

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

(TRANSVAALSE PROVINSIALE AFDELING)

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SAAKNOMMER: CC 482/85

PRETORIA

1987-08-28

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST E

ASSESSOR : MNR. W.F. KRUGEL

NAMENS DIE STAAT:

ADV. P.B. JACOBS

ADV. P. FICK

ADV. W. HANEKOM

272

NAMENS DIE VERDEDIGING:

ADV. A. CHASKALSON

ADV. G. BIZOS

ADV. K. TIP

ADV. Z.M. YACOOB

ADV. G.J. MARCUS

TOLK:

MNR. B.S.N. SKOSANA

KLAGTE:

(SIEN AKTE VAN BESKULDIGING)

PLEIT:

AL DIE BESKULDIGDES: ONSKULDIG

KONTRAKTEURS:

LUBBE OPNAMES

ISMAIL AYOB & ASSOCIATES

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VOLUME 272

(Bladsye 14 758 - 14 813)

THE COURT RESUMES ON 1987-08-28:

POPO SIMON MOLEFE, duly sworn states:

MR BIZOS: M'Lord, Your Lordship will note that accused no 5, Mr Malindi is not in court today, leave having been granted to him by Your Lordship earlier on.

COURT: It is noted, thank you, Mr Bizos.

MR BIZOS: There is just one other matter relating to the bail conditions of one of the accused which we would like Your Lordship's guidance on. It is the first condition.

COURT: Which accused?

MR BIZOS: No 10. The first condition imposed by Your Lordship is that the accused will not attend any meeting of whatsoever nature or participate in the organisation of such meeting except bona fide church services. Now, Your Lordship will recall what accused 10's evidence was in relation to his work, that he was really involved in industrial relations. He wants to register with the Damelin Management School, which is a private college, which runs a course which leads one to a diploma in industrial relations. Now, I have the prospectus here which sets out what the course involves, also a long list of the names of the teachers. None of them are named in our papers, and he is anxious to attend this course which at the time ..

COURT: The course is a correspondence course?

MR BIZOS: No, M'Lord, they do attend some lectures, but most of them are for people who are already in employment, so they are really evening lectures and they do attend classes. Now, we decided to approach Your Lordship rather than rely on an interpretation as to whether this is a meeting or not. I do not want to make any submissions on

that/...

that because it is really a directive from Your Lordship whether you intended this sort of activity. Your Lordship does not have to give a ruling now. I can make this available, the prospectus available to Your Lordship. It starts on Tuesday, coming Tuesday, I understand.

COURT: Just hand it up.

MR BIZOS: The big prospectus is the course as a whole, the one inside is the special course that he wants to attend, and it describes briefly but rather explicitly what the course involves. That is the piece of paper that really describes it.

COURT: Where will he attend the course?

MR BIZOS: In Johannesburg.

COURT: So it is on Monday and Thursday of each week?

MR BIZOS: I did not notice that, but that is what it says.

COURT: And on Saturday morning.

COURT: What is your attitude, Mr Jacobs?

MNR JACOBS: Edele, op die oomblik het ek heeltemal onvoldoende kennis. Ek weet glad nie watter tipe vakke aangebied word nie.

HDF: Sal u net 'n bietjie kyk na hierdie kennisgewing? Op die oomblik oorweeg ek 'n vrystelling vir die oopwoning van hierdie besondere kursus, op Maandag en Donderdag elke week van 19h00 tot 21h00 en op Saterdagoggend van 08h15 tot 12h30.

MNR JACOBS: Edele, kan ek tot Maandag toe kry, want ek sal moet vra vir die - ek weet nie of daar genoeg besonderhede daar is nie. Ons moet vra van die politieke aars van dit en miskien besonderhede deur die polisie kry.

HDF: Ja, maar moet die beskuldigde nie vandag registreer

nie/...

nie? What is the last date on which you can register?

MR BIZOS: M'Lord, could I take a specific instruction? I was told that the course starts on Tuesday. He can register during the weekend.

COURT: Can he still register on Monday morning?

MR BIZOS: I may say, M'Lord, that I did hand these papers to Captain Botha yesterday hoping to get an attitude.

COURT: Well, I hand this to you, Mr Jacobs. I want an answer at tea time.

MR BIZOS: Could we find in the meantime whether it can be done?

COURT: At tea time today.

FURTHER CROSS-EXAMINATION BY MR JACOBES: Mr Molefe, we were busy with "AAA13". On the first page I want to read the following:

"We shall realise that a working document is like a policy of an organisation which gives clearly its direction to the membership in their daily activities, pursuance of the organisation's aims and objects. It serves as a guiding principle to any action or campaign to be taken. It gives clarity and uniformity to practice and theory. In short it makes it possible for our ideals and beliefs to be carried out in action without any contradiction."

I put it to you, Mr Molefe, you repeatedly told the Court it is not policy of the UDF or something like that, but I put it to you that the way the UDF conducted its campaigns, its work during the period is in accordance with this that is stressed and stated here in this document. -- I disagree, and in that respect I would like to refer to EXHIBIT "C102",

a resolution on the International Year of the Youth. The section under "Therefore resolved", that is the last part of the resolution, item 2, it says:

"Resolved to call upon the regional and national IVY committees to seek affiliation to the UDF and work in close liaison with the UDF both at regional and national levels."

This was a resolution adopted in April 1985 before that document was drafted.

(Mr Molefe, do you know whether in the past, that the ANC also called for a national convention? -- Yes, I know that the ANC did call for a national convention, some time in the past.

COURT: How long ago was that? -- I think it was - I think between 1959 and 1961 or so, and there had also been a call before that. That call I think was made by several organisations which later became known as the All African Convention. I think it was during 1935, 1936. I believe also that when the national convention of around 1908, 1909 was called by the English and Afrikaner people, from the African side there was again a call for a national convention at that time. That was not done by the ANC. It was done by, I think vigilance associations that existed at that time.

MR JACOBS: And I put it to you that the call for a national convention by the UDF is only carrying out still the same policy of the ANC when it called for a national convention? -- That is not so.

And can you tell the Court when the ANC called for a national convention, it also called on the same basis as this one, that there must a new government, a government of the/...

the people? -- I believe it said that there must be negotiation for a constitution acceptable to all.

And then, is it also true and do you agree that .. -- I may also say that that is the same call made by Chief Buthelezi and his Inkatha movement, similarly the PFP made that same call.

The same call as the ANC? -- They called for a national convention. So did Dr Sam Buti in the past, he made that call.

And I put it to you further, Mr Molefe, that the ANC and the UDF both proclaim that they are peaceful organisations? -- The UDF is a peaceful organisation. I cannot say the same of the ANC.

And it put it to you, your idea of peaceful is also the same, that there will only be peace after realisation of a government of the people? -- I think those are two separate matters. I do not accept the proposition. There is a difference between an organisations that conducts its affairs, its struggle peacefully, and the whole question of looking at the situation in the country as to whether there can be peace where there is no justice, and then in that respect, in respect of the situation, the general situation in the country, one would say that there will be peace when apartheid is gone, when there is justice. It does not follow therefore that the organisation will conduct itself violently. It would remain a peaceful organisation.

And I put it further to you that both the UDF and the ANC proclaim that before the realisation of a government of the people there will not be peace in this country? -- I do not know if the ANC - I believe it might have said that, but

we believe that once there is a government of the people, a government in which Black and White people vote as equals for a single government, there will be peace, there will be justice.

And before that there will be no peace in this country. Both of you proclaim that to be your concepts of peace? -- Yes, apartheid and peace cannot be fellow-travellers or bedfellows. They cannot co-exist because apartheid has got contradictions that give rise to conflict itself. For that reason there cannot be peace for as long as apartheid subsists, in other words for as long as there is no justice for all.

CBURT: Could I just get a clear perspective on your view? Do you say that anything which is not a unitary state in South Africa and not a majority non-racial vote in parliament, is apartheid? -- If it is entrenched in a constitution, constitutionally and it is decided upon by a minority of people who tend to be white in our country and who are in power, to the exclusion of the rest of the people, it is apartheid, it is enforced, and secondly I would say, I would argue that the very nature of apartheid is such that it has got to be maintained by force.

Yes, that is a different matter. I want to know what your perception of apartheid is. What has to go until you say that there is no apartheid any more? -- Laws like Group Areas Act must go; the law that says only White people may stand as candidates and may vote for the central government of the country, must go; the law that says that people must be registered as belonging to certain population groups and having to have certain amenities specially designed for them

on/...

on the basis of the racial groups to which they belong, must go. The creation of inferior local government structures in areas which are not industrially developed specially for other racial groups must go. The whole question of education having to be separate and expenditure on education having to be determined on the basis of the skin colour of a person, must go. The laws which say only White people can trade in certain central business districts must go. There is really a whole range of these things. That would also include laws which say certain areas are so-called White areas and Black people cannot live there, they have got to be forcibly removed to the homelands and so on; the laws which say that Black people who come from rural areas can only seek jobs on the basis of contracts as migrant labourers, which thing does not apply for White people, should go. Really there is a host of these laws which - the list is long to quote.

You did not detail all the small details. So as far as you are concerned, any constitutional development in the line of the retention of group identity would be unacceptable? -- If that is done by one group to the exclusion of the other, it is an (?), but if in a democratic situation where people are free to speak out, are free to vote and the decisions not imposed from the heights of present apartheid power structures, then one cannot go against it, if in a democratic set-up people decide that they want that kind of a thing, one cannot go against it, but I believe - I have no doubt in my mind that ..

But would that not still be a form of apartheid as you see it, in terms of your definition? -- Well, I believe it would not be entrenched, I do not think it would be entrenched in/...

in apartheid.

Apart from entrenchment, I have started on the basis of a constitutional development, so it would be entrenched in a constitution obviously? -- Well, if it is democratically arrived at, with every person participating, which is a very remote possibility, I do not think people will choose apartheid if they are given the opportunity to choose. They would not choose apartheid. They would for instance, I think, go for things like guaranteeing that if I am an Afrikaner nobody would interfere with me if I want to speak my language, if I want to attend to certain cultural matters which pertain to my history and my tradition. Similarly with an Indian, I think with regard to those kind of things, there would generally be consensus, like for instance the Jews.

That is individual rights. I was talking of group rights. -- Sometimes people call those things group rights, they want to do them as groups, like the Muslims and so on.

MR JACOBS: Mr Molefe, I put it to you also that the UDF and the ANC also propagate the same propaganda that it is the Government that is the reason why there is no peace in this country according to your views? -- It is true that we say that it is the policies of apartheid pursued by the Government that create conditions for the absence of peace. The ANC might well have said that, but many other people have said so.

And is it correct, Mr Molefe, for conflict to be possible and for the Government to be fighting against, there must be somebody to fight against? -- I do not understand the basis on which counsel is putting that to me now.

In/...

In order to be violent, in order to oppress, in order to kill people, there must be somebody against whom the Government is fighting then? -- I do not understand how that statement comes in.

And I put it to you that the conflict that there is in this country is as a result of the mobilisation, organisation and politicisation by the UDF and also by the ANC in order to engage the Government? -- I reject the proposition.

And I put it to you further that the struggle of the UDF and the struggle of the ANC in regard to the active participation of the masses are identical in all respects? -- May counsel repeat the question?

I put it to you that the struggle of the ANC and the struggle of the UDF in regard to the active participation .. (INTERRUPTION) I put it to you, Mr Molefe, that the struggle of the ANC and the struggle of the UDF in regard to the active participation of the masses in the freedom struggle are identical in all respects? -- I do not accept that. It may well be that the ANC made the same calls that the UDF made. I do not know about that, but clearly we in the UDF can distribute our publications, go door-to-door, talk to our people openly and get them to participate in the UDF activities. I do not know if the ANC has been doing those things.

And I put it to you that in actual fact the UDF is carrying out the policies and aims of the ANC in this freedom struggle? -- That is not so.

And that the UDF came into being as a result of the call of Mr Oliver Tambo on 8 January 1983? -- I disagree for the reasons enunciated, stated in my evidence previously.

Mr Molefe, you gave evidence and you said that after the call was made by Mr Boesak that the United Democratic Front must be formed, that a group of people in March invited you to take part in the formation of the UDF? -- That is so.

Who were they? -- I recall Amos Masondo, I recall Eric Morobe, I recall Reverend Frank Chikane, Ismail Mohomiad, Mohamed Valli, I think Prema Naidoo at some stage - well, really, these meetings were taking place at different time.

I am asking you, the group that invited you to take part? -- From the outset?

Yes, in March? -- I recall those names. I do not know if Naidoo and Cachalia were present at the very first instance. These things happened quite long ago. It may well be that I might be mixing some of the names.

Do you know from which organisations were they at that stage? -- Amos was a member of the Soweto Civic Association at that stage, Eric was a member of both the Civic Association and the General and Allied Workers' Union, Reverend Chikane was a member of the Soweto Civic Association as well as a church organisation, I think it is an institute for contextual theology, Prema Naidoo had been involved in, I think the Federation of Ratepayers Associations, FRA in Lenasia, Cachalia had been a member of the Benoni Student Movement, I think he was also a member of the BSS, Black Student Society based at the University of Witwatersrand. I think he had also been involved - I do not know to what extent - in the Transvaal Anti-Sake. Mohomiad had been the secretary of the - was the secretary of the Transvaal Anti-Sake; Mohamed Valli was also a member of the Transvaal Anti-Sake. He had also been a member of, I think the Federation of/...

of Ratepayers Associations. I think that is all the names.

Were there any members of the Transvaal Indian Congress?

-- At that stage there was no Transvaal Indian Congress.

Was it not formed on the Anti-Sake meeting in January 1983? -- My recollection is that it was really formed in May 1983.

And the Natal Indian Congress? -- Natal?

Yes? -- No, they were not there.

Now, you also gave evidence to the effect that you had discussions to bring regions together and a steering committee was formed? -- That is so.

Was it a steering committee formed to bring together the regions and that means regions of the UDF? -- A steering committee to work towards the national launching of the UDF in which - that would of course entail bringing together those regions into a national front.

COURT: When were you approached by this group, at what stage? Were there already UDF regions in existence or not? -- No, there were no regions in existence. I believe counsel is referring to a meeting held in July 1983, because that is the meeting that set up that interim committee.

Yes, but I thought that the Transvaal region of the UDF existed before July 1983? -- That is so, but I thought Your Lordship was asking about the invitation extended to me during March. Transvaal was only set up in May 1983, Transvaal UDF.

MR JACOBS: Now, your evidence was to the effect, if I understood correctly, that the steering committee was set up to bring the regions together? -- Into a national conference, launching conference.

When/...

When was that committee set up? -- It was set up in July, the end of July.

And which regions were in existence at that stage? -- It was the Western Cape, Natal and the Transvaal regions at that stage.

And who were the members of this steering committee? -- I became part of it. I think Mr Archie Gumede became part of it.

You were representing which organisation at that stage? -- I was nominated by the Transvaal region of the UDF.

And did you at that stage represent any organisation? -- Yes, I was a member of the SCA.

And was it affiliated to the UDF Transvaal at that stage, Transvaal region? -- There was a general acceptance that it was part of the Transvaal region.

That is you yourself, and who else? -- Maybe I should take it region by region to the extent that I can remember. From the Transvaal it was myself, it was - think Mr Cassim Saloojee.

At that stage, which organisation was he representing on the Transvaal region of the UDF? -- He was a member of the TIC at that stage. The TIC had been formed already. I think GAWU, General and Allied Workers' Union was - there was also Monde Mditshwa, I think.

Was he from GAWU? -- Yes.

And he was representing which organisation, GAWU? -- Really nominations were done by really the regions of the UDF, but he had been also a member of GAWU, General and Allied Workers' Union.

He was representing GAWU on the region of Transvaal? --

That/...

That is so.

ASSESSOR (MR KRUGEL): And Mr Gumede? -- He was from Natal. I will come to that later. I believe Mohamed Valli was also on that executive, that interim committee.

MR JACOBS: Representing which organisation on the region of UDF Transvaal at that stage? -- He was a member of both the TIC and FRA at that stage. I believe Dr Saloojee was also part of that.

Is that Ram Saloojee? -- Yes.

Which organisation was he representing on the Transvaal region at that stage? -- I think he was representing either the TIC or ICOSA, Islamic Council of South Africa, I think. Those are the names I can remember now. The difficulty I had myself was that I could not attend those meetings regularly. In respect of Natal I recall Mr Archie Gumede.

Which organisation was he representing? -- He had been a member of the RMC and he was also on the Natal region of the UDF.

Was he representing RMC in the Natal region? -- In the Natal region of the UDF.

Yes? -- Then there was Prof Coovadia.

Which organisation was he representing on the Natal region? -- I am not sure, but he had been a member of the NIC. Really when this interim committee was set up, the whole thing was viewed on regional basis rather than specific affiliates.

Who else from Natal? -- I recall there was also Adv Zac Yakoob.

Do you know which organisation he was representing on the Natal region? -- I believe he had been on the executive

of/...

of the Natal region of the UDF. I believe he had also been a member of the NIC.

COURT: When was the NIC started? -- I think in 1894.

It was not discontinued? -- It was discontinued and I think revived again in 1971 or so.

MR JACOBS: Yes, who else? -- I cannot remember the others. Then the Western Cape, I think the Western Cape was represented by Trevor Manuel.

Do you know which organisation he was representing on the Western Cape region? -- I believe he was a representative of the Cape Housing Action Committee, which had also been an affiliate of the Federation of Cape Civics. I do not know whether he was representing the Federation of Cape Civics or he was representing CAHAC.

CAHAC, is that Cape Housing? -- Then there was also Joseph Marks.

Which organisation was he representing on the Western Cape region? -- I think he had been a member of Western Cape Traders Association, I think another - also a member of a civic or ratepayers association. I do not know which one. I cannot remember.

Yes, who else? -- I think Cheryl Carolus was also there. I am not quite sure.

Which organisation was he representing? -- She had been a member of the United Women's Organisation.

Yes? -- And I think Oscar Mpetha was also there.

Yes, and which organisation was he representing there? -- I think he was a member of the Langa Civic Association.

COURT: Was he not a trade unionist? -- He was also a member of the Food and Canning, but he was not representing that trade/...

trade union, because that trade union had not affiliated to the region. I think those are the names I can recall now.

MR JACOBS: Mr Molefe, what were their duties, this steering committee? What were the duties of the steering committee?

-- The overall task of the steering committee was to work towards the launching of the UDF National, to ensure that co-ordination of discussions pertaining to that, and ensuring that there was enough publicity, all really matters relating to ensuring that that launching took place.

And did they have any duties in regard to drawing up the declaration? -- Yes, they would have had - one of the duties obviously was to ensure that there is a draft declaration arising out of the declarations of various regions, but that was not really done directly by that broad committee. That was done really, the practical work was done by what was called the advanced planning committee, comprising of secretaries from the three regions, and some individuals who were called upon to help later on. At that stage I and Mohamed Valli were the co-secretaries of the Transvaal region having been elected on 6 August 1983, and then from the Western Cape we had Trevor Manuel and Cheryl Carolus, both secretaries of that region, and from Natal we had Yunus Mahomed and Joseph Phaahla. Then I think later on we asked regions to send additional people to help because there was really too much work for the Western Cape region. A whole lot of little committees were set up for each task relating to the conference. Now, that Advance Planning Committee, especially the secretaries had to see to it that that declaration was put together and we asked people to work on that, and I think Natal had been given the task of working, drafting

the/...

the working principles, national working principles. I think they had been given that task really at the meeting of 30 and 31 July.

Is that the Natal region? -- That is so.

Just before I forget, you mentioned Joe Phaahla. Is he the same man who was also the president of AZASO? -- That is correct. He had been the president. I think that year was his last term of office. I cannot remember quite well, or maybe he was no longer on the executive. I cannot remember what the position was.

Mr Molefe, now, who decided on the people that were going to be advanced as the executive of the UDF and the patrons of the UDF? Who decided on that? -- That was done by regions, and the interim committee synthesised, put together, co-ordinated the views of the regions.

Can you also tell the Court when and who took the decision that the UDF National has to be established? -- That decision was taken by - I think the recommendation was made either by the Natal region or the Western Cape region, I am not sure, but it became part of the discussions on 30 and 31 July. My recollection is that in fact by the time that meeting took place, there had already been discussions in regions as to whether we should not consider launching a UDF National. I think one of the things really that gave an impetus to that was the fact that the Government, the parliament was about to pass, I think the constitutional bill, it was going to be tabled, I think in September of that same year and we sought to have a bigger voice by the time that happened. The other reason was that there had already been the National Forum Committee formed and we sought to project the/...

the UDF as a national front with more affiliates and much broader than the National Forum Committee. We were hoping also of course to influence them to become part of us.

So was it the regions then who came together and decided on the national launch of the UDF, that there must be a UDF National? Were they combined in one meeting or what was the position? -- Yes, that decision was finally taken on the basis of the feed-backs from various regions at that meeting of the 30th and 31st, the discussions having started earlier than that time.

And Mr Molefe, can you tell the Court, where and when was it decided that it is important that UDF must mobilise and organise and politicise the meetings? Was it before the launch? Was that one of the aims? When did you decide that, of the masses of the people to be organised, mobilised and politicised? -- I do not understand the question.

When was that decision taken, that that be one of the aims of the UDF? Was that still before - during this period that you planned the UDF and by whom was it decided? -- Well, I think that is really something that developed organically within each of the regions, because people had really - organisations and individuals had been part of previous campaigns, like the Anti-Sake and so on, so what people were really saying was, let us do what we did previously with regard to the Anti-Sake campaign, the other anti-community councils campaign and other activities that they took up. So that at the national launch, I think, these things just emerged like that. These are the things that people had been talking about really for a long time. I cannot pick on a specific moment and say, this is the time when/...

when we first started talking about mobilisation and organisation. These are concepts that had been there for many, many years.

Mr Molefe, was it part of the duty of the general secretary of the UDF and the publicity secretary of the UDF to also go out and organise for the establishment of regions? -- If I may ask, are we dealing with a different period altogether now?

Yes, since the launch of the UDF, after it? -- After the launch of the UDF?

COURT: Launch, national or regional?

MR JACOBS: Launch national? -- Yes, that was part of our duty. We inevitably found ourselves having to do that.

COURT: To organise? -- Help people from their own regions. That would really have entailed explaining to them what the UDF is, that it was a front of organisations, how they could begin to form their own local structures of the UDF, why the UDF was formed and so on, our relationship with affiliates once they were affiliated to the UDF, discussing the declaration of the UDF and the working principles and so on.

And was it also - not only that, but did you also assist in other ways, to supply money and implements, printing, to be used for printing and such? Roneo machines and so on? -- I think once there was a structure, once a structure had developed, things like acquiring maybe a copying machine or roneo machine were considered, but I cannot recall a specific situation where the UDF actually provided that to any region. In fact to my knowledge it did not happen. I recall that there was an organisation called, I think ZACE in the Western Cape which at one stage had promise

either to loan or to give a roneo machine to the Northern Cape region, but at the time of my arrest that did not happen.

And also in this organisation, to form a region, do you supply them with literature, pamphlets, assist them in printing pamphlets and all that? -- Yes, I think that we did, UDF News in particular, that we did, with regard to the Northern Cape I think, and the Border region.

And also, Mr Molefe, after all the regions, in respect of all the regions of the UDF that came into existence, their expenses are paid also by the UDF? -- I would not say all the expenses. In the manner in which I have explained it previously when Your Lordship asked a question, when the national office had money, a surplus money, that is once the national office had drawn its own budget and arrived at a conclusion that we are able to cover our budget, it would then decide, the national treasurers would then decide how much could be given to each of the regions, and with the proviso that those regions will give a statement, financial statement, give a statement as to how they spend that money.

Is it not so that the regions had to supply and send their budgets to the UDF National? -- That is so.

And then they will approve how much it is able - the UDF National is able to give to them? -- Yes, that is so. I think my recollection is that in fact the principle applied was that the UDF National would give a grant of one-third of the budget of a region, that each region should raise, say, about two-thirds of its own budget.

COURT: Was the regional budget subject to control by UDF National or was it merely for information that the budget was/...

was sent through? If you are tied to one-third, you have to have some sort of control? -- Yes, in respect of that one-third I think they would have had to account on how it was spent, because the national treasurer would have to keep books. He has got to show how he used the money. I cannot recall specifically what was said about the other two-thirds, but in respect of the money that they got from the national office, they were expected to account for that.

I put it to you, it goes further than that. It was actually controlled by the treasurers? This was all conducted by the national treasurers of the UDF? -- In that respect yes, in the context in which I have explained it.

Now, Mr Molefe, you and accused no 20 did go to the Free State to try and organise the establishment of organisations and a region of the UDF in the Free State? -- I do not know, I cannot recall our task being the establishment of organisations, but to assess conditions whether it was possible to set up the UDF and identify organisations that existed there, discuss with them the whole question of the UDF and assess the attitude to the UDF and so on, and if necessary ask them to organise workshops where we could discuss the UDF. That we did.

And is it also correct that you and accused no 20 assisted in setting up a region in the Northern Cape? -- I do not know the extent to which he was involved, but I did assist, although by the time I really came into that, they had long started themselves, and of course by the time of my arrest, a fully structured region had not been formed yet.

Is it also correct that you assisted in an endeavour to put up a region in Northern Transvaal? -- Not really, maybe insofar/...

insofar as I went there and spoke about the UDF, maybe, but that was not my task. I really attended just one meeting there, as far as I can recall, and it was a mass rally. As far as the Northern Transvaal was concerned, we saw that as the responsibility of the Transvaal region of the UDF.

Who was the person or persons responsible then for the setting up of a region in Northern Transvaal? -- I would say there was anybody responsible for the setting up. I say it was the responsibility of the region of the UDF. All I can say is that my recollection is that no 20 did some visits to the Northern Transvaal, but he did not report to me. I do not know how far he went.

And accused 21? -- I mean that, I mean 21.

And accused 20? -- No.

Do you know whether he assisted there? -- No, I do not know.

Now, did you and accused no 20 assist in the setting up of a region in the Border region? -- I assisted. I cannot recall if he did assist. I assisted insofar as I had to go there and discuss the whole concept of the UDF, declaration, 2 autonomy of organisations affiliated to the UDF and so on. I cannot remember if he went there.

And in the Eastern Cape, did you and accused no 20 assist in setting up the region in the Eastern Cape? -- We were invited to a workshop in the Eastern Cape to discuss the UDF. We attended that workshop, and I am not sure, possibly he was at the launching conference, the launching rally of that region. I am not certain about that. I may also indicate that of course, I think subsequent to that workshop I also addressed a mass rally, a mass meeting 31

attended/...

programs of that region.

Is it correct that in relation to workshops, that that is some of the expenses that - although the regions pay for it, but they are reimbursed by the UDF National on that? That is some of the expenses that is the responsibility of the national office? -- That was not the position in my time in the UDF. I cannot remember. When we went to the Eastern Cape, they paid for their own workshops, the arrangements and everything, the venue and all that. They paid. It was not paid for by the National.

And if it is necessary to pay for venues or pay for people staying over, and they cannot pay for it or even travelling expenses, that all was paid and it must be accounted for to the national office and then they will pay it? -- I have got no experience to that effect.

Edele, kan ek net sê, daar sal geen beswaar wees nie.

MR SIZOS: M'Lord, I have just been told to draw to Your Lordship's attention that it is not on all three days, but apparently a choice has to be made. I have just been told this, depending on the particular enrolment, and this is why we cannot be certain about it.

COURT: I will grant a general permission now, and you can give me the dates of the lectures, the dates or days of the lectures and the times of the lectures.

That permission will then be granted as soon as you give me the particulars of the times, and in the meantime he can register.

MR SIZOS: Yes, M'Lord, he can register for the course in the meantime and on registration they will tell him which classes.

Then/...

COURT: Then you will tell me and I will amend the bail conditions.

THE COURT ADJOURNS. THE COURT RESUMES:

POPD SIMON MOLEFE, still under oath:

FURTHER CROSS-EXAMINATION BY MR JACOBS: Mr Molefe, is it correct that the UDF national office also assists in forming new organisations in the townships in order to affiliate to the UDF? -- Not really, but in our speeches we would really encourage people to form organisations.

But Mr Molefe, you did go down to the Vaal to hold meetings there to encourage the people to form organisations to affiliate to the UDF? -- I testified to the effect that when I went to the Vaal Triangle, it was at the time, shortly after the UDF had been launched nationally. We sought to publicise the UDF to take it to as many people as possible in all parts of the country, and to this extent meetings were either organised by affiliates of the UDF or individuals in communities were inviting UDF to these meetings, and the meeting that was in the Vaal Triangle was a meeting that was organised by enthusiastic individuals who supported the idea of the UDF after reading about it in the newspapers and so on. So that the purpose really was to explain to the people there what the UDF was all about, and in the course of that I did make a call on those present to consider forming a UDF area committee.

Did any other of the officials of UDF National go out to the townships to propagate and popularise the UDF and in order for organisations to be formed? -- Which townships?

I do not know, any other townships? I ask you? -- Yes I virtually addressed hundreds of meetings.

In/...

In the townships? -- In various parts of the country, townships included.

And order to popularise the UDF? -- That is so.

So that organisations can be formed and to affiliate to the UDF? -- So that organisations could accept the idea of the UDF and begin to debate the possibility of affiliating to the UDF.

And in the Vaal, except for you, did any of the other officials of the UDF National go to the Vaal to hold meetings and address the people? -- At what stage?

After the launch? -- Yes, in 1983 I went there with Mr Bokala, in 1983 I was with Mr Bokala and in 1985 Mrs Sisulu and myself addressed another meeting in the Vaal Triangle around the issue of Black Christmas, and I think there has been evidence here that certain people who were in the UDF addressed certain meetings. I think they were approached either as individuals or as members or affiliates of UDF. We have heard that evidence.

Mr Molefe, the meeting of 18 September 1983 that you attended in the Vaal, who were the people who organised that meeting? -- My recollection is that Thlathuku was the key person there, and I got the impression that Sepu Potulu who was the chairperson of the meeting had been involved. I do not have the details.

Who else? -- That is all I know.

And accused no 22? -- He was present there, but I cannot say he organised the meeting.

And you did approach him for the Vaal Civic Association to affiliate to the UDF? -- I did not approach him. I made a call, I made a suggestion, recommendation in that meeting that/...

that they could form - organisations could affiliate to the UDF. That was in the context really of explaining the nature of the UDF, relationship with affiliates and the fact that they could really form an area committee of the UDF where there were no affiliates. I made that call really in that meeting openly and he responded by saying that they had long decided as residents of the Vaal to form their own civic organisation and that was their priority at that stage, they did not want to divide their attention, and they believed that once that organisation was formed, they could decide whether they went to affiliate to the UDF or not.

And I put it to you, Mr Molefe, in actual fact the UDF did assist the people in the Vaal in forming a civic association? -- Which UDF, the national office of the UDF?

And the region of Transvaal? -- Insofar as the national office of the UDF is concerned, that is not so. I cannot answer for the Transvaal office. I do not know about that. That is not in accordance with my knowledge and experience.

You cannot dispute then that the UDF Transvaal did assist, also that the Soweto Civic Association did assist in the forming of the VCA, Vaal Civic Association? -- It may well be that they had discussions with some members of the SCA. I do not know about that. We have never discussed that in a meeting of the Civic Association. I do not know.

Mr Molefe, the Transvaal region of the UDF, did they ever report back to the National Executive of the UDF on what they were doing? -- In respect of the Vaal Triangle?

Also the Vaal and other activities in which they engaged on behalf of the UDF? -- From time to time the National Executive Committee received reports from regions on the

general/...

general campaigns of the UDF. I do not know - the national office never really sat down to discuss the nitty-gritty of every little area in the townships, which organisations you are working with, what are the specific activities of those organisations. That is not what the national office concerns itself with.

My question was a simple one: did they report back on the activities and inter alia on the formation of new organisations and assistance given to organisations? -- Well, I cannot recall that specific instance. It may well be that there was that kind of a report. But I cannot recall.

Mr Molefe, is it also correct that the national office regularly distribute copies of the minutes of each executive meeting of the national office to the regions of the UDF? -- Yes, those present - they do get that, the regional offices do get a copy of the minutes. They just get one or two copies and then they can decide if they want to reproduce copies.

Is it only one or two or are they supplied to all the members of the regional executive of the UDF? -- No, I supply the minutes to all the members of the NEC, not regional executives. Of course within the regional executives there would be - in fact the position was this: I would send a copy of the minutes to the regional secretary and ask him or her to reproduce that copy and make a copy available to each member of the NEC, not each member of the regional executive. That was not my duty. I was not accountable to regional executives.

I suppose you did not send them, you handed them over in the Transvaal, to secretaries in Transvaal? -- Yes, in the/...

the case of Transvaal, they were just our neighbours.

Mr Molefe, is it also correct that the regions of the UDF send their minutes of meetings held by them to the national office? -- No, they did not do that.

And is it also correct that the minutes of the regional offices of - the regional executive meetings were sent out to all the affiliates? -- Of the executive?

Of the regional executive? -- That is not my experience. I do not know about that.

And of the general council also sent out to the affiliates? -- Yes, of the General Council, I understand that each affiliate would get a copy.

Mr Molefe, is it correct that the witness .. -- I may say in respect of that answer that the principle was that an affiliate should be sent copies; whether that in fact was done by the secretaries I do not know.

COURT: That is now copies of the minutes of the RGC? -- Or the RGC.

Or of the RCE? -- Of the RGC, Regional General Council.

MR JACOBS: Mr Molefe, a witness IC 17 did come to the UDF offices and ask for their assistance. Is that correct? Of the UDF? -- Who is IC 17?

The man from Thumahole? -- And ask for?

Assistance? -- To the office of the UDF?

Yes, assistance where you were present, accused 20 was present and Bishop Tutu was present? -- Not at the office of the UDF. He went to Bishop Tutu's office.

But he did ask the assistance of the UDF to intervene and ask the organisations in Thumahole not to burn his place? -- He did not. He phoned me after that meeting

asking/...

asking me to issue a statement on his behalf, and I did not agree to that. I gave him the telephone numbers of various newspapers.

Why did he come and see you and accused 20 and Bishop Tutu?

MR BIZOS: M'Lord, I think with respect, the evidence is not well remembered. The evidence was that he went to Bishop Tutu and Bishop Tutu called on accused no 19 and 20, if my memory serves me correctly.

COURT: The evidence was, he went first to Bishop Tutu's house on the one day, and thereafter an appointment was made at Bishop Tutu's office and then Bishop Tutu asked these gentlemen to be present and then the meeting started.

MR BIZOS: So that person did not go to accused, Mr Molefe and Mr Lekota.

MR JACOBS: Did he ask the assistance of the UDF and Bishop Tutu including you and accused no 20 to assist him? -- I think we must separate the issues. When we talk about the UDF, let it be the UDF. When we talk about Bishop Tutu, let us deal with Bishop Tutu, and then we can be able to deal with that. As far as I am concerned, he did not ask the UDF to do anything for him, in my presence. I have given my evidence, and in my evidence in chief I indicated at what stage I joined that meeting, and during that period he did not ask the UDF to do anything for him.

Mr Molefe, I put it to you, he did go to Bishop Tutu (because Bishop Tutu was a patron of UDF and as a result of what he read, IC 17 read in the newspapers about councillors must resign, and that is the policy of the UDF). -- That he read that Bishop Tutu was a patron of the UDF in the newspapers/...

1) Check evidence in chief
2) Why would the cutting put in by the State.

newspapers?

Because Reverend Tutu was speaking as a patron of the UDF, and I put it to you that he went to Bishop Tutu and that you and accused no 20 later joined him and I put it to you that that was regarded by all of you as actually referring to the UDF? -- That is not so. Bishop Tutu was a patron of the UDF, and we hold him in very high esteem; he is a respected man. He does not speak for the UDF. He speaks for the UDF on specific mandates, if he can ask for a mandate or he can be given a mandate by the National Executive of the UDF, he can speak for the UDF. I do not know what he had said previously, before that meeting took place, but whatever he might have said, he was not speaking for the UDF. If he had said something which I C 17 had read in the newspapers and prompted him to come to the SACC, and secondly I have testified in this court to the effect that I joined that meeting at a particular point in time, and in the course of the discussions that were taking place in that meeting, the UDF had been accused, and insofar as that accusation which was really not even an accusation, he was really saying that we suspect, we think that the UDF is involved. Insofar as that is concerned, yes, the UDF became the subject of discussion.

Mr Molefe, did he ask for assistance against his place being burnt and for his own safety in Thumahole? -- He asked Bishop Tutu to issue a statement as Bishop Tutu of the SACC, to issue a statement calling on the residents of Thumahole not to attack his property or his properties.

And did he ask for assistance? -- In that respect, yes. That is the kind of request he made, as I recall it.

And/...

And was he under the impression that UDF also had something to do with that violence in Thumahole? -- At a particular point in time when I got in there, I was told that, yes, but once the matter had been explained to him I understood him to have accepted the explanations.

And is it so that the organisations organising in Thumahole were members as affiliates of the UDF? -- They were not.

Not one of them? Not a single one? -- They were not.

Who organised the people in Thumahole? -- Well, I do not live in Thumahole. I do not know. We have had evidence here that there was a Thumahole student organisation, we had evidence that later on there was a Thumahole Civic Association.

Do you know of any organisation in Thumahole affiliated to the UDF? -- At the time of my arrest I did not know of any.

Do you know whether accused no 20 visited Thumahole during the time of the unrest in Thumahole? -- It does appear like on - either on Monday of the 16th or 17th or something, he somehow got involved there, he got arrested somewhere in the Free State. I cannot remember specifically whether he had gone into Thumahole or he was arrested in Parys in town. I cannot remember specifically.

Do you know whether he went there on business of the UDF? -- I do not know.

Was it ever reported whether he went there on business of the UDF in any of the meetings? -- My recollection is that it seems like he went there after he himself had heard of what had happened. I do not know the details. I cannot

remember/...

remember the details.

Mr Molefe, I put it to you that it was possible for the UDF, if you were keen on peace as you are saying, to assist this man IC 17? -- In what way?

In contacting the organisations in Thumahole and ask them not to carrying on with this burning of the place and terrorising ..

MR BIZOS: There is no evidence that the organisations were responsible for this, M'Lord.

WITNESS: All I can say is that we did issue a public call which was made by no 20. I believe it was on 18 July, either on the 18th - I think it was on 18 or 19 July - no, on 19 July.

COURT: Was that a press statement? -- It was reported in the newspapers. I do not know if he issued a press statement but I know that he made that call in a public meeting.

Do we have that before Court, that press statement?

MR BIZOS: It has not yet been proved but it will, M'Lord.

MR JACOBS: And I put it to you that the UDF as a peaceful organisation against violence did not do anything to assist this man? -- We had dealt with it in the manner that we thought was the correct manner.

And I put it to you, that was because it was contrary (to the policy of the UDF to assist any councillor in any (place in the country? --) I reject the proposition. The statement made by no 20, a call made by my colleague here, Mr Lekota, in that meeting on the 19th testified abundantly clear as to the attitude of the UDF regarding the attack on the properties of councillors and the councillors themselves. He made a call that people should not attack the councillors.

If/...

If there is anything that could be done to boycott their businesses, their taxies, their shops and so on.

And I put it to you, Mr Molefe, it was the general tendency of the UDF not to try to stop any violence where it occurred in the townships? -- That is not so.

I would like you to have a look at EXHIBIT "AB19". Have you got it? "AB19", the second document. -- I have got it.

Mr Molefe, that was a letter or a memorandum written by you? -- That is correct.

And that is an official national office publication? -- That is correct.

And it is from UDF and COSAS, Popo Molefe and J Khumalo and the date is 21 January 1985. The heading is "Proposals for Discussion on Education Crisis". Now, this memorandum, to whom was it sent? -- It was sent to the regions of the UDF. It was intended also to be discussed by parents' committees which had been formed. It was also sent to respectable personalities like Bishop Tutu, Archbishop Hurley and Dr Boesak and so on, as well as the trade unions.

I would like to read from the first page, the information given there:

"The following observations were made, that there was general confusion as students did not know whether to go back to school or not; that whilst some students had gone back to school, many are still out on boycott, for example Port Elizabeth, Fort Beaufort, Cradock, Lamontville, Uitenhage, registering almost 100% boycott. The Vaal, Soweto and Pretoria have relatively high numbers of students at school but not all students have gone

back/...

back; that the Congress of South African Students has not been able to make a national call of any kind because of the variety of problems manifesting themselves differently and in different regions and localities. Although the overall demands are as previously stated by COSAS, there are other problems such as unfair dismissals and suspension of teachers and students. We have here in mind the situation in Cradock and Lamontville where teachers have been arbitrarily dismissed. Here students and parents are determined that there will be no going back to school until the teachers are reinstated. Although earlier on the DET seemed willing to resolve the crisis, it seems like they are returning to their all-time intransigence. This means that they may not resolve the crisis even in the short term; that although some students have gone back to school, ~~the~~ potential for another school boycott and violence at a larger scale will be a great one, if DET does not meet the demand of the students."

And then the last paragraph under 9:

"The UDF and COSAS urge you to discuss the above questions and to come out with practical suggestions as soon as possible. The most concrete and crucial question facing us, precisely how can we intensify the campaign in the event of the DET refusing to meet the students' demands."

I put it to you, Mr Molefe, this proves again the intention of the UDF. It is not trying to defuse violence, but it is even suggesting here, in the event of violence and the DET refusing to meet the demands, to intensify the violence? --

Where/...

Where is that violence written here in this document?

Look at paragraph 5. -- Where does it say we must intensify the violence?

You can read paragraph 5 and you can read the last paragraph that I have just read to you. -- That is not so. I reject the proposition.

So you did not do anything or try to do anything to defuse the possibility of an escalation of violence in the places just mentioned? -- I have not finished dealing with that, responding. I reject the proposition. In my evidence in chief I stated how we have got involved in attempts to get the students back to school. I also indicated that at the meeting of the national secretariat held in January 1985, a decision was taken that the UDF must get more directly involved as the UDF in resolving the crisis. We do not thrive on the existence of crisis in schools. We would like children to be back in classes. All we are saying here is that there had been previous discussions taking place with the DET, between the DET and various parents' committees with a view to getting the students back to school, and in a number of places success had been achieved in getting the students to accept that the parents would negotiate their problems. Now, at this stage after 1984, there had been a lot of students out of school, and some of the demands that they were making were really demands that could be met, like an end to corporal punishment, an end to sexual assault on students by teachers. That was a matter that could be handled administratively within schools and the Department. So that when we dealt with this issue, the intention was to get the students back to school and to get the DET to address those/...

those problems that it could address. The fact that we included people like Bishop Tutu, Allan Boesak, Archbishop Hurley, the South African Council of Churches, South African Catholic Bishops Conference and the trade unions, we wanted to demonstrate to the Government, the Department of Education and Training that the issue of education was not a matter of little hot-heads in schools. It was a matter that the community as a whole and important personalities in that community and organisations took very seriously and they wanted to resolve it. It was intended to get the DET to resolve the matter, not to create a violence, to intensify violence. The intensification of campaigns here is the campaign to get the students back to school, to normalise the situation in schools.

COURT: Where is it stated that we want the children back in school? -- Well, the discussions in that direction had been taking place for a long time.

[I am not asking you that.] I am asking you, where in this document is it stated under "Observations", we want the children back in school? -- It is not mentioned. I do not think that was mentioned.

[Should that not have been point number one?] -- Well, we have not got it, but it was generally understood that all of us wanted the children to go back to school.

What do you say of point no 6, that:

"The students are on the threshold of victory and that this should not be allowed to slip out of our hands."

-- That one, they had managed to get back to school in certain schools, that they had managed to reach an agreement in respect of the SRC and in respect of corporal punishment and/...

and those other things, and that that kind of a victory, of getting the children back to school should not be lost.

(You say the threshold of victory refers to going back to school? -- And the fact that problems had been resolved in certain schools.

MR JACOBS: Mr Molefe, if we look at point no 5, I put it to you that it is realised and accepted that if the DET does not meet the demands of the students, there is a great potential for another school boycott and violence at a larger scale than before. Is that correct? It is realised? -- That is so. That is why it was important for us to get involved, to impress upon the Department the importance of addressing those problems.

And notwithstanding this realisation, Mr Molefe, and I would like to read again:

"Notwithstanding this, the UDF and COSAS urge you to discuss the above question and to come out with practical suggestions as soon as possible. The most concrete and crucial questions facing us is, precisely how can we intensify the campaign in the event of the DET refusing to meet the students' demands."

In the realisation and acceptance of violence, I put it to you, what you said here is to intensify the campaign of the students in the event of the DET refusing. -- No, that is not the campaign. The campaign to intensify is to get the situation normalised in schools. That is why we involved people like Bishop Tutu, Bishop Hurley, people who are known to be people committed to non-violence, and again the point one must make here is that students are not just children who can just be told, go back to school and they do that.

They/...

They have got their own views and if they decided otherwise, one cannot just overlook their views. There were seven specific demands they were making, which we ourselves said that were justifiable and the surest way of normalising the situation in schools, and the fact that we allude to the fact that if this situation continues, it may well result in violence at a larger scale, it is because we do not want that. We want them to go back, but we also know that if they are not at schools, there might be situations where the police would want to get them back to school by force or where they would want to be in school premises and when the schools are closed, and that would cause a whole lot of problems. So that when that is mentioned, it was mentioned with the view to showing the urgency of discussions and putting as much pressure on the Government to meet those of the demands which were possible to meet.

Mr Molefe, I put it to you that the UDF did nothing to contact their affiliates in these places and try to curb the violence or to try to curb them and say they must go back to school? -- Which violence is counsel referring to?

The possibility of the escalation of violence? -- We discussed the matter. That is why I met with COSAS and then regions were asked also to go on with the discussions, parents committees were asked to discuss the matter urgently.

And I put it to you, that is on par with the case of the person who came from Thumahole to ask your assistance and ask the assistance of the people, the leadership in the UDF, that the UDF did not assist him? -- I disagree with the proposition.

Mr Molefe, when I C 17 phoned you, why did you not refer/...

refer him back to Bishop Tutu? -- Well, that was no my duty. He could have done it himself. He knew Bishop Tutu's office, he had his telephone number. I did not see the need. He wanted the newspapers, he did not want Bishop Tutu at that stage.

Was Bishop Tutu willing to phone the newspapers or do anything in the event of his resignation? -- That was not discussed with Bishop Tutu.

Was it not discussed in that meeting there? -- It was not discussed in my presence.

In that meeting? -- Yes.

Did Bishop Tutu not promise that he will phone the newspaper afterwards if he resigned as a councillor? -- That is not so.

Did the bishop say that he was prepared to issue statements if he resigned? -- That is not so.

Bishop Tutu? -- That is not what Bishop Tutu said.

Or any other - did Bishop Tutu undertake to issue any statements in that regard? -- He said he could, he could, he could issue a statement.

Under what circumstances? -- He was asked to issue a statement calling on the people of Thumahole not to attack IC 17, and he said, I can issue that statement, but I do not know how that would help because if the perception is that, the general perception is that you are responsible for the harshness, that may not persuade the people.

Did he say that he will issue that statement? -- No, he said he could. I cannot remember whether he said he will, but he said he could, but he did not know how ..

Was a churchman not willing to help this poor man under these/...

these circumstances? -- I believe a churchman is also an intelligent person who must address the reality of the situation. He was prepared to help, but he explained the difficulty, the situation as he saw it.

He is an influential person. Is that correct? -- That is so.

Now, did he say that he could issue a statement but he was not prepared to do so? -- I am not saying he was not prepared.

So was he prepared to issue a statement? Did he tell the man he would issue a statement? -- He said he could. I cannot remember him saying, I will.

And any of the other people in the leadership of the UDF National, did they try to help this man or say they will help him or they will issue a statement? -- He was not asking the UDF to make a statement, but we made a public call. It was widely reported in newspapers.

What was the reaction of IC 17 when Bishop Tutu said that he could issue a statement and he explained it further as you said? What was the reaction of IC 17 after what Bishop Tutu said that he could issue a statement? -- I cannot remember specifically, but all I know is that there was a point where IC 17 said that he was very angry with the Government, in particular the Development Board because they have caused him all these problems and he was going to resign and before he resigned he was going to ask them to ask for his compensation and he will resign after that, he was going to resign.

Did the UDF issue a statement specifically on this question of Mr IC 17's predicament? -- I cannot remember

a specific statement, but I can recall a public call made at a meeting which was reported widely in newspapers. I think he did write a statement, but I am not sure if it was issued.

Who wrote a statement? -- No 20. I think it was issued to the newspapers in the sense that on the 19th or so, the newspapers were present at that public meeting.

What public meeting are you referring to? -- There was a public meeting at Khotso House, I think, organised either by DESCOM or DESCOM jointly with the UDF. I cannot really remember the specific details, but I know that there were people present there from Thumahole.

Mr Molefe, I put it to you that in actual fact no statement was made in regard to IC 17, either by you or accused no 20 or any of the other people in the UDF? -- I cannot confirm or dispute what counsel is putting to me, if it refers to a separate public statement, but if it refers to a public call that was reported in the newspapers, widely in that respect, I disagree with counsel.

And I put it to you that why it was not made in this regard, because it is in the policy of the UDF to support violence in this country? -- That is not so.

Mr Molefe, I would like to refer you to a UDF publication, that is a UDF Update and where it refers back to three years of united actions from the start of the UDF, it is a UDF Update Volume 2 No 3 of November 1986, but it refers back to the start of the UDF.

MR EIZOS: M'Lord, before this question is put, there is a submission that we want to make to Your Lordship. Your Lordship delivered a judgment on 5 February 1987 when this document was shown to Mr Vilakazi, accused no 10.

Where/...

COURT: Where is that reported?

MR SIZOS: On page 8 678.

COURT: Volume?

MR SIZOS: M'Lord, I am sorry, I will have to get that for Your Lordship. It is a short judgment on 5 February, in which Your Lordship admitted that after some argument was addressed to Your Lordship contending that that was not admissible. There is one ..

MR JACOBS: If it can assist the Court, I took out that judgment.

MR SIZOS: It may be convenient for Your Lordship. We, M'Lord, argued the matter, and although we had - Your Lordship gave us an opportunity to consider the matter overnight, we believed that we then did not advance an argument to Your Lordship in relation to it, which we now want to advance and being an interlocutory matter, if the argument that we are about to advance to Your Lordship, finds favour with Your Lordship, then of course Your Lordship is free to review Your Lordship's ruling in this regard. We assumed for the purposes of this submissions, M'Lord, the correctness of the judgment as it stands, in relation to other matters that were argued, but M'Lord, we overlooked a fundamental point in our submission and that is that this the State can do only during the course of the presentation of its case, and not whilst the defence case is being presented, unless of course it is otherwise admissible, documents may be put to the other party's witnesses if they are known to the person or if they have been written by him or he has some knowledge of it, but let us take the example of a letter. If it is alleged - if it is put before the witness, did you write this/...

this letter and he says yes, then obviously that becomes evidence and the defence witness can be used to prove otherwise admissible evidence, because of the witness's knowledge he can testify to the facts contained in that. But if the witness says, I know nothing about this document, I did not write it, I did not distribute it, Your Lordship will not allow the party who is cross-examining to prove that document through that witness. Now, the document that the prosecutor is about to prove, proves itself so to speak on Your Lordship's judgment because of the section. But that proving of itself can only be done during the State case, and M'Lord, one has to go further than Section 150 and Section 151 of the Criminal Procedure Act, which says that the prosecution will start and lead its evidence and then when it has closed its case, the defence will lead its evidence. I am not going to deal with Your Lordship's discretion in relation to the end of the case, but we submit that there is a limitation on the State in this case, to putting up documents of which the witness - in terms of the section, whilst the defence case is being presented. Otherwise Your Lordship may have the following result, unless effect is given to the submission which we contend for: if the section means that a document can be put up at any time, we may find ourselves in reply at the end of the case after we have argued our case, the State standing up and saying, we have a document purporting to have been issued by the UDF which shows that the defence submissions are not well-founded. So that we submit, M'Lord, that insofar as the section assists the State in the proof of documents, that assistance is confined to the period of time that the State is leading its evidence, and not/...

not at any time during the course of the case. And we would submit that before this document is tendered to the witness as evidence, the State would have to show, and they can ask him if they want to, whether he had anything to do with it. If he in fact did not have anything to do with it, then it cannot be put as evidence as part of the State case. I have the Act here, but I think the proposition that I ..

COURT: Just read me that section please.

MR EIZOS: M'Lord, Section 150 deals with the conduct of proceedings; subsection (1) deals with the opening address, then then subsection 2(a), the prosecutor may then examine the witnesses for the prosecution and adduce such evidence as may be admissible to prove the accused committed the offence referred to in the charge, or that he committed an offence of which he may be convicted on the charge, and then there is subsection (b), where:

".. any document may be received in evidence before any court, at its mere production the prosecutor shall read out such document in court unless the accused is in possession of a copy of such document or dispenses with the reading out thereof."

So that again there is an implied suggestion that he has to do it as part of his case. And then Section 151, M'Lord, says, subsection (2), the accused may then examine any other witness etcetera; and again subsection (b), where any document proves itself, it must be read unless there is agreement to the contrary. So that we submit, M'Lord, that the section that the State relied on originally, Section 69(4)(c) referred to in Your Lordship's judgment and set out on page 2 of Your Lordship's short judgment, only assists the State whilst/...

whilst it is busy presenting its case, and not - it cannot be proved as part of the State case during the course of the defence case. We regret that we did not think of this argument at that time, M'Lord, but we submit that if it is in fact well-founded, it certainly is no bar to the reviewing of Your Lordship's judgment in that regard. That is really the point.

COURT: Mr Jacobs?

MNR JACOBS: Edele, ek het nie gedink hier gaan beswaar kom nie. Ek het in hierdie punt wat geopper is, ek wil graag vir die Hof verlof vra of ek kan geleentheid kry om 'n bietjie na gesag te kyk om dit Maandag te argumenteer. Ek kan dit nie sommer net uit die vuur uit gaan doen nie. Die argument het ek nie geweet wat is dit nie.

HOF: Hoe lank skat u gaan u nog besig wees met hierdie getuie?

MNR JACOBS: Dit is die laaste aspek wat ek aan hom wou gestel het, Edele.

HOF: Daar is nie iets anders wat u kan behandel met die getuie intussen nie?

MNR JACOBS: Ek het net een klein puntjie wat ek miskien kan aangaan mee, en ek wil net - ek het gesê ek sal na dié aspek toe terugkom. BEWYSSTUK "C102".

Mr Molefe, will you have a look at - that is a resolution on imperialism. It is seven, the seventh page from the back of this specific document, the whole document. The first paragraph:

"We note with anger the support of the imperialist countries led by the Thatcher and Reagan governments for the racist South African Government. We know that

the/..

the United States Government is through its policy of constructive engagement furthering its own economic interest. Foreign companies invest their capital in South Africa because of the huge profits they make through the exploitation of our people and the natural wealth of our land. This unshamed greed and support for the Nationalist Government by the governments of the United States and Britain is pursued at the expense and the welfare and even the lives of the people of South Africa and cannot stop us in our march to freedom. We further note the collaboration of the governments of Israel, Chili, Taiwan and other anti-democratic regimes with the South African Government and its Bantustans."

Now, and then further under "We believe":

".. that foreign investments do not benefit the oppressed and exploited people of South Africa but bolster the apartheid government; that the present disinvestment campaign in the USA shows that the American people are neither fooled by the sham reforms of the Botha Government nor the policy of constructive engagement."

And then under "Now therefore resolved", nos 2 and 3:

".. to demand an end to the exploitation of the people and the national wealth of our country by foreign investors; to reject the argument that foreign investors benefit the oppressed and exploited of South Africa."

And then, I put it to you, this is already an indication that the UDF is striving to isolate South Africa from the Western countries and to bolster the idea of foreign investments - that foreign investments in this country must be stopped? -- That is not my understanding. It is true that there/...

there is a call that those governments must not support the apartheid policies of the Government, they must support those who are struggling to free themselves from apartheid, and all it is saying, it is really expressing the belief that those things do not benefit us. I understand it simply to be saying that those companies are subjecting - especially the African people to racial laws of influx control, migratory labour system and they are paying salaries which are determined on the basis of apartheid legislation. To that extent those lowly paid people are not benefiting from the investments. But this resolution is not calling for disinvestment.

And this resolution .. -- At best it is saying, prove that we are better off, give us better wages, pay us the same salaries that you pay the White workers, allow us upward mobility within the companies, to get the same benefits that you would give to White workers, White employees, and use your profits to promote the struggle for a non-racial South Africa, do not buttress the policies of apartheid.

And then I would also like to refer you to EXHIBIT "W2", it is in Volume 1, on page 10 or the tenth page, page 10, it is marked on top.

MR BIZOS: M'Lord, is it "W2" or "W1" Volume 2?

COURT: We have "W2" and it is in Volume 1.

MR JACOBS: On page 10. This was found with Amanda Quabi of the UDF. Is she in the UDF? -- She was on the Transvaal Executive of the UDF, I think from March 1985.

Now, on page 11, that is an interview with accused no 29, and the heading of that interview is "Kennedy's Visit was aimed at Apartheid". -- I have got the section, the page.

Is it correct, that is an interview with accused - or what is stated here by accused no 2? -- Well, I was not there when he gave the interview. It appears like it is an interview.

COURT: Where is the original of this document, Mr Jacobs? Mine seems to have been blacked out in spots, that you must have thought important.

MR JACOBS: No, it is actually not - I do not know, somebody made marks on it with a koki pen or something like that, a coloured pen, a marking pen. I do not think it was blacked out.

COURT: Well, the effect is a blacking out.

MR JACOBS: The original is with the clerk.

COURT: I will get it out. Anyway, what do you want to put to the witness?

MR JACOBS: I just want to refer you to the fifth column, and this is what accused no - the heading of that column is:

"We will co-operate on the question of apartheid but not on American imperialism."

And then in that column, in the middle of the third paragraph it starts with:

"The Government has embarked on a strategy to win support for itself abroad and to isolate our democratic movement. This is very important for the Government and its grand plan of entrenching and maintaining white domination. Our consideration at this point therefore must be to frustrate that strategy. We must do everything that we can to isolate the South African Government and to win support for our people's democratic demands and organisation. It would obviously be an

error/...

error of judgment to alienate people who support the struggle against apartheid, like for instance Kennedy who today is mobilising for sanctions against South Africa. We must make as many friends and deprive apartheid of as many friends as it is likely to get. The struggle against imperialism begins with the struggle against apartheid. In defeating apartheid we .."

COURT: Now you are skipping a part. You are skipping what is blocked out. I thought you would read it so that I could know what is in this paper. 10

MR JACOBS: Mine is the same. I cannot see what stands there. Can I request then for ..

COURT: Yes, but not now.

MR JACOBS: Can I read the other part then? Then it goes on:

"The struggle against imperialism begins with the struggle against apartheid. In defeating apartheid we are laying the foundation for the liquidation of imperialism."

I put it to you, Mr Molefe, also here you get a clear indication that the Government, the South African Government must be isolated on all aspects of government, even investments and even getting arms and any assistance from the West? -- I cannot remember a specific decision by the UDF in respect of disinvestment and the issue of the arms, and I think that is simply not policy of the UDF. However, it is true that in pursuance of our goal of a non-racial democratic South Africa, we sought to influence those important countries which were regarded as the friends of South Africa, to move away, to accept that they cannot continue to support the/...

the policies of apartheid. They should accept the fact that like anywhere else in the world, the majority of the people of South Africa have the right to elect their own government and be elected into the government also, that the Black people had a right to be part of the government of their country, and to that extent we spoke to people like Senator Kennedy and so on, to influence them to put pressure on the South African Government. We would not choose methods for them. They would choose the kind of methods they wanted to employ.

But you will do everything that is possible in the UDF to isolate South Africa from those countries? -- Everything that is considered correct from time to time, in the evolution of the struggle.

And do you assist and agree with Bishop Tutu's drive to get disinvestment in this country? Is that in accordance with the UDF? -- My understanding is that Bishop Tutu had never called for disinvestment. I think he had said that there might come a time when he may have to do that.

Do you assist in the drive to isolate South Africa, that South Africa also - that there be an arms embargo against South Africa? -- We have no decision on that, but I cannot preclude the possibility that in the development of time that might have been considered.

Mr Molefe, then another point, the media is a very important part of the struggle and is it regarded as such by the UDF? -- Well, media is important, yes, to the UDF just as much as it is important to any organisation, because it is the means by which one can communicate with the public or with the supporters.

And/...

And is it regarded as a weapon and a tool by the UDF? -- I would not say by the UDF. I think I might have used that language previously, that it can be a weapon or a tool depending on who is using it. I think counsel is really referring to one of the exhibits. I would like to have that exhibit and then he can cross-examine me on it.

Mr Molefe, the videos and tapes that were taken, they were used by the UDF and they were hired out by the UDF to the organisations to use in house meetings and to show it. Is that correct? -- I know specifically of the national launch video, yes.

And others? -- I know specifically about that one.

And other videos? -- I do not know about the others.

Did you keep a record book of videos hired out or lent out to the organisations affiliated to the UDF? -- Our assistance, administrative office might have kept that. I cannot remember.

Now, Mr Molefe, did they hire it or did they get it free of charge? -- If it was a UDF video? I think at some stage the NEC took a decision that it was going to sell those videos for R50 each. It was really part of also a fundraising drive, and I am talking now specifically about the national launching video. From the side of the national office we did not sell any. I do not know if regions did sell.

Did you hire them out, any other videos? Were they available to the organisations who get them from the national office? -- No, we were not dealing directly with affiliates. They deal with the regional offices.

Mr Molefe, as national secretary and person being responsible/...

responsible for all publications of the UDF, was it not your responsibility also that videos and tapes and other matters, say for films, was it not under your control and your direction? -- I must just make one correction. I am not responsible for all UDF publications. That is incorrect, and with regard to the videos, once they are with the regions, they become the property of the regions. The regions will take responsibility for that. I can take responsibility for X number of copies, maybe, if the national office has got that number of copies, and that would be the position. I do not take responsibility for what is happening in the regional offices.

And Mr Molefe, I want to ask you a few other questions as well. Did not anyone of the Vaal inform you that a stay-away had been planned for 3 September 1984? -- No, I was not informed.

And the UDF offices, the national offices, were they informed? -- No.

Nobody? -- Well, at that stage I was not at the office of the UDF, as I testified in my evidence in chief. I do not know about that. I had never been informed.

So it was possible that the UDF national office was informed of the stay-away in the Vaal on 3 September 1984? -- It is possible, but it is very unlikely because it was not a matter that concerned the UDF.

The activities of your affiliates, did that not concern the UDF? -- Independent activities of an affiliate do not concern the UDF national, and I believe even the UDF region, they would concern that insofar as they relate the activities, the campaigns of the UDF.

And/...

And was that not part of the campaign of the UDF against the Black Local Authorities, this march on 3 September 1984?

-- That is not so.

What do you mean by that is not so? Is it not part of the campaign against Black Local Authorities? -- As I understand it, it is a matter that pertains specifically to the rent increases. The initiative came from local residents through their own organisations. It is not a matter that pertained to any campaign of the UDF.

And the issues and the rent question and that, was that not issues identified by UDF to be used in a campaign against Black Local Authorities? -- In the arguments, in developing our arguments why the Black Local Authorities were unacceptable, we pointed out that the Government was not providing a basis for financing those structures, and we had argued previously that it is inevitable for rents to increase from time to time. That had been the experience in the Black communities, I think since the time - from the beginning of the 70's when the administration boards took over the control from town councils and city councils in respect of the administration of Black townships.

So you say it was only used in the arguments in the UDF but it was not part of the strategy of the UDF to get the people, to get the organisations to organise the people around issues like rents in the campaign against Black Local Authorities. -- The UDF would not take the initiative of organising people on the issue of rent. We cannot go to the Vaal Triangle as the UDF and tell the people in the Vaal Triangle that we think that the rent that you are paying is high, why do you not protest, maybe we should start something.

We/...

We do not operate like that. The UDF did not have a specific campaign on the rent issue.

Mr Molefe, you are every time evading the question. The rent issue, is that one of the day to day problems of the people, to be used by the organisations in UDF, the affiliated organisations in order to mobilise the people against the Black Local Authorities, as part of the campaign against Black Local Authority? -- Not an issue to be used. That has been a problem itself. The rent issue had been a problem, not to affiliates of the UDF, to residents in Black communities for many, many years, even before the UDF was formed, but with the introduction of the Black Local Authorities it became even worse, and somehow there was an interconnection between that in the sense that the Government was presenting the local authorities to people, it was at the same time taking away the beer halls and bottle stores which has been previously used by development boards to subsidise rentals in those townships. In that sense it would have been interlinked, it would have been mentioned from time to time in the debates around the issue of Black Local Authorities, but it really extended beyond the formation of the UDF. So I cannot say that it was an issue that was used.

Mr Moleef, do you say then that the UDF National never identified rent and other issues on a day-to-day basis, experienced by the people, and to use that in order to mobilise people in the campaign for Black Local Authorities? That is all that I ask you. Yes or no? -- It may well have been - it may well have arisen in our meetings as a result of what those members in the NEC got right from their own communities through the general councils of the regions, through/...

through the affiliates and so on. It would have arisen in that context, and we would have said that this matter needs attention, it will have to be addressed, but the UDF was not deciding for affiliates what to do.

And Mr Molefe, did the UDF assist inter alia the VCA in the Vaal in the running of the campaign against Black Local Authorities either in the elections and afterwards? -- I do not know of a specific assistance by the UDF to the VCA to run the campaign against the BLA. All I can say is that a general pamphlet was printed by the UDF, it was distributed countrywide, and it may well be that in the Vaal Triangle the same pamphlet was distributed, not because the UDF sought to help the Vaal Civic Association.

Did the UDF assist the VCA in publishing pamphlets in order to run the campaign against Black Local Authorities? -- The national office of which I was the employee did not do that.

Did the UDF hold workshops in which it invited people from the Vaal inter alia and other communities to go to the workshops and be educated at those workshops how to go about in the freedom struggle and in the campaign against Black Local Authorities? -- The national office and myself did not do that. I do not know if the region - the Transvaal region might have done that.

Mr Molefe, can you tell the Court, who reported to the UDF national office about what took place on 3 September 1984 in the Vaal? -- I do not know, but I think there is a book that is an exhibit here, recording the happenings.

Did the UDF hold a press statement on 3 September 1984 on what took place in the Vaal, a press conference? -- On 3 September/...

September, I do not know about that. I am not certain.

Q And do you know whether any people were asked to come from the Vaal to the UDF offices for the purposes of this press conference? -- I do not know about that.

Q Do you know anything about a press conference? -- I do not know.

Q Do you know whether any pamphlets were issued by the UDF after 3 September on what happened in the Vaal? -- I do not know about that.

Q I suppose you do not even know what was said in any pamphlets if they were issued after 3 September? -- Yes, I do not know. Maybe I might have seen it as an exhibit here, purported to have been issued.

Q Did you know Esau Raditsela and his wife Dorcas? -- Yes, I had met Esau Raditsela on 18 September 1983. I saw him at that meeting. I saw him for the first time.

Q And afterwards, did you see him at the UDF office? -- No. That was the last time I saw him.

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