this into the ambit of the UDF? -- The question is not clear?

The first part that the UDF is engaged with the goal of(30) liberation/...

liberation in a struggle with a goal of liberation is part of the UDF's strategy? -- That is correct. The people of South Africa, UDF as part of the people of South Africa are committed to a struggle to free themselves engaged the shackles of apartheid - from the shackles of apartheid and that is a struggle for liberation.

And at page 46 of the same exhibit, that is a speech of Allan Boesak?-- That is correct.

Also at the rally? -- That is so.

At the time of the launch of the UDF? -- That is so. (10)

And his message to the thousands of people attending that rally - if you will read from the first paragraph in the first column, say the third sentence "We have brought together under the aegis of the United Democratic Front the broadest and most significant coalition of groups and organisations struggling against apartheid, racism and injustice since the early 1950's." So, also the message here is struggling against apartheid, racism, injustice and it is since the 1950's that you were struggling like this? -- I do not understand that to mean that. I am not sure what he had in (20) mind, but I think what he was really trying to say here was that the UDF was the biggest body uniting different organisations since the early 50's.

The language is quite clear from this, I put it to you, if you read it again "We brought together under the aegis of the United Democratic Front the broadest and most significant coalition of groups and organisations and they are struggling, struggling against apartheid, racism and injustice." -- That is correct. I was not aware that the issue was the struggle against apartheid. I thought that we were looking (30)

at/...

at the whole paragraph.

So, that was a message brought to the masses on that rally that there will be struggling and fighting against racism, apartheid and injustice? -- That is one of the things he said in his speech.

Will you have a look at page 50. It is still in the speech of Allan Boesak. Do you agree to that? -- That is so. It is part of his speech.

And on page 50 the second column, the second paragraph the last part of it. "So our struggle is not only against(10) the White government and their plans but also against those in the Black communities who through their collaboration seek to give credibility to these plans." So, also the message is clear to the masses at this meeting what the struggle is. Do you agree to that? -- Well, having listened to learned counsel reading this paragraph, I do not see here a definition of what he means by the struggle. All he is saying is that it is not directed against the White government and their plans alone, but also against those in the Black community who through their collaboration seek to (20) give credibility to these plans. That does not attempt to give a definition of what the struggle is.

Is it not clear that according to this the struggle is against the White Government? Is that correct? -- That is correct and its plans.

And its plans? -- That is correct.

And also those in the Black community who through their collaboration seek to give credibility to these plans. -- That is correct.

And would you say that would be the people in the Black(30)

Local Authorities, the Black people? -- The people in the Indian community who support the tri-cameral parliament. Those in the Coloured community. Those in the African community were supporting, who were at that time supporting the Koornhof bills amongst them, would have been the BLA. The Black here embraces all those communities, Indians, Coloureds and Africans.

Will you have a look at C18. -- May be, before we move to C18, I was asked yesterday whether I could point out any section that says the UDF is a non-violent organisation. (10) I was not sure if I was able to do so yesterday. I wonder if this is not the opportunity for me to respond to that point.

COURT : Yes, do so. -- I have looked through this exhibit.

A1? -- That is correct. I have not come across a word that says UDF is a non-violent organisation specifically. However, I have come across sections in this document which makes it patently clear as to the methods that the UDF sought to use and the reasons for its formation, what it saw as its goals and these appear in the last paragraph on page 2 which (20) is the introduction. "We call for the release of political prisoners, individuals, the banning of individuals in organisations which were banned and the organisations banned and the return of exiles, so that a new constitution could be drawn by all the people of South Africa." The other section which I think makes it quite clear as to how the UDF sought to conduct his business ... (Mr Krugel intervenes)

ASSESSOR (MR KRUGEL) : Just before you go on to that. Exactly what paragraph are you referring to now? -- The first one I was referring to was the last one on page 2. (30)

Starting/...

Starting with "The UDF campaign"? -- That is so. Then the second section which I think makes it quite clear as to the methods of the UDF is at page 3 the first paragraph. It reads as follows "The UDF campaign will be conducted on a number of levels. On a national level the UDF will challenge the new constitution through meetings, rallies and media, drawing together as many different organisation as possible in a campaign to demonstrate the overwhelming rejection of all forms of apartheid both old and new." I am satisfied that that section puts across clearly the methods of the (10) UDF. Mass meetings, rallies, media and it indicates clearly that the UDF did not seek to unite people who were committed to violence. It sought to unite a diverse, a broad range of organisations committed to different outlooks, philosophies, programs and so on. The basis being opposition to the new constitution and their objection is to demonstrate that the majority of the people do not accept the new constitution, not to overthrow the government by violence or anything. I think I had looked at quite a number of sections but I think that suffices for the first part. I want to (20) refer also to the speech of Reverend Chikane as to how he sees the reasons for the formation of the UDF and that is the speech that was discussed with members of the joint executives of the regions of the United Democratic Front before it was delivered by Reverend Chikane. That would be at page 37 first column in the very first paragraph and the very first sentence. It actually starts on the other side, but I am interested in the part that says - I think we should start at page 36 the last paragraph on the second column. It reads as follows "The broad front there agreed on a (30) declaration/...

declaration of principles on which they had to work. We are going to look into the final draft of those principles today, but those are minimum demands around which we can rally in opposing these reformed proposals." The declaration that the United Democratic Front adopted is as set out in this document at page 4 and page 5 of this EXHIBIT A1. There is no suggestion at all in that document that the UDF was committed to violence and I submit that what is set out in the sections that I have read out to this Court is the foundation upon which the UDF was formed and how it sought (10) to achieve its objectives through non-violent means. I may also indicate here that I have had occasion to look at the program of principles and objectives of the Nationalist Party. It sets out a whole lot of things how it looked at South Africa. There is no single sentence in there that says the Nationalist Party is a non-violent organisation. It is simply so because it is accepted that lawful organisations are non-violent organisations. The UDF is a non-violent organisation, it is not different from the Nationalist Party when it sets out to achieve a particular type of (20) South Africa. So was the case with the ANC when it was formed in 1912. Similarly with AZAPO when it was formed in 1978. So was it the case with the Transvaal Indian Congress and the Natal Indian Congress. They did not include in their constitution the fact that they were non-violent, because it was understood that they were non-violent organisations, they sought to achieve the objectives through open and legal political activity and I think the UDF must be understood in that context. There is no stage no where where the UDF produced a document that it was committed to a (30) violent/...

violent strategy of overthrowing the government. None such document has ever been produced in this court, despite the fact that there are thousands of documents which the State has been able to confiscate countrywide. I think that suffices as a response to the question raised yesterday.

MR JACOBS : Do you agree that if it was put into the declaration of any of the others, that they will use violent means, that the UDF would have been banned immediately? -- Yes, that is the fact and secondly, when the UDF was emerging in a situation where there had been organisations that (10) had explicitly adopted violent methods and those organisations had not been able to operate inside the country, there would not have been any need for any organisation that is committed to violence to emerge in hope to exist in the country.

Do you agree that the UDF itself has to be very careful in not saying that? -- Not saying what?

That they are supporting violence? -- I do not agree with that. That has never been the issue of the UDF. It was not part of the policy of the UDF. We do not have to be careful about that. (20)

And that you must adhere to security and try to do the best not to openly say to support violence? -- I reject the suggestion that there was any violence that was a secret agenda of the UDF. The UDF is a legal organisation, lawful organisation. It had nothing to do with regard to the issue of violence. It did not have to consider whether they have got to be careful with violence or not. That is simply not its policy. That was not its policy. It was a lawful organisation. It was more concerned with the area of work it was involved in. (30)

And/...



And do you agree that there is nothing in the declaration or the working principles which are the policy documents of the UDF that they prescribe that they - that they prescribe to non-violence? There is nothing specifically said about non-violence, especially in the South African situation to make it clear? -- I agree that the word non-violent is not used, but I also want to indicate that what is set out in that declaration in the documents are patently clear as to the fact that those were lawful methods and I have indicated that they are not different from what the Nationalist Party(10) and other organisations had said in the past which were lawful. Am I to understand that AZAPO for instance was allowed to operate as a violent organisation from 1978 up to now? Because it is not included in its constitution that it was non-violent. Why was it allowed to operate up to this stage? Why were other organisations allowed to operate up until now? When the issue - when we were accused of violence from time to time by government officials or other opponents of the UDF, we never hesitated to state the position of the UDF very clearly. Is the suggestion then that when he said(20) that the UDF was a non-violent organisation, those of us who were saying that were actually transgressing, violating the policy of the UDF and misleading the supporters of the UDF not to support what the State alleges was the policy of the UDF. Is that the suggestion? I believe that is not the case. That is simply not so. We were stating the policy of the UDF as we understood it as the officials of the UDF and as was understood by the affiliates of the UDF.

Do you agree that in this first paragraph on page 2 that you referred to paragraph 6, the last paragraph on page 2 (30)

there/...

there is nothing about non-violence [but there is an ultimatum to the government, because you stated minimum demands, you demanded from the government to do something. -- I have a difficulty with the question of ultimatum. It is too broad. It might well be that you mean we would engage in violence if they do not do so. It might well mean that you would do this and that. All we are saying here is that we are not giving an ultimatum to the government. We are merely suggesting that the UDF is operating within the context in which certain South Africans have taken up arms as a way of ending apartheid or as a way of achieving the goal of participation by all South Africans, the government of their country. They have taken that. That conflict is taking place in the country. (10)

COURT : What page were you referring to?

MR JACOBS : Page 2. -- Now, all we are saying is that various people have got methods that they think would resolve the situation. We are saying because certain people have already taken up arms and some of them have gone to jail for opposing apartheid, if we make a commitment to end apartheid (20) the best way of doing so is to allow those organisations to operate lawfully, to propagate their views openly. Let the people decide whether they support those views and the organisations. Let us test the extent of the support of those organisations. Let the people test the quality of the leadership in those organisations. Let those people be part of the process that is intended to end apartheid. If we agree that apartheid is bad, we need to talk. Why then ban organisations that had come into existence because of the policies of apartheid? That is all we are saying. We are not (30) saying/...

saying we are giving you an ultimatum. If you do not do it, tomorrow we will overthrow the government by violence or after three months. That is not. I think it is a wrong interpretation of that statement.

How many of this document did you print and distribute? How many copies? -- I think possibly about half a million.

And did you distribute it widely? -- That is so.

Even overseas? -- That is so.

And do you agree in this paragraph 6 that we have read now, the one to which you referred, there is no such long(10) explanation about what you mean as you have given to the Court now. Is it correct?

COURT : Which paragraph are you referring to?

MR JACOBS : The first paragraph that he referred to himself on page 2 ... (Court intervenes)

COURT : The last paragraph of the first page of the introduction.

MR JACOBS : That is a paragraph beginning "The UDF campaign will focus attention." -- That is so. This is not a unique document. It is not an organisation that would write a long(20) motivation in his documents. When you write a document, you just deal with salient points and within the organisations members through constant discussions and so on, interpret the document the way it is understood by that organisation and in the context of the policies of the organisation.

Do you agree that the language is clear on this, for a person not discussing it as a member, that there are minimum demands or a minimum demand? -- To both, that is clear. To a person who has discussed it and a person who has not discussed it. There are many demands. (30)

So/...

So, a person not discussing it with you in the UDF, who reads it and understands it, the masses, the ordinary people in the street, that there is a minimum demand that the UDF has set? -- That is so.

So, the language is clear that there are minimum demands? -- Yes. I may just comment on that. By the way, these points that are set out here were not mentioned for the first time by the UDF. They had been raised time and time again by many organisations.

Can you name the organisations and how do you know it?(10)  
-- There have been several reports in newspapers. There have been several reports in publications of other organisations. The Labour Party for instance. In my evidence-in-chief I indicated in this court that there was a specific call made in the resolution adopted by the Labour Party on or about 1980 at their National Executive Committee meeting in Natal, calling for the release of Nelson Mandela. Similar calls had been made by the Inkatha movement. They have been made by Mr Enos Mabusu. They have been made by - we made similar calls when I was a member of AZAPO. Similar calls(20) were made when I was a member of - when I was a supporter of the PPC. These things are things that are spoken about in our communities from time to time, in political circles, in ordinary social interactions, elderly people talk about these things. When will the government release Nelson Mandela so that we can talk about our problems? When is the government going to unban the organisation to which we were members, the ANC and others so that that organisation can speak for us? Those people who had been members of those organisations talk about these things in the townships. It is not as (30)

if/...

if it is a new thing. The Black community is not in the same position as the White community. The White community is subjected to that material that the government wants them to reach. They are not part of the oral history that takes place in the Black community. They only listen to the TV and the radio and read historical books that they get at school which project those of our people who are committed to democracy and justice in this country as trouble makers.

Do you agree that there is a vast difference between people talking about it and people requesting or calling (10) for the release of Nelson Mandela and putting minimum demands before you were prepared to talk to the government? Do you agree there is a vast difference between that? Yes or no? -- Firstly, I disagree with the proposition that we would only talk to the government if this would happen. What I am saying is that we would only discuss the constitutional arrangements of the country once all those people are accepted as participants in the constitutional arrangements. Talking to the government is different from a call calling for a national convention where people are debating their constitutional (20) arrangement. We would have been prepared to talk to the government on any other matter. We have in fact recommended this, we from the national secretariate of the UDF, have recommended this from time to time that a meeting must be held with the Prime Minister when there were problems within our communities. So, that there is a distinct difference between talking to the government and discussing the issues relating to the constitutional arrangements of the country. Other people are also raising the same problem. The government is asking people to participate in this matter relating (30) to/...

to the national statutory council. Chief Buthelezi said "Look, if you do not release Nelson Mandela and if you do not unban the organisations so that they can participate freely, I am not going to be party to that." Similarly Mr Mabusa is saying that. Mr Tom Mboya has also said that in a recent meeting with I think Mr Chris Heunis, but I am not quite sure. The meeting was reported. These are the things that the people are saying in the communities and the UDF when it takes this position, it is merely giving expression to popular views held in the communities that (10) it is - the constituencies that it is organising, especially the Black community.

I will ask you the question again. Do you agree that there is a vast difference between just speaking or calling for the release of political prisoners and demanding their release as a minimum demand? -- I think learned counsel must explain in what context the talk of release of political prisoners would have been, because it is not just spoken aimlessly about. People are talking about it in the context of the need to solve the problems of the country and (20) this is also written in that context. So, that I do not see the difference if we understand it to be taking place in the same context.

Let me ask you the question this way. If the government refuses to release political prisoners and to unban the organisations and to let exiles come back to the country, if they would have refused that, would you have discussed the new constitution with the government, the UDF? -- Well, it is a matter that would have been considered from time to time, although at that time there was no indication that (30)

the/...

the government would refuse to do that. When the UDF came into existence, there was already talk in government circles in fact they had started long ago about the possibility of releasing Nelson Mandela and others. So, that there were really indications that the government was moving in that direction. What the UDF was doing really was to put pressure by way of giving an impetus to that movement towards the release of political prisoners.

We know, I suppose it is general knowledge that the government will only release Mandela if he repudiate violence. (10) Is that correct? -- That much has been said.

And do you know that Mandela refused to accept that offer from the government? -- I know, but I also know that the government released Mr Toyvu(?) without asking him to renounce violence.

And since he refused, Mandela was not released. Is that correct? -- That is so.

[So, can we accept then in principle that the government will not release political prisoners and urban organisations and let the exile come back to this country? Exiles here (20) meaning the ANC and Mkhonto people? -- I do not want to limit it to that.

Okay, you can take also other people, but the people in exile, would he have talked to the government on that basis that would not allow this? -- The UDF would have considered the problems on the basis of conditions that existed from time to time, but from our own side, we were doing this with the full confidence and hope, belief that the government was considering seriously the matter of releasing political prisoners and we were doing this in the climate in which (30)

the/...

the government was indicating that it wants to bring about changes irrespective of whether the kind of changes that it wanted to bring about were correct changes, but there was that movement in that direction. So, we had no reason to believe that they would not release the political prisoners and in fact, subsequent developments which involved a number of discussions between the eminent persons group with the government, indicates very clearly the attitude of the government towards the issue of releasing political prisoners and the unbanning of the banned organisations. That (10) process had already been started. It took place. We saw it.

I am sorry, you have not answered by question. When this was written in this document, the minimum demands, if the government refused to concede to your minimum demands, then what? Would you have discussed a new constitution with the government or what? -- We would have continued to build support for those who are opposed for the UDF to indicate to the government that its constitution does not work and we use various methods, we are appealing to the White community, getting more and more of those people who have a (20) vote in the government to influence the government to move in the direction of those changes. We had no reason to believe that the government would not change at that stage and for that reason the matter was not considered as to what we would do if they refuse to do that. It was not really considered, but when we look at the kind of methods that the UDF employed, aimed at various influential sectors of the South African society and international community, it was clear that we believed that those methods would work and that the government would one day be persuaded to accept (30) those/...



those requests. I think the request was so reasonable, none of us would have thought that it would present the government with serious problems, because in any event, if you release Nelson Mandela, if you unban the ANC, the PAC and others, you have got no organisation that is carrying weapons to fight. You have got no person who is violent. You have got people who are now operating lawfully and now are talking about the future of the country.

So, you cannot tell the Court whether the UDF would have talked with the government? -- I have indicated (10) that the UDF has always been prepared to talk but whether the UDF would be prepared to discuss an accept the constitution, that excluded a broad section of the community and a section that has taken up arms and a section without whose incorporation peace cannot be established. The UDF would have had to think twice about participation in that kind of discussions, but I cannot readily say that the UDF would not have talked. Obviously other methods might have been considered perhaps.

ASSESSOR (MR KRUGEL) : I would say, roundabout one page (20) or so back in your evidence once it is re-written, [did I] [hear you to propound the view that if the ANC should be unbanned, the would immediately become a non-violent organisation and that there would then be no - is that your view?-- Yes. That is my view that once they are unbanned, they cannot hope to operate to carry weapons as a lawful organisation. As I understand it, they are doing that because they are not allowed to operate lawfully. If you unban then, you would actually remove the reason, the condition that made them adopt the strategy that they are adopting. (30)

Well, /...

Well, is that your personal view or is that the considered view of your UDF colleagues? -- From the discussions I have had that was the view of myself and my colleagues in the UDF. and several people in the affiliates of the UDF.

Yes, thank you. I thought I heard you say that, but I was not sure.

MR JACOBS : The second paragraph referred to you in your explanation of non-violence of the UDF. You referred to a speech of Reverend Frank Chikane. Is that correct? -- I did do so.

And you referred to pages 36 to 37. -- That is so. (10)

I see in that paragraph there is also a reference to the minimum demands around which we can rally in opposing these reformed proposals. What are the minimum demands referred to here? He said he discussed it before he delivered his speech? -- This refers to a call for a national convention, a democratic South Africa based on the participation of all.

Is that referring to the National Convention, that demand? -- It was in that context.

You see, I do not understand it like this. If you read the paragraph "This broad front therefore on a declaration (20) of principles on which they had to work. We are going to look into the final draft of those principles today, but those are minimum demands." I thought that this referred to the declaration of principles? -- That is so.

So, it is not referring to the National Convention? -- No, but I have indicated the question of democracy in which all people of South Africa would participate. That is referred to in the declaration and the UDF has made it clear that the way in which that non-racial democracy could be achieved, is by way of the National Convention. So that I (30)

see/...

see no contradiction.

Not a contradiction, I thought this final demand or minimum demands are demands in the declaration? -- That is correct.

Can you just have a look at the declaration and tell us which of them are the minimum demands? -- I would like to refresh first my memory by reading the section of this piece where Reverend Chikane - and then I can return to the declaration. The minimum demand as I understand it refers to (1) the agreement by the organisation that the new (10) constitution of South Africa is unacceptable, the Koornhof bills ... (Mr Jacobs intervenes)

Read the paragraph out to the Court. -- "We say no to the Republic of South Africa constitution."

From what page are you reading? -- I think I should preface it first by saying it is first an agreement on the vision of South Africa of the future as the delegates present at the conference see it and that is set out in the section just before, the entire section, the section just before in accordance with these noble ideals and so on. That is (20) the first section.

COURT : You are looking at which page? -- I am looking at page 4.

MR JACOBS : Will you read it into the record the minimum demands? Will you just tell us which paragraph you are reading every time so that we can mark them, please. -- I am going to read from the very first sentence and just before "in accordance with these noble ideals." That would be at page 4 which is the - of EXHIBIT A1 - UDF declaration. It reads as follows : "We, the freedom loving people of South(30) Africa/...

Africa say with one voice to the whole world that we cherish the vision of a united democratic South Africa based on the will of the people, will strive for the unity of our people through united action against the evils of apartheid, economic and all forms of exploitation and in our march to a free and just South Africa, we are guided by these noble ideals. We stand for the creation of a true democracy in which all South Africans will participate in the government of our country. We stand for a single non-racial unfragmented South Africa, a South Africa free of Bantustans and group(10) areas and we say all forms of oppression and exploitation must end." This section sets out the vision of a new South Africa which is acceptable to all organisations present and it is explained in the sections that I have mentioned about, that I have read.

Just before you go on. Do I understand it correctly that these are minimum demands? -- Of establishing a proper democracy, but obviously the National Convention would be a process, a method of thrashing out a new constitution that would embody these broad principles. (20)

Carry on? Any more minimum demands? -- I am satisfied with what I have read. The rest really gives reasons why the new constitution - the attitude to the new constitution and the Koornhof bills and the attitude of the delegates to the idea of a United Democratic Front and then it goes on to deal with the fact of the new constitution and the Koornhof bills as seen by the organisations coming together and finally there is a section that deals with how the strategy of arriving at that is to come together, to mobilise and organise, communities, workers and so on, to bring (30) those/...

those organisations together under the banner of the UDF. Really, as I see it, the first section of this declaration deals with the vision of a South Africa, whereas the second one deals with attitude to the new constitution and the Koornhof bills and the idea of the united front itself and the third section would deal with the effects of the constitutional proposals and the Koornhof bills and finally the section, the declaration answers the question of what is to be done then in the light of these that we are going to be experiencing as the effects of the new constitution. (10)

Then it says "Look, we had better talk to our people about these things. We have got to unite our organisations. We have got to consult regularly and so on as a way of building opposition to the new constitutional proposals."

Are these the minimum demands for which you pledged yourself to fight for? -- That is correct.

And are they minimum demands that are also applicable to the National Convention? -- The minimum demands of the National Convention would be different.

Are they different? -- Yes, they might be different (20) in the sense that they would refer to the release of political prisoners and so on. In a sense of course - what one would consider to be those minimum demands that are directly connected to the issue of the National Convention, would be the return of exiles, the release of political prisoners and the unbanning of organisations. Then of course there will be other things that the government would have to make commitment to like look, we are prepared to move towards a more democratic order, we should entail freedom of speech, association, equality in all matters that affect the society, (30)

the/...

the scrapping of all those laws which are offensive to the sections of the society and so on, but the three points, the release of political prisoners, the return of exiles and the unbanning of organisations, those are matters that are directly connected to the issue of the National Convention, because the issue of the National Convention has got to do with ending conflict and establishing conditions for peace and to end conflict it means those parties involved in the conflict must participate in the process of establishing that peace.

Can I ask you just at this moment. You are saying (10) that the National Convention is for ending conflict? -- That is so.

So, if the government does not agree to a National Convention, there would not be ending of conflict, but an escalation of conflict. Do I understand it correctly? -- Well, it seems likely that more and more people who would lose hope, would believe that there is no other option and some people might choose to follow those who adopted violent methods.

And what is the stand of the UDF on this if there is (20) no National Convention, then what? -- It is a difficult question, but violence was not on the agenda of the UDF. It was not part of its program. I do not know if all avenues were completely closed and the UDF had reached the stage where it thought that it was not possible to persuade the government what would happen, but I cannot assume that the organisation, the UDF as a front, would have sought to adopt violent means. That was never a matter really under consideration at that stage. Perhaps it would have disbanned it and each organisation might have decided what it wanted to (30)

do/...

do or individual members of the organisations might have decided what they wanted to do and I think even at the time when the ANC and PAC were banned and it was not everybody in those organisations who decided to go for violence. Certain people were - chose not to go ahead. Others decided to go and take up arms, so that really it is something that I cannot say, I cannot say that the UDF would definitely do this, but I repeat what I have said, that there was every indication at that time that persuaded enough, pushed enough, the government would do the right thing. The new constitu- (10) tion was not a new thing. It came after other determined campaigns. In 1981 there had been a determined campaign to frustrate the elections for the South African Indian council and I believe the subsequent decision by the government to engage in re-arrangement of the constitution to give the Indians and Coloureds something much better than what they had before, was as a result of the campaigns that people conducted and this was indicative of the fact that with strong organisations which are effective in terms of articulating the aspirations of the people, the government would keep on (20) moving all the time and would convince more and more of important personalities even in the White communities to argue to the government that this is not the right stuff for the people. This is not near to meeting what they need and I may just mention in passing that indeed as a result of some of the discussions that we had had, some of the officials in the UDF had had with Afrikaner intellectuals in some universities, a case in point being the Randse Afrikaanse Universiteit, there was a document produced by the academics there which said to the government that these reforms are not (30) good/...

good, something much better must be done and it was published in the newspapers, I read it, I saw a copy thereof. That was as a result of the discussions that my comrade here, accused no. 20, had had with academics at the University of the Rand Afrikaans. So, that all these things indicate that we understood that things were not going to happen easily, but we had to put pressure all the time to get the government to move and we are prepared to do that. We are prepared to do that within the non-violent methods of the UDF.

Is this your personal feeling now, because it is (10) contradictory to the official UDF stand because is it not the stand of the UDF, the UDF official stand on this matter that by giving the vote to the Indians and the Coloureds in the tri-cameral parliament, that they are entrenching apartheid? -- We said so.

Is that not your stand? Would you agree that that is contradictory to what you have said just now? -- No, it is not contradictory. All we are saying is that because of the pressure that was put on the government, it had to change an offer, something much better that it had offered to (20) the Coloureds and Indians in terms of the Coloured Representative Council, the Coloured Persons Council and the South African Indian Council. So, that whilst we do not accept the content of the change, the kind of change that the government was effecting, was addressing the fundamental issues, but we accept the fact that it was certainly much better than what had been previously given to the Coloured and Indian communities, but it was not yet addressing the fundamental issue of participation by all in a single government, but the fact that the government moved in that (30) direction/...



direction was an admission, a tacit admission that we have to do something. Apartheid in this form is unacceptable. Let us modify it in a manner that would be acceptable to the people. Now, what I am saying is that if the government has been able to move all these steps, I can mention a number of areas in which the government moved and all these things happened because of the pressure. The fact that the government is moving in that direction, is an indication that if people are organised, if the views of those who are oppressed who have no vote are made manifest enough, publicly, and they(10) are seen to be having popular support, the government has got no choice but to move in the direction in which proper changes could be brought about.

Can you tell us what is the official stand and the official policy of the UDF on the question that if the government was prepared to give to the Blacks in this country a vote also in a [fourth chamber] in the same parliament, would it have been acceptable? -- We would reject that. My reasons are as follow. We do not want a chamber that has got no power to change the legislation in the country. We(20) do not want a chamber that wants to keep the Black people confined to 13% of the land and the homelands and group areas. We wanted a vote, a meaningful vote, a vote that would enable us to change the laws of the country in such a manner that what South Africa can offer, the wealth of the country can be shared by all, that all people would have a meaningful participation in the government. If I wanted to stand as a Prime Minister of South Africa I should be allowed to do so. If I wanted to elect somebody as a Prime Minister in a central government, I should be allowed to do so. Not a fourth (30) chamber/...

chamber that would operate in accordance with the unworkable equations that the government had set out for this tri-cameral parliament where all the time White people have got to be in the majority. Notwithstanding the fact that they do not constitute the majority of the society in South Africa, where they have control of all important matters, like finance, defence, foreign ministry and so on. We wanted a government where all the people would have access to all those important areas of government. So that a fourth chamber would still have been rejected as a non-starter. (10)

Out of your answer can I accept then that the struggle that the UDF is engaged in is not a struggle for political rights, but is fight for the seizure of power in South Africa? -- That is not so. I reject the proposition. The struggle that the UDF is involved in is a struggle for political rights but meaningful political rights. Political rights that would enable all the people of this country, the Black people of this country who have hitherto not been allowed to determine their own future to do so as part of the broad society of South Africa. We are not involved in the seizure of power. (20) It is very clear in our call for a national convention, we are not saying that we are the only representatives of the people of Africa and that we want the government to hand over power to us. We are not saying so. We are saying ...

(Mr Krugel intervenes)

ASSESSOR (MR KRUGEL) : Let us just get this clear. We are not the only representatives of the people of Africa? -- Of South Africa. We are saying that a National Convention must be convened where the leaders of the people of this country the Nationalist Party, the PFP, various constituencies, (30) including/...

including people in the homelands, all of them, if accepted, voted for by their own constituencies, to represent them at the National Convention, they would sit there and hammer out what they consider to be the best constitution for the future of South Africa and this situation, if I may just mention this one point, is not a unique one, it does not arise for the first time. Even before the Union of South Africa was declared, representatives of the Afrikaners and the English came together to agree on the broad principles which must form the foundation of the future constitution for the (10) country. Of course the difference there was that the African people, the Coloured people and Indian people were excluded, but a process of a National Convention was a - a method of National Convention was used.

COURT : Did the National Convention not consist of four colonial governments getting together to discuss the question of a federation or a union and not a national convention in the sense that you wanted? -- There is that slight difference but they were going to ... (Court intervenes)

It might be a fundamental difference? -- They were (20) going to agree on even the overall principle relating to what kind of a constitution must be formulated, because if they agree on the coming together of the Republic, they also agree on the broad principles upon which the constitution would be based, their attitude to the Natives for instance and so on.

MR JACOBS : [Do you agree that the realities in South Africa] and the de facto position is, if there is a National Convention it will mean in actual fact a seizure of power by the Blacks, because they are in the majority by far? -- I do not accept (30)

that/...

that. That is what is propagated by those who are opposed to the meaningful political change in this country. We are committed to non-racial South Africa. Trade unions which matter in this country, bigger trade unions are committed to that approach and ever so many organisations. They are led today by some people who are White. We in the UDF have got White people in our executive committees. We elect them, we elect them as patrons and so on. It is not true that when change comes the Black people will take over.

I made this point that we are not looking for a Black (10) majority rule. We are looking for a government in which all the people of the country will govern together. It is true that in terms of the ratio's, in terms of the ratio's relating to the figures of each population group as it stands now, that the African people are in the majority and that it is very likely that once a government is set up, a majority of cabinet ministers might come from the African sector. But whatever government is set up, it is guided by the broad principles agreed upon and to which the parties are committed and if it is a principle of non-racialism where people (20) are not regarded as Whites, Coloureds, Indians and having special treatment because of the colour of their skins, then you will have no problem. People are treated equally. The law would protect everybody equally, not because of the colour of the skin.

Do you in the UDF accept or will you accept the ethnic groups consisting among the Blacks in South Africa?

COURT : What do you mean by accept? Accept the existence as a fact or what do you mean?

MR JACOBS : Accept existence of the fact ... (Court (30) intervenes)/...

intervenes)

COURT : I think I will take the adjournment now, then you can formulate what you want to formulate.

WITNESS STANDS DOWN.

COURT ADJOURNS.

COURT RESUMES.

POPO SIMON MOLEFE, still under oath

FURTHER CROSS-EXAMINATION BY MR JACOBS : Mr Molefe, what is the policy of the UDF on the (ethnic groups amongst the Blacks in South Africa? Do you recognise ethnicity? -- Do we accept the fact that there are different ethnic groups? (10)

Yes and what is your policy on it? Especially in a government to be formed? -- I am not sure if I understand the question. The question is not clear to me.

What is the policy of the UDF? What will happen to the ethnic groupings in the new government that you envisage in the UDF? -- Ethnic groups, that is something that is beyond anybody's control, so that we would accept the fact that there are people who would speak Zulu for instance. We accept the fact that there are people who speak Sotho. We accept the fact that there are people who would speak (20) Guadaradji. There are people who would speak Hindo or Hindi. People who speak Afrikaans, English, Xhosa, Venda, et cetera, but the UDF is opposed to attempts by the government to elevate the difference in language to nation states. We want to say that although those people use different languages they can live together harmoniously in one South Africa and they must not be divided on the basis of the language they speak and be given little backyards there as governments. We would disagree with that complete, because within the White community you have people who speak German, (30) you/...

you have people who speak Afrikaans, you have those who speak English, you have those who speak Italian, you have those who speak Greek, you have those who speak other languages, but the government has never sought to divide those people into little compartments and confine them into certain little sections of the country and expect one to have several governments for each one of those. We are opposed to that kind of division that is imposed on us, because we - I went to school with Zulu speaking people. I met with people speaking Northern Sotho, grew up with people who spoke (10) all sorts of language. So, that we have never had any problems with those - I have never had any problem, but the government now wants to say that we cannot live together because it is important for the government to promote its policy of apartheid and separate development and says that these differences are beyond control. There is nothing like that. Surely, a person who comes from Greece, came here with a culture, certain elements of his culture which were not necessarily part of the culture of a person who came from England or a person who came from Holland or a person who came from (20) Germany, but one cannot say because of those differences therefore these people could not live together. Why are they able to live together in the White areas today harmoniously? Why are they able to vote into parliament whoever they want to choose? Why is it that we are not allowed to do the things that they are allowed to do? What species are they made of? How different is that from the species that we, as the Black people, are made of? We believe that is wrong. And in fact, it would not - it is not a way of encouraging proper human relationship in any country. It is not a (30) way/...

way of encouraging peace. It is in fact one way of encouraging tribal conflicts, ethnic conflicts and so on. We reject that. However, the UDF would accept the fact that a person who comes from Afrikaner background, English background, Zulu background, cannot be stopped from doing certain things which are ordinarily done by his community. For instance the UDF would not stop the Indians from going to the mosque on the day they want to go to the mosque. It would not stop them from observing days like Ede and others. Similarly, we would not stop the Afrikaners from speaking their own (10) language or doing certain things which are held dear to them. But to the extent that certain areas, in certain areas this culture could be integrated, that must happen. That must be - no legislation must be place as a bar on the way of racial harmony and cultural integration. We object to that. At least that is not correct.

Do I understand correctly that ethnicity will not be recognised in the "new parliament"? -- In my view - in our view ethnicity would not be promoted as having - as the basis to discriminate against other people or as a funda- (20) mental difference that is put as a bar towards an integrated society.

But can you answer now, will it be recognised in the "new parliament"? -- I do not understand what the question wants.

Will it be allowed on ethnic grouping to be represented in parliament, the new parliament? -- Well, we do not think in terms of that. We think in terms of one country and one people. Obviously, in areas that are predominantly Afrikaans, a person they might choose there might be an (30)

Afrikaner/...

Afrikaner, but it would not be because we want that place to be separately a place for Afrikaners and nothing else, anybody entering that place would be violating the law. We are against differentiation of people on the basis of colour, on the basis of tribe, on the basis of ethnicity. So, that we cannot entrench those differences in a constitution, but certainly I believe the laws of the country would protract every individual, protract everyone's culture to ensure that everyone respects it.

Was it discussed in UDF circles what would happen (10) if the government is not prepared to call for a National Convention? -- Should I really answer that question? I answered that question many times.

Did you discuss it or not? -- That was not discussed.

But surely they must have realised that there is a possibility that the government will not call for the National Convention and they must have planned for that eventually? -- No, we did not see that possibility at that stage. It is possible, but we did not see that likelihood. All indications were that it was likely that the government (20) would agree to call for a National Convention.

Are you sure of that? -- Yes.

I want to go back to the documents now. C18 the second last paragraph. That is a document we had yesterday. I think the best is -Edele, gister het ons verwys na bladsy 9 op hom byvoorbeeld, maar hierdie dokument op die deurslae wat h mens gekry het, het nie sulke duidelike nommers op nie. Ek wil die Hof se leiding vra. Moet h mens miskien die dokument van voor af as bladsy 1 nommer of moet h mens - ek sien die bladsy wat ek na gaan het nie h nommer op nie, (30)

maar/...



maar op die vorige bladsy word bladsy 19 aangedui.

COURT : Should we not number this document backwards. There is a page 13. Should we then not number the previous page 12 and the previous page to that 11 - sorry, we have two pages on one of our pages.

MR JACOBS : That is why I asked. It is a bit confusing at the moment.

COURT : I think we must put the correct numbering on the pages. This would then be 6 and 7 on the first page and when you refer to the left-hand side you refer to page 6 (10) and the right-hand side will be 7, 8 and 9 on the next lot, 10 and 11 follow, 12 and 13, 14 and 15 and so on. There seems to be a portion missing if we do it in this way. IN any way, I have gone up to 21 and then it jumps to 24. We may be wrong on some pages but do it that way.

MR JACOBS : I would like to refer you to page 21. The heading of this paper, this specific paper is "Internal colonialism, a faded concept" on page 13. Then I would like you to have a look at page 21. I would like you to have a look at the second column. (20)

COURT : Page 21 has only one column.

MR JACOBS : We start in the middle there - the paragraph starting "In other words." Have you got it? "We needed to deepen the struggle for national liberation." -- I see that.

And I take it further "So that it becomes a struggle for complete transformation of all society. Such a struggle can be based only on the large and strategically powerful class located in the heart of capitalist society. The working class. IC tells us nothing about this or how to go about achieving it and how it follows from the above argument (30)

that/...

that a correct political strategy is to mobilise the nation in a broad struggle for national liberation while placing special emphasis on developing within the nation for the forces for complete socio transformation which is to say the working class and its close allies, the unemployed, the youth, the students, the poor, the peasants, weak and point to three areas of work." Then it goes to the areas of work, organisation and so on. Do you agree also here it is referred to as a struggle for national liberation? -- I see that the document says so." (10)

And that is also how it is depicted in the UDF? -- May I ask what is the status of this document? Where was it found? Who produced it, because it seems like it is just photocopies of two different documents. The typing for instance when you look at the first pages which refer to some notes on the call for National Convention is different to what we see on the question of internal colonialism. Where does this, what is this, where does the original document ... (Court intervenes)

COURT : It was found with Lucille Meyer at East London. (20)  
-- And the full document, what does it say?

It seems to me that the full document was not found.

MR JACOBS : It was found like this.

COURT : And I have not been informed what the status of this document is. I am still waiting. Neither do I know what IC means. -- May I place on record that I have never seen this document before. I saw it for the first time in this case.

ASSESSOR (MR KRUGEL) : You do not know what IC stands for?  
-- Well, I accept it stands for Internal Colonialism (30)

read/...

read in context with this document.

From the captions? -- Yes.

MR JACOBS : Will you have a look at EXHIBIT C23. That is a paper found in the possession of Professor Mohammed with the heading "The Broad Struggle." According to the last page, page 6 "I.J. Mohammed talk given at Regina Mundi Soweto at the SCA Anti-Local Authorities meeting 27/11/83." Did you attend this meeting? -- I did not.

Do you know whether anybody else from UDF attended it?  
-- I do not know. I cannot just recall. (10)

According to the first line on page 1 "Addresses. From the UDF Mr Oscar Mphetha, under president of the UDF Oscar Mphetha" and then he starts "Mr Chairman, ladies, comrades, we meet here today." Do you accept that Mr Mphetha attended this meeting? -- I have a difficulty. I do not know. I think there are quite a number of problems. I think the first one that I must point out here is that I have never seen this document before. I am seeing it for the first time in this case as an exhibit. The second point is that one does not know whether the person who wrote the speech (20) wrote it whilst he was sitting there in the meeting looking at Oscar Mphetha there and then knowing that he is present in that meeting or he wrote the speech somewhere else after being informed that Oscar Mphetha was going to be present and I do not know whether this speech as it is was read in this form and whether after this person had been informed that Oscar Mphetha was going to be present, in fact he did find him present at that meeting. Those are the kind of things I am unable to deal with. I do not know.

But do you accept that Professor Mohammed is a member (30)

of/...

of the UDF? -- That is correct.

COURT : We had that over and over again yesterday.

MR JACOBS : I would like to read to you from page 4. "These murderous weapons cannot produce the life-blood of this country, gold, diamonds, coal, iron, meat, maize and other food or all the many goods of an industrial society. The life-blood is produced by toiling masses. These masses have learnt of their massive strength as an organised working class. Our experience in the factories in the many struggles in the community and in the schools have brought us together(10) in a national struggle for total liberation." Do you agree that that is the perception of a member of the UDF? -- I do not understand what this section is all about. I cannot isolate it - well, these are his ideas. I can say that.

Do you agree that it is the perception of a person in the leadership of the UDF that it is a national struggle for total liberation that you are engaged in in the UDF? -- May I get clarity. Are we dealing with the entire paragraph or are we interested in the phrase national struggle ...

(Court intervenes)

(20)

COURT : I have an idea that counsel is dealing with the phrase "national struggle for total liberation" and he wants to know from you whether that is a phrase which was in vogue in the UDF circles? -- Well, it is a concept that is used in the oppressed communities. It has been there for many, many years. I grew up and I found that thing there. I cannot confine it to the UDF. Those individuals who had come across it, in the course in their political development and who have since become part of the UDF are using it. I myself might have used it many times.

(30)

MR JACOBS/...

MR JACOBS : And is it also used in the UDF? -- I said so. It is not a property of the UDF. It is used all over and one may indicate also that it is in publications that - even in newspaper reports you will always come across this national liberation, about the situation in South Africa and about other countries, these reports always come about. When they talk about UNITA they talk about it in Angola. They talk about other places. It is not as if it is something that one can attempt to confine to the UDF as if we have been living somewhere in a world that was not exposed(10) to this terminology and all of a sudden when we wake up one morning, we found ourselves in South Africa where we met these concepts which sounded very strange to us. These are really just things that are used through and around anywhere. In AZAPO when I was a member of AZAPO I used to talk about national liberation struggle. During the times of the BPC there was generous talk about - general talk about national liberation struggle. The trade unions also talk about this concept. I do not want to confine it.

Will you have a look at EXHIBIT C131. That is a docu-(20)ment with the heading "United Front to end apartheid." This was found with Curtis Nkondo. -- That is so.

Just before we go on, will you have a look after this typed part of it, there is a handwritten part. Can we call it the draft of this document. There are four pages typed and then a handwritten part? -- Yes, it seems as if it is the draft of this handwritten.

Do you know whether that is the handwriting of Mr Nkondo? -- I do not know.

You cannot say? -- I cannot say.

(30)

Do/...

Do you know Mr Nkondo's handwriting? -- I do not know it. I might have seen it before, but I cannot say whether this is his handwriting.

What was Mr Nkondo's position in the UDF? -- He was one of the vice-presidents of Transvaal UDF.

And was he on the National Executive? -- No, he was not.

Do you know whether he was appointed to any special committees? -- There was a decision by the NEC to appoint him to lead a commission on education, but that was later rescinded, because it was a duplication. It did not go (10) ahead, but I think Transvaal UDF later on appointed him to set up an education commission. I do not know if in fact that commission was formed and whether it functioned in the real sense. Incidentally, he was also the chair person of the Release Mandela Campaign in the Transvaal. He also held the position of president in the National Education Union of South Africa, NEUSA.

COURT : Is that a teachers union? -- That is so. That is the organisation referred to earlier on by IC.12.

MR JACOBS : Do you accept that this is a UDF document? -- (20) This is not a UDF document. I am certain about that.

Do you know to which organisation it is referring to here as the national democratic on page 2? -- Well, I see the document is headed "United Front to end Apartheid".

To know to which front this document is referring?-- I am not sure. It seems that he is referring to the UDF because I see the UDF at page 3 there.

And the national democratic struggle it refers to here, is that the national democratic struggle the UDF is engaged in? -- Well, I do not know if he is referring to - that is (30)

a broad concept really. May be one should say yes, he might be referring to that, but the National Democratic struggle is a broad concept. People have got various ways of looking at it. I do not know what he had in mind when he wrote this document.

Will you have a look at page 2 then. There he refers to the first paragraph, the fifth line from the top "These reformed measures are simply reaction to the growing revolutionary upsearch of the oppressed and the exploited majority in our country and poses the question what intermediate (10) objectives should we set ourselves building on what we have achieved and in preparation for the next stage of our forward march to victory. My answer to this question is, we are undoubtedly have the force and structures that constitute the offensive against apartheid. Our national democratic struggle rests on three pillars. These are the workers who are the vanguard for the struggle for liberation, the united mass action of the oppressed and exploited people and the international drive to isolate the apartheid regime."

Do you agree that the struggle, the freedom struggle of the (20) UDF that these are the principles of that struggle "our national democratic struggle rests on three pillars"? -- I disagree. The UDF has never defined the pillars upon which it was based. We never spoke about any pillars of the struggle.

What is the main force in your freedom struggle in the UDF? -- The UDF as a front of organisations considers every organisation, every constituency as being important. We have, however, always from time to time so to say emphasised the need to draw the trade unions into the UDF ... (cassette(30)

defective/...

defective) emphasised that, but we have equally emphasised the need to pull a wide a range of organisations as possible into the front. I cannot say the UDF has got any pillars, but no doubt the trade unions would be a very important element in the sense that those are organisations that include forms by - which are formed by the vast majority of the ordinary people, the majority of the people in the oppressed communities especially in the African communities are people who have got nothing else, except waking up every morning and go to work. Those of them who had had businesses, that (10) had the land in certain parts of the country were forced off those lands by the Land Act, in particular that one of 1913 and the strongest organisation that the government has at least tolerated in the eighties has been the trade union movement and it was also crucial because the trade union movement had itself already taken a position against the constitutional proposal. So, that in that sense the workers were important to the UDF.

Does the UDF regard the workers as very important in the liberation struggle and as the vanguard in the struggle? (20) -- I am not sure if the word vanguard has ever been used by the UDF. I am not certain, but because they constitute a very big constituency of the society, they inevitably become an important component of any organisation, all the organisations in the struggle for freedom.

Does the UDF regard the united masses as important in the freedom struggle, as an important component of the freedom struggle? -- The UDF by its very nature - I would say yes, but understood in the context that the UDF came into existence to co-ordinate organisations of the oppressed communities (30)

and/...



and other communities which were committed to a more just order which were opposed to the new constitutional proposals and the Koornhof Bills and it is true that the UDF believed that in its affiliates the ordinary people must participate in the activities of those organisations and in taking decisions relating to matters that are affecting them on a day to day basis. To that extent, therefore, the UDF did regard the masses as being important and the action that they take must be an action that reflects the unity or purpose in relation to the problems that they were facing. This is important(10) in the sense that if the action of an organisation is not seen as backed up by the majority of the people, it is not taken seriously by those in authority. So, in the context of the methods of the UDF, this mass action would be something that the UDF has spoken about, but not in the context in which the writer of this paper is putting it saying that these were the pillars of our national democratic struggle. We have never said that our struggle rests on three pillars. We have never done that. May be in the future the UDF may still have to look at whether there is anything called a (20) pillar of the struggle and how many exist of the pillars and which ones the UDF chooses. The concept has never arisen in the ranks of the UDF. I do not know where the writer of this paper has got this concept from.

The main drive and the fundamental principle that the masses must be mobilised, organised and politicised as part of the freedom struggle? -- That is part of it, but is is important but at a number of levels. In any struggle that is aimed at bringing about change, it might be finally a change that leads to the end of apartheid. It might be a (30) change/...

change that relates to an immediate matter that affects the people. If the matter requires broad unity and broad participation by the community we would advocate and encourage that kind of participation, but there are obviously other instances where the matter might simply require two or three people to settle or a matter might require some form of legal action. Really, we use all sorts of methods in our struggle, depending on the issues that are being addressed at each given point in time.

The third point, the internal drive to isolate the (10) apartheid regime. Is that part of the policy of the UDF as well? -- Well, I recall that there was a talk at some stage about isolating the government and the junior partners.

Is it part of the policy of the UDF? -- I do not recall the UDF putting it as it is put in this paper.

But is it part of the policy of the UDF, forget the paper for the moment? Is it part of the policy, I am asking you now, to isolate the apartheid regime? -- The apartheid government and the junior partners, yes, we have got that in our documents. (20)

So, if I understand you correctly then, all three the points mentioned here are part of your policy in the UDF? -- Part of the strategy, yes. But I repeat what I said that the UDF has never adopted the so-called pillars of the struggle as set out here, but I agree that some of the things that are mentioned, these things have been mentioned in the UDF. The UDF has expressed the need for workers to be part of it and the importance thereof. The need for mass participation in the struggle, or mass action. The need to isolate apartheid, the apartheid government. May be even (30)

the/...

the word regime might have been used. Both internationally and locally.

Would you regard these three as pillars in your struggle? Although it is not being said, but do you regard them as pillars in your struggle? -- I would not regard them as pillars. What does that mean? Does it mean without these things there cannot be any struggle? Are these the only things upon which the UDF is founded?

Well, answer me. What can the UDF do without the masses being united and taking part in the mass struggle? -- The (10) effect might be very little thereof.

Very little? How do you mean now? -- Well, the government would not listen to us if we do not appear to be representing the masses, the majority of the people. If the UDF had embarked on a campaign for the boycott of the elections for the Coloured and Indian chamber and the UDF did not draw active support of the ordinary people in terms of the distribution of the pamphlets, in terms of the spreading of the message of boycott, then the UDF would not have been effective so that really mass action in that (20) context is very important to the UDF.

Do you agree that it is fundamental for the freedom struggle that the people in the leadership of the UDF, the people in affiliated organisations, that they all must accept and realise the fact that you are engaged in the freedom struggle?-- All the affiliates of the UDF?

And all the executives of all the affiliates in the UDF and all the leaders and people in the UDF itself? -- Well, ordinarily it would be a good thing for everybody to be involved in the struggle to end apartheid, but I cannot (30)

say/...

say that the UDF imposed the view on each, the executive of each organisation in that context. Which were for instance involved in dancing and so on. In the border region you would have all sorts of organisations. Some of them are dancing clubs and so on. Those people might not be interested in - they would obviously want freedom themselves. They would not be interested in taking active part in a political movement. They might just be interested in getting relaxation in terms of certain facilities that affect them as a dancing club. The UDF would not go out of its way to impose its will on (10) those people, but generally, as a general rule, all the oppressed people believe that apartheid is back and it must go. Even those who have accepted the policies of separate development have time and time again said that apartheid is not good.

The people in the dancing groups, they must still adhere to the policy of UDF if they want to be members of the UDF? -- Do you mean the declaration. Oppose the new constitutional proposals?

The policy, program of action of the UDF. They must (20) adhere to that. Otherwise they cannot be members of the UDF and they cannot affiliate to the UDF. -- If they accept the declaration of the UDF, they would affiliate. The UDF would not force them to implement this program. They remain independent. Very often organisations have not carried out the activities of the UDF.

And it is also important that the leadership in the UDF and in - the leadership in affiliated organisations understand that you are engaged in a liberation struggle, so that that message can be brought to the masses? -- The (30) primary/...

primary concern of the UDF was the opposition to the constitutional proposals and the Koornhof bills. Those as part of the liberation struggle, yes, but the UDF, if at a certain point in time they would say that they no longer are interested in participating in activities around the constitutional proposals, they would have a choice to withdraw. I think really the primary condition is the acceptance that the constitution was not good; it has got to be opposed. We have got to frustrate the elections that were going to take place and the Koornhof bills. When we started the UDF, that was the key objective, (10) the main objective of the UDF. That is why towards June 1984, July 1984 there are now debates taking place within the UDF as to its future. Because it was understood as a front that is addressing itself to the immediate problem of the elections. Now people are saying "Look, the elections would be over within the next two months or so. What are we going to do after that? Should we not consider other issues that we can take up? Should we not consider transforming the UDF into a different political organisation?" That gives a clear indication of how the UDF was understood by the affiliates (20) and all of us at its inception.

Do you agree that it is over and over emphasised in the documents of the UDF, over and over emphasised in the speeches on meetings, mass meetings arranged by the UDF to bring the message home that you are engaged in a freedom struggle? Or a struggle for - struggle of the people or struggle for national liberation? It is always propagated to the masses? Do you agree to that?-- That is said from time to time in meetings and in documents. Yes, I agree to that.

And do you agree that it is important for the masses (30)

to/...

to realise and to accept that they are engaged in a freedom struggle and that is why it is so emphasised over and over? -- Well, I do not know if it is emphasised because the masses do not know. They know that the struggle against apartheid is the struggle for freedom. I do not think people who say those things say them because they think the masses do not know.

But the important part is that the masses must accept that they are engaged in a freedom struggle and they must associate themselves with the freedom struggle? That is (10) why it is so over stressed? -- The masses of our people have long been part of the freedom struggle. They have known that many, many years ago. Since the implementation of the policies of apartheid they have known that they were involved in the struggle against apartheid. I grew up as a child. Once I started talking to other people and seeing what was happening around me, I knew that I was part of the struggle. I belong to a community that was involved in the struggle against apartheid. Therefore the struggle for freedom. It is not as if you are talking to people who are not conscious of what (20) is happening to them and you are manipulating them to accept that there is something that is foreign to them that is called a national liberation struggle. We are talking here about people whose daily life is the life of experience of apartheid, shunted from pillar to post and suffering under the conditions of deplorable conditions of shortage of houses. No proper facilities in the townships, walking around in winter without a pair of shoes on, going to school with a pair of trousers that is torn at the back and the buttocks is sticking out. All those things are the things that people (30) experience/...

experience and they have become part of the struggle against apartheid. That is not something that is new to them. All what perhaps would be said is that the UDF is a front through which you can articulate your feelings and your aspirations in an organised fashion. When you talk about the Black community, you are not talking about people who are like White people, who have lived the rest of their lives as lives or of privilege and protection from the government. You are talking about people who have suffered, who have gone through pain of suffering of deprevation, who have experienced (10) extreme illiteracy, who have gone through a situation where they had had to work for pittance, low wages. They had to go through a situation where they could not organised themselves to bargain for better wages. A situation that did not exist in the White community. So, that when we really deal with the situation in the Black community, we must understand that we are not talking about people who are - to whom suffering is a foreign thing. We are talking about people who at different points in the historical development have addressed in various ways the problems that they (20) were experiencing. All we are saying is that we are now saying that we can co-ordinate all these feelings and articulate them in a much more organised way through the UDF.

I will repeat my question now. Do you agree that it is important in the freedom struggle to get the people to associate themselves with the freedom struggle under the leadership of UDF? -- That is so.

And another fundamental principle of the freedom struggle is that the people - for the people to understand and accept and associate themselves with the fact that in your freedom (30) struggle/...

struggle the government is the enemy? -- Well, I do not know if that matter has never been considered as a matter that must be - the masses must be educated about. I do not know of a conscious decision to do that, but certainly, I myself have referred to the government as the enemy and I have referred to the policies of apartheid as the enemy. I have referred to these things in the manner that I have set out in the context of the common use of political language. It is not something that starts with the UDF. This has been there many, many years. It simply refers to a government(10) that pursues policies with which one does not agree or a group of - an organisation that holds views which are contrary to the principles of democracy and it is promoting those views at the expense of the rest of the people to enjoy freedom, justice and equality. In that context the government and parties and organisations would have been referred to as the enemy.

COURT : Apart from your grouping, that is the UDF and its affiliates and the BC group, what other groups refer to the government of South Africa as the enemy? -- The Non-European(20) Unity Movement, the African People's Democratic Union of South Africa. I believe the ANC as well. I believe the PAC. I believe Inkatha as well. Those are the few examples that I can think of now as I stand here.

Are you sure about Inkatha? -- I cannot say with certainty. I am not quite sure.

The Non-European Unity Movement, what is that? -- It is an organisation that was I think formed around 1942/43. It has been based mainly in the Western Cape.

What are its policies? -- Well, it believes in a non- (30)  
racial/...



racial South Africa. It tends to be a highly leftist organisation that believes that only the workers and nothing else, nobody else could bring about change.

And the people's - what is it? African People's Democratic Union of South Africa? What is that? -- African People's Democratic Union, as I understand it, it is a break away of that other one, the non-European Unity Movement. Their traditions are - their principles are nearly the same. They are slightly different. But it is also projecting itself as being to the left, far to the left of the UDF. (10)

Apart from Inkatha about which you are not sure, is the UDF of all these groupings that you have mentioned the most moderate? -- I think so.

MR JACOBS : [I put it to you that it is a fundamental principle of the freedom struggle and it is fundamental in the policy of the UDF to depict the government as an enemy so that the people can associate them with the idea of regarding the government as an enemy?] -- I reject the proposition. The UDF has never sat down and decided through its policy structures that we will now promote this as the policy to (20) call the government as the enemy. I have indicated that that is simply part of political language. It is something that has been there for many years. It has been there for many years and people who come and join the UDF are people who have been part of the political development in the country. It did not sit down to say now we will call the government the enemy. But I do not dispute the fact that from time to time when people spoke that was mentioned. It was simply taken as part of the normal political language. Nobody would have raised his head and said "What do you (30)

mean/...

mean?" It is understood generally on the basis that our government is promoting apartheid. We are opposed to apartheid. We want democracy, the government does not want democracy.

And I put it to you that is used specifically to conscientise the people and politicise them to regard the people as an enemy and for that reason you used various different names for the people - for the government to blacken the government in the eyes of the people, of the Black people? -- May the question be repeated? (10)

I put it to you that it is part of the policy of the UDF and the fundamental of the freedom struggle to blacken the government in the eyes of the Black masses by using different names to describe the government so that they can associate themselves with the idea of fighting against the government as an enemy? -- I reject that proposition. However, I agree that the UDF has consistently criticised the government on a number of issues and it has spoken openly about it, but I reject the suggestion that it is a fundamental policy to blacken or denigrate the government (20) because it is fundamental to the struggle. We criticise because there are concrete issues that are affecting us that need to be criticised. We cannot keep quiet. We have got to talk about these things. They are affecting our lives. They have given rise to conflict in our country, a very violent one.

COURT : [Have you at any stage given the government credit where credit was due or is your attitude that there was no credit due ever? -- I cannot remember myself issuing any statement, but in the past we have said, when for instance (30) they/...

they withdrew the orderly movement and settlement of Black persons bill, we said that was good. However, we have problems with the fact that you are now saying that you are amending the Aliens and Immigrants Bill - Act to include certain elements which should have been covered by the orderly movement and settlement of Black persons bill, but our view has always been that you have moved but you have not moved enough, you are not addressing the real issue.

MR JACOBS : I put it to you that it is clearly stressed so that the people know against who they are fighting and (10) that is why the enemy and the government were depicted under different names. What do you say to that? -- It is clearly depicted?

It is clearly, the stress placed on this question that the State is an enemy and different names are used so that the people must understand and know who their enemy is and whom they are fighting. -- Well, I do not think that was the purpose. In fact the usual different words would have the effect of confusing people rather than getting them to understand, but it is true that when we speak we would like (20) people to understand that we are opposed to apartheid and we are opposed to the government that is furthering apartheid.

I would like to refer you again to EXHIBIT 23 - C23 page 1. Here Professor Mohammed is stressing that the freedom fight is against "The crisis is a conflict between ruler and ruled, between oppressor and oppressed? -- Are we looking at paragraph 1 or which paragraph?

COURT : The third paragraph right in the middle of the page. -- Oh, Yes, I see it.

MR JACOBS : So, it is important for the people to understand (30) that/...

that they are the oppressed, important for the freedom struggle to regard the government as oppressor and that the fight is against the government. Do you agree to that? -- I disagree with the suggestion that it is important for people to understand that they are oppressed. It is common cause, it is known that they are oppressed. In a speech people turn to talk from time to time about their own position, about their own situation. When you come from an oppressed community, it is not strange that from time to time you would talk about your situation. The other point here, the oppressor, referring (10) to the government I think is correct, that the ordinary people must understand that it is not the White people and everybody who wills that the Black community must be in a position that it is, but it is the government that formulates policies that is really oppressing the people. So that the struggle would be against those policies and the government that implements those policies, not against the ordinary White people. Because if they knew the truth, if they had the opportunity, they would do something better. They would not insist on the policies of apartheid. (20)

If it is not important to put it over to the masses, why is it necessary then to propagate it on meetings? -- Well, I say people would normally talk about their own experience, the situation in which they come from. They talk about that and they do so to indicate that it is possible to overcome those problems through a process of organisation and organised disciplined action and those things can only take place when people are coming together in organisation. They talk about those things. They talk about their experiences. It is not as if people do not know that they are oppressed. People (30)

know/...

know that they are oppressed. They often talk about how the government took away their land, how the government imposed all sorts of restrictive laws. They talk about those things and they understand them that those are not good things, but speakers from time to time mention these issues as a way of self-expression and enlightening themselves of the burden that is in their hearts and minds.

I can understand your evidence that the people talk about things but here it is specifically stressed that it is a conflict between oppressed and oppressor and that is (10) something different from what the people ordinary talk? -- What is the problem? I do not understand the question?

Do you agree that there is a difference between ordinary talk and where it is stressed on a meeting that there is now a conflict between oppressed and oppressor or the ruler and ruled? -- No, I do not think so. I think the only difference is that it is - this one is better articulated than when it is said by the ordinary people. When people complain about the laws which restrict their movement, they are talking about a conflict between themselves and the government, (20) the conflict to the level as to what is good and what is bad, but now a man who is better educated can now philosophies that he can now systematise that thing, articulate it in such a manner that it becomes much better than when it is said by an ordinary person, but I think they reflect the same thing. I do not see a reason why if I can talk about my problems to my neighbours, to my friends at school, why I should not talk about those same things when I am addressing a public meeting. Why should I be restricted in terms of talking about those problems? And giving my views as to (30)

how/...

how I understand it?

Do you agree with me that according to this document the wording is clear, the message is clear that there is a conflict and that they are fighting in this freedom struggle, there is a conflict between the oppressed and the oppressor? -- What paragraph is learned counsel referring to now?

The same paragraph. -- Where is that fighting and so on?

If you go further it is a struggle for our rights to determine how we shall be ruled and by the leaders of our(10) choice. -- I do not see any fight.

Is a struggle not a fight? -- In what context is learned counsel using the word fight?

In the struggle? -- In what context. There is a violent fight, there is a non-violent struggle. What context are we referring to? Is it suggested that he is referring here to a violent struggle?

No, I did not say a violent struggle. I said there is fighting - there is a freedom struggle. They are fighting for freedom. Is that correct? -- That is so. (20)

And the conflict here is the conflict between the oppressed and the oppressor? -- That is correct.

And that is a clear language brought to the people here? -- In terms of this. We do not know if it was presented at the meeting but even if it was presented in this fashion, yes.

Will you have a look at C25 page 1, that is EXHIBIT C25. Just to identify the document. The heading is "The constitution and its implications. I put it to you that it is also a document found with Professor Mohammed and if you will(30)

have/...

have a look at the last page "I.J. Mohammed talk to be given at AZASO conference open session Orlando East 4/7/84." -- I have seen that.

Were you at that conference? -- I was there on the 6th and the date here is on the 4th and in paragraph 1 the last part of the paragraph - paragraph 1 on page 1, last part of paragraph 1 page 1 "But we particularly salute you for the proud tradition of struggle you have brought to our movement for liberation from racism, oppression and exploitation." So, the fight is then against racism, oppression(10) and exploitation. -- The struggle, yes.

And that is also the message given to the people? -- Well, that is what he is saying. He talks about a struggle. He is not using the word fight.

And the struggle is a freedom struggle? -- Yes.

And the enemy, the State, I put it to you, is also depicted and propagated as the apartheid system? Is it correct? Do you refer to the State as apartheid ... -- Are we talking about the government?

Yes, the State? -- The government. I think there is(20) a difference between the State and the government and although sometimes people use it interchangeably, but where they talk about the State as the enemy, they refer to the government. I think the State is something that transcends party politics, but the government that is in power is essentially the government of the Nationalist Party and the State is something much broader than that as I understand it, because that would include the courts and so on and I do not believe that the Courts are part of the Nationalist Party.

But the Courts are part of the government then? -- Part(30)

of/...

of the State.

COURT : Is that official, Mr Jacobs?

MR JACOBS : No, I asked him.

COURT : Oh, is it a question?

MR JACOBS : It is a question. -- No, no, I do not regard the courts as part of the government. The government is essentially that of the Nationalist Party. It is set up to promote the ideology of the Nationalist Party of apartheid but the Courts are something much more than that. They are part of the State, they transcend party politics and (10) the courts are part of the broad structure that deals with the interest of the entire country, the people of the country, Black and White, not the interest of apartheid.

Do you say that the courts are part of the government?

-- I do not see them as part of the government.

I would like you to have a look at C26. This is a document found with Professor Mohammed. The heading of it is Jabulani Ngobo. Do you know anything about Jabulani Ngobo?

-- I have heard something about him. He died somewhere in Swaziland or so. (20)

COURT : Who is Jabulani Ngobo? Who was he? It was a person I take it? -- He was a person. As I understand it, he was a member of the ANC. He was in exile and he died somewhere in Swaziland. I cannot recall exactly how he died, but I know his brother. His brother was a student at the University of Witwatersrand.

ASSESSOR (MR KRUGEL) : You think he was a member of the ANC or do you know that he was a member of the ANC? -- I think it was reported like that in the newspapers. I do not know the person. I had never met him before. (30)

MR JACOBS/...



MR JACOBS : This is a speech of Professor Mohammed according to the last page at the funeral of Jabulani Ngobo, Meadowlands, Soweto, Sunday 30 December 1984. Is that correct? -- Well, that is what is written here. I do not know.

Were you present at that funeral? -- I was not present.

I would like you to have a look at the first page, the first paragraph. "Our heart-felt sympathy goes out to the parents and family of Jabulani Ngobo for a young son to cruelly robbed of life. All those who cherish the dream of a just and democratic South Africa mourn with you. We in (10) the United Democratic Front and all its affiliates say this is our son, our flesh and our blood." According to this Professor Mohammed was at this funeral as representative of the UDF? -- Well, from the reading, yes. From reading this, but I do not know, I cannot recall sitting in a meeting that asked him to go and represent the UDF there.

COURT : Could he have been sent by the Transvaal Regional Council? -- It is possible.

MR JACOBS : And the second paragraph "We shall remember that this young man was killed by apartheid." -- Yes, I see that. (20)

Would you agree that by referring here to apartheid it must refer to the government of this country? -- I do not know. It might actually mean that - well, in one or other the government would come in, because it is the policies of apartheid which forced that young man out of the country and that those policies are the policies made by the present government. It might mean that, I do not know in what context he was using it.

Do you agree that the word apartheid is abstract and it cannot kill anybody? -- It is an ideology, yes, I accept (30)  
that/...

that it does find practical manifestation in real life.

And the apartheid referred to here must be the government?  
-- Well, I cannot say that. I do not know, I was not there when this document was written. The apartheid is an ideology, it is an ideology, something that exists independently of the government and something that can go and the government can remain. It is simply a policy that is being - the foundation of the policy of the government.

Do you agree that the use of the word apartheid here is a loose use of a word? It is not defining anything properly(1) but it is referring to the system, the apartheid system and that means the government? -- Where? Here in this document?

In this document "We shall remember that this young man was killed by apartheid."--Where is the system? I cannot see the system.

We can go on now and I can ask you. "Like so many of our sons and daughters he was driven from our country by the hated apartheid system." -- Oh, yes, that I can see now.

Do you agree that apartheid system here and apartheid refer to the government? -- It refers to both really. The(20) government that implements that policy and the laws that are based on that policy. It refers to the same. I have got no problem. I think any interpretation is capable of a meaning.

When you say in UDF that you are fighting against apartheid, what do you mean? Is it the government? If you ask the people to fight against apartheid, is it the government?  
-- I mean that the people must oppose the policy, the ideology of apartheid must go. The government as a structure is not something that people are opposed to, to government. You (30) are/...

are opposed to it only insofar as it implements the policies of apartheid. If for instance this government tomorrow was to say "Look, we are now scrapping all the apartheid laws that we had enacted since 1948, all those things must go and now everybody is free to vote. When the next elections come or let us now hold elections and establish a government where everybody has participated or okay, we do not want to establish it now, but we think our next elections are coming in 1989. When those elections come, everybody, every South African will be free to participate in those elections." (10) I would have no problem with that kind of - that government. No, I would have no problem. Really the ruled course, the real problem is the ideology which the government follows and it seeks to make the foundation of every level of relationship in this country.

ASSESSOR (MR KRUGEL) : What about the position before 1948?  
-- Well, I think there was discrimination. In fact, I think really there has been discrimination ever since.

Where did apartheid start? -- The grand design of apartheid in the way it is, really it started at the real (20) implementation and tightening up started in 1948, but I believe that by the time Dr Hertzog - by the time Prime Minister Dr Hertzog started dealing with the question of the Native and the issue of the land around 1911 and up to the enactment of that and right through the Hertzog bills of around 1935/36 he was really beginning to lay the proper foundation of what is today the apartheid system, but I think two people in particular who affected it, were I think Dr Malan and Dr Verwoerd during the period 1948 and so on.

WITNESS STANDS DOWN.

COURT ADJOURNS.

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

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