

TUMAHOLE (Parys)

The further particulars to the indictment as amended (p.79) set out a number of allegations. They are:

1. Since January 1984 the Tumahole Civic Association (TCA), the Tumahole Students Organisation (TSO), the Tumahole Youth Organisation (TYO), UDF and COSAS organised and intimidation, violence and riots took place.

2. Accused No 20 provided training in the manufacture and use of petrolbombs to members of the Tumahole Students Organisation and/or the Tumahole Youth Congress and/or the public during the period July to September 1984. He instructed them in the manufacture and use of banners and placards for use during demonstrations and riots. He addressed a meeting of the Tumahole Students Organisation as guest speaker during January 1985 and proposed that its name be changed to the Tumahole Youth Congress. He encouraged the audience to take up the rent question and to fight the councillors and destroy their possessions during 1985.

3. During July 1984 accused No 19, accused No 20 and bishop Desmond Tutu spoke to a Tumahole councillor in Johannesburg and informed him that if he was prepared to resign as councillor his property would not be damaged any further. After the councillor had resigned he telephoned bishop Tutu who arranged for three pressmen to

meet the councillor concerned in order to obtain a press statement concerning his resignation.

4. On 10 July 1984 accused No 19 was stopped at a road-block on the Parys-Barrage road and found to be in possession of certain documents.

5. On 15 July 1984 accused No 20 was stopped at a road-block at Tumahole and found in possession of certain documents.

At some stage the Tumahole Students Organisation changed its name to Tumahole Youth Organisation or Tumahole Youth Congress. These are not three different organisations. We will throughout refer to it as TSO. There was no evidence of COSAS involvement in Tumahole.

For the allegations set out in para 2 above the state relied on the witness ic.10. She was totally discredited and merits no further attention.

That documents were found with accused No 19 and accused No 20 as alleged in paras 4 and 5 above is common cause. The documents do not relate to Tumahole in particular and are dealt with elsewhere in this judgment in so far as they are relevant.

The organisations active in this area were TSO (Tumahole Students Organisation) the name of which was later changed to Tumahole Youth Congress and Pro Humanism. They were both youth organisations active in 1984. The first-mentioned had applied to affiliate to the UDF in 1983 but could not do so as it was not situated within a region. (There being no region of the UDF in the Orange Free State). Pro-Humanism was a Black Consciousness Organisation.

After a rent increase had been announced during the first part of 1984 to be effective as from 1 July 1984, for the first time opposition to the council system came to light. That opposition emanated from TSO and Pro Humanism.

These organisations requested a meeting with the council in June 1984. They claimed that sewerage had not been built (it was under construction), that old electric poles were sold (they were not) and that the increased rent notices were not in Black languages. They were impolite and contemptuous of the councillors. They claimed that previous increases in rent were invalid and that it should be reduced. They would not listen to reason.

Significant is the remark of the witness ic.17, a very venerable old man who was a councillor at the time. He said there were no calls

for the resignations of councillors in Tumahole till the meeting. In his area the people were quite satisfied. It was a strange thing. It came from without. It was peaceful throughout till the meeting. At the meeting they were shocked at the use of the word puppets which was used for the first time. The councillors were also called sell-outs and described as brain-washed. The leaders were Vuzile Dabi, Vuyo Dabi, Jacob Barnard Mulokwane, Lister Skosana, Tom Letsoenyo and one Gibson.

On Sunday 15 July 1984 at 9h00 a march took place in the streets of Tumahole. Initially the group consisted of approximately 500 youths but it later swelled to approximately 1 000. There were banners. One of them was "councillors are useless and so are the participants!" Freedom songs were sung. The march was stopped in the new township by the riot police, who gave them thirty minutes to disperse. They dispersed peacefully. Later a group appeared at the beerhall and were again warned to disperse. They attacked the police with stones. Tear-smoke was used. Smaller groups spread unrest through the whole township. Business centres were stoned. Windows were shattered. Road obstructions were erected. Councillor Hlalele's shop was set alight. His butchery's windows were broken and the properties were looted. This occurred just after 11h00. Five police vehicles were damaged, five shops were damaged, four policemen were slightly injured by stones. Four days of rioting followed. Many youths and some women wore COSAS and UDF T-shirts.

On the evening of 15 July 1984 at a police road block at Tumahole accused No 20 was stopped. It was approximately 20h00. His passenger was Alfred Kganare of Commercial Catering and Allied Workers Union. Accused No 20 informed the police that he had visited his friend Vuzile Dabi.

There is other evidence of a UDF presence in the area. In the minutes of the UDF GCM of 30 June 1984 accused No 19 reported that more than 3 000 signatures had been collected in Welkom and Parys. Exh Q.2.

On 16 July 1984 accused No 19 wrote a circular letter to the churches of Tumahole on behalf of "the residents of Tumahole and their civic association" blaming the violence on the rent problem and taking the part of the suffering masses against the unjust administration. Exh AM.27. This supports the evidence of the witness ic.17 who also refers to the Civic Association being active and UDF as well.

The Thursday after 17 July 1984 the Detainees Parents Support Committee (DPSC) called a meeting in solidarity with the people of Parys. A report thereon is exh DA.43. Accused No 20 spoke. He called for a boycott of the councillors (not the burning of the businesses) and blamed the Black local authority for the violence. See also exh DA.99 and exh DA.100.

After July 1984 a meeting of the Community Council and the committee of the TSO was held. The latter demanded that the Community

Council resign. There were general rumours that if they should not resign their property would be burnt and they would be killed. At this meeting the TSO claimed a reduction of the rent to R26. The increase on 1 July 1984 had been to R37. They also claimed that the councillors resign. Thereafter pamphlets were distributed by the Civic Association - "away with councillors". Later the TSO called for a reduction of the rent to R18 per month.

In approximately the middle of August 1984 Lister Skosana and Jacob Molokwane wearing T-shirts of the UDF threatened the daughter of councillor Richard Letsoenyo instructing her to tell her father to resign as a councillor of Tumahole or have his vehicle or house set on fire. This was after councillor Hlalele's business had been burnt down. Prior to that the same sort of threats had been made by these two to the son-in-law of the said councillor.

The defence argued that the threats by Skosana were not shown to have been policy of the TSO or that he acted with the mandate of this organisation. This submission is not understood. Skosana was the leader and chief spokesman of the TSO and on the forefront of their opposition against the councillors. In the absence of any evidence by himself or any member of TSO that it was not TSO policy and that he had no mandate the only reasonable conclusion is that he was acting in his capacity as leader and in accordance with TSO policy.

Since June 1984 but increasingly towards the last quarter of 1984 there were many calls for the resignation of councillors. They were accompanied by boycotts of councillors' businesses, which boycotts were effective. Mainly the calls for resignation and boycott emanated from TSO. By October three councillors had already resigned. In October/November 1984 councillor ic.21 was visited by six to seven men wearing balaclavas and sunglasses who told him to resign. Some of them wore UDF T-shirts. He resigned.

On 10 September 1984 there was a march to the administration offices. By that time the increased rent had been reduced again. On that day people were forced to stay at home and not go to work and to go to the offices of the Administration Board.

On 9 October 1984 there was a meeting at the house of Jomo Marumo in order to effect a truce between the UDF and businessmen of Tumahole.

On 23 March 1985 the butchery of Hlalele was again burnt down, although he had resigned soon after the first arson attack.

On 24 March 1985 the house of a woman councillor ic.18 was petrolbombed.

On the next day it was attacked with stones. Present were Ace Magashule, Vuyo Dabi and Skosana of TSO. That night there was a second attack. This councillor resigned on 26 March 1985.

Despite her resignation her house was again attacked by youths on 7 May 1985 and this was repeated on 14 July 1985. Her husband thereupon fetched Ace Magashule, Mosepidi and Thabane who said that they did not know the reason for the attacks as they had told the children to accept this councillor back into the community. They paid for the broken windows. Mosepidi of the TCA said that civics and the TSO were against the council system and not against individual councillors.

On 21 July 1985 her house was again petrolbombed.

The defence submits that three out of four attacks on the house of the witness ic.8 fall outside the period of the indictment. This argument has been dealt with in the section of this judgment dealing with Duduza.

The defence submitted that there were a number of independent causes of the unrest in Tumahole. They were allegedly: the increase in rental, unemployment, the involvement of outsiders and ex-prisoners, loafers and people with jealousy and anger at the use of tear-gas by the police in dispersing the march on 15 July 1984.

The increase of rent was a cause for discontent but it was fanned into anger by the organisations. The attacks on 15 July 1984 stood apart from the march. The march dispersed peacefully after the police instruction. Tear-gas was only used approximately one hour later at

the beerhall. The later defence version was never put to warrant officer Jenkins whose evidence was not challenged. In fact his evidence was common cause.

The defence called as witnesses on the march three elderly women Mrs Chabaku, Mrs Cholota and Mrs Mokhobo. They participated in the march without having much knowledge about it. They stated that the march peacefully dispersed when told to do so by the police. They alleged that they did not know who organised it. Their evidence on the wording of the placards differs from the uncontested version of the police. They are vague on the circumstances whereunder tear-gas was used. They alleged that they had never heard of the organisations politically active in Tumahole. They were not well-informed at all. Their non-payment of rent even before the march is indicative of the start of the political rent boycott at an early stage, which would involve political activity of which they disclaim knowledge. We were not impressed by these witnesses.

The defence did not call any witness to give evidence on the cause of the riots. We are then asked to speculate that the use of tear-gas on peaceful marchers (which was not the defence case initially) caused the riots in Tumahole. If that is correct, why was the violence directed at the beerhall and councillors' property and not at random and not specifically at the police?

The involvement of outsiders in the violence came much later when the violence had its own momentum.

The organisations in Tumahole were not affiliated to the UDF for the reason aforementioned.

The defence submits that the fundamental allegation of affiliation by the TCA, TSO and TYO was not proved and that therefore the events in Tumahole are irrelevant as no nexus with the UDF has been established.

The UDF had close links with the organisations in Tumahole. TSO had applied in 1983 for affiliation and for technical reasons could not. Its actions vis-à-vis the community council evidence that it was a kindred spirit to the UDF.

The UDF conducted its million signature campaign through local affiliates. In Parys its contact in mid 1984 was TSO and TCA. Though technically not affiliated their activists probably were involved in the campaign which would create the perception of a UDF presence in Tumahole.

Accused No 20 is a friend of Vuzile Dabi, a leader of TSO and on 15 July 1984, the day of the riots, accused No 20 arrived in Tumahole and told the police that he visited Dabi.

On 16 July 1984 accused No 19 wrote a letter to all the church leaders in Tumahole acting as secretary-general of the UDF on behalf of the Tumahole Civic Association.

On 18 July 1984 councillor ic.17 met bishop Tutu at his house and arranged a meeting with him and accused No 20 for the next day. He was not told that the UDF had nothing to do with Tumahole.

On 19 July 1984 the DPSC an affiliate of the UDF called a meeting of solidarity with the people of Tumahole. Accused No 20, publicity secretary of the UDF, spoke and attacked the councillors who were blamed by him for the violence in Tumahole. There was no condemnation of the violence. There was a call for action against the councillors. "We will boycott their businesses", accused No 20 said.

On 9 October 1984 a meeting was held at the house of Jomo Marumo to effect a truce between the UDF and the businessmen of Tumahole. This exercise would have been senseless if the UDF had nothing to do with Tumahole.

The Sowetan of 18 July 1984 (exh DA.115) handed in by the defence, reported the arrest on 17 July 1984 of Mosepedi and Skosana, two executive members of the local civic association. It stated that the UDF had condemned the arrests. If the UDF had nothing to do with the area, on what did it base its condemnation of the police arresting people after a riot in which a number of businesses were burnt down?

In cross-examination of the witness ic.17 it was put that accused No 20 told the witness ic.17 that he (accused No 20) in his negotiations with the TSO and all other organisations (in Tumahole) had never heard a complaint against the witness ic.17. This indicates a relationship between the UDF and the organisations in Tumahole before the riots.

The unchallenged evidence of the witness ic.17 is that the UDF invited them to a meeting on 10 September 1984 with the chief director of the Development Board.

Accordingly we find that the organisations of Tumahole namely TCA and TSO had close links with the UDF and were its active supporters.

In this respect the state sought to bolster its case with the evidence about the meeting between the witness ic.17 and bishop Tutu, accused No 19 and accused No 20.

The witness ic.17 testified that as a result of having seen a comment in a newspaper made by bishop Tutu and by accused No 20 he contacted bishop Tutu and a meeting was subsequently held between himself, Tutu, accused No 19 and accused No 20 on the morning of 19 July 1984. He said that his daughter, a Mrs Smith, was also present. He stated that accused No 20 said that the councillors were busy making people angry because they worked with the system and that the

UDF is an organisation which is opposed to the government because of its policy of apartheid, the general sales tax, and the high rental in the townships. He also said that the inhabitants of Tumahole were busy with a peaceful demonstration and that the police had intervened making people angry. Bishop Tutu said that he had no power to stop the violence for so long as people remained councillors and that the condition was that the witness must resign and that he, Tutu, would phone the press. Accused No 20 also said that he worked together with the leaders of Parys and that there had been contact between the UDF and the big man of the UDF locally, one Mosepedi, that very morning.

The witness ic.17 further testified that he subsequently resigned and telephoned bishop Tutu who said to him that he would phone the leaders and tell them to stop persecuting him and that accused No 20 who was going to Bloemfontein the next day would call at Tumahole and also talk to them. This telephone call was on 20 July 1984. The press was sent by bishop Tutu.

The implication of this evidence is that bishop Tutu as well as accused No 19 and accused No 20 accepted and indicated to the witness ic.17 that they had the power to stop the violence in Tumahole and that they would stop it only if the witness ic.17 resigned as a councillor.

This evidence was contradicted by accused No 19, accused No 20 and Mrs Smith. Their evidence - which is not consistent inter se - is that the witness ic.17 blamed the UDF for the violence which accused No 20 denied stating a peaceful protest had violently been disrupted by the police. Accused No 19 also denied that the UDF had a policy of violence. The witness ic.17 of his own accord stated that he was going to resign as a councillor but only after he had received compensation for his loss. The witness ic.17 raised the question of a press statement to which bishop Tutu responded that he (Tutu) could make it but that he did not know whether this would help. Nothing was mentioned concerning contact with the leadership of Tumahole by the UDF. Later the witness ic.17 telephoned to indicate that he had resigned and he asked that accused No 19 contact the press. Accused No 19 refused but gave him certain telephone numbers.

The following is common cause: The witness ic.17 linked the UDF to the events in Tumahole and arranged a meeting with its leading officials to hear what he had done wrong. He was told that the people do not accept the Black local authority system and that that had led to their anger. His resignation was discussed with bishop Tutu, accused No 19 and accused No 20. He resigned immediately after this meeting. A statement to the press was discussed and telephone numbers were either given or the press was sent by the UDF. The statement was published in four newspapers - as a coup for the liberation struggle. This much is common cause.

The version which the witness ic.17 gives of the conversation concerning accused No 20 is wholly consistent with UDF's policy. Mrs Smith confirms the witness ic.17's evidence that Mosepedi's name was mentioned, but says it was in general conversation. It is significant that the reporters of four Johannesburg newspapers would drive to the insignificant Parys to hear from the insignificant ic.17 that he resigns. The fact that they went there evidences an influence which the witness ic.17 himself could not exert. Furthermore there were a lot of assertions in cross-examination of the witness ic.17 by the defence which never materialised.

The facts set out above support the version of the witness ic.17. We think highly of him as a witness. As against this there is the denial of accused No 19, accused No 20 and Mrs Smith. We were not as favourably impressed by them. We set out our comments on these witnesses in annexure Z. Mrs Smith seemed tense. Her father's property was attacked before and while he was giving evidence in this court. He had been threatened with necklacing. The thought crossed our mind that she had possibly been intimidated as well. This was, however, never taken up with her by the state in cross-examination. Neither was any inconsistent previous statement put. This is important as she had been a state witness and one would expect the state to be in possession of her witness statement. We have to conclude that her version has been consistent throughout. It does not avail the state to point out discrepancies between her

evidence and the defence version as put to the witness ic.17 by defence counsel. This cannot reflect on her quality as a witness as the instructions of counsel could not have emanated from her.

In the result we remain with material inconsistent evidence of the state and defence on the meeting of the witness ic.17 with bishop Tutu, accused No 19 and accused No 20. We are unable to determine where the truth lies and make no finding on this aspect of the case.

The defence relied on the report in the Star of 20 July 1984 (exh DA.43) on the meeting held on 19 July 1984 in solidarity with the people of Tumahole and submitted that the report indicated that the UDF was opposed to violence. We have dealt with this report elsewhere in this judgment where public statements by the UDF are discussed.

We conclude as follows in respect of Tumahole:

1. The organisations TSO and TCA were active in Tumahole.
2. The UDF had close links with both.
3. A concerted campaign was waged in Tumahole against the local town council by TSO and TCA.

4. The violence which flared was directed against councillors and their property and intended to cause their resignation.

5. The TSO had a hand in the violence in Tumahole and probably directed it.

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