

20. His statement that people were harassed and beaten by the police and that he himself took them to the advocates, after probing was shown to have been a lie. This is indicative of a general attitude towards the police.

20.1 This was not raised in argument by the State or the court.

20.2 It was raised in cross examination by the judge.

Molefe Vol 266 p 14329-19-14331/112

It is correct that Molefe did not have personal knowledge of assaults and this emerged from the questioning.

20.3 There was a press report which alleged that persons concerned in the MSC were assaulted. (Put in through debate in re-examination)

Exh DAB8

20.4. It is quite unfair to elevate this into a "general attitude towards the police". It ignores other evidence concerning

20.4.1 Instructions to MSC volunteers to behave lawfully.

20.4.2 Molefe's intervention with the police on June 16, 1986 at Regina Mundi to avoid confrontation

21 This statement that the UDF never contemplated that the government would refuse a national convention is unacceptable.

21.1 This was not raised in argument by the state or the court.

21.2 The judge's finding that it was "unacceptable" not to have contemplated that the government would refuse a national convention, is somewhat like the State's argument which postulates an autocratic, intransigent government which would never heed the wishes of the people no matter how reasonable or persistent.

21.3 The evidence was quite clear that the envisaged national convention would be a drawn out process (Molefe Vol 258 p 13882 lines 24-27)

21.4 Obviously when one proceeds ^{with} ~~on~~ the propagation of an idea intended to determine the country's constitutional future, one ~~proceeds~~ starts with the assumption that the idea is feasible. This does not mean overnight acceptance. In this the UDF was not alone - other organisations also believed that the national convention offered a solution to the country's problems. They too must have proceeded on the basis that the idea was feasible and would one day gain acceptability. Others who called for a national convention were Butheji, PFP, Convention Alliance (J. Brown)

Dr. Som Bati, the Labour Party and the
Black Sash

22. His explanation of "accredited liberation movements" in the working principles is false. This is dealt with elsewhere.

22.1 This was not raised in argument by the state or the court.

22.2 This issue is dealt with in the judgment at 453 - 455

The court found that clause 3.4 of the working principles 'had been decided upon before the meeting by the Border region of the UDF (exh B11 13) and that it was therefore properly proposed and considered"

The explanation that it refers to existing lawful organisations - to preserve their autonomy was rejected as it does not explain "accredited"

The change to the singular in 1985 was no typing error. When the "hope of unity between the Black Consciousness and Freedom Charter groups (presented by the PAC and ANC respectively) failed the clause was changed to the singular - "to refer to the ANC".

The fact that this was ^{not minuted} of no consequence. It would be folly to do so in minutes which are circulated to officials

22.3 This issue was canvassed in cross-examination by the state and the court.
The judgment does not accurately reflect the evidence

- a) The 'liberation movements' refers to political philosophies or heresies. Hence it does not relate to the question of autonomy
- b) Molefe's evidence that a similar typing error had occurred after the launch and necessitated correction, was not challenged.
- c) His evidence that the new working principles were riddled with errors was also not challenged (and could not be)
- d) His evidence that the PBC is not a Black Consciousness organisation was not challenged.

Molefe Vol 267 p 14446 line 23 - p 14453 l 6
Vol 271 p 14746 line 9 - p 14747 l 5
Vol 274 p 14908 line 5 - p 14912 l 13

22.6 Exh A5113 does reflect that a ~~decision~~ resolution was taken by a meeting of delegates (on 16 August 1983) in a form similar to para 3.4 of the working principles. The Border region had not yet been formed. It is likely therefore that the proposed amendment came from somebody from the Border. It does not follow that it was considered by any region other than the Border.

23 He was very vague when pressed for details of when and where accused No 20 allegedly spoke out against the planting of bombs.

23.1 This was not raised in argument by the State on the count.

24. This alleged lack of knowledge of the powers which touch the SRCs for which the UDF agitated were to have, is surprising.

24.1 This was not raised in argument by the state or the court.

24.2 The issue was canvassed in cross examination by the State
Molpe Vol 268 p 14690 l 28 - 14694 118

24.3 It is not clear what point the judge is trying to make. The evidence was that the UDF supported the call for SRCs and welcomed their introduction.

See defence Argument on Education
para 11.3 pp 27-30.

25. His allegation that he has never seen and does not know the origin of exhs C100, C106 and AADS is hard to believe. They were found in the UDF offices and all relate to The NAC and its theme. These are important documents from a policy point of view. In fact the wording was taken over in exh C102 the UDF booklet which was found in accused's possession (statement p2)

25.1 The state did advance argument based on the contents of these documents but not in relation to credibility.

25.2 The documents are fully dealt with in our notes on C100 and AADS and C106

25.3 The judge's observations are patently without foundation having regard to the contents of the documents and the dates on which they were found.

C100 was found on 28 July 1985

AADS was found on 26 September 1985

26. This version that the international youth year was not under the UDF banner is refuted by the letter-head used as late as April 1985 - see AAA 13

26.1 This was not raised in argument either by the state or the court.

26.2 Exh AAA 13 is dated 16 March 1985 - not April as suggested by the court.

26.3 Molefe dealt with this issue in cross-examination. He stated that it was essentially a campaign of the affiliates, not coordinated by UDF National. He also stated that there was a motivation that the campaign be conducted under the banner of the UDF and "it may well be that later on it was co-ordinated by the national office, but I do not know. But up to the time of my arrest it was not co-ordinated by the national office"

Molefe Vol 261 p 14026 l 6-15

See also p 14035 l 10-13 and Vol 271 p 14767 l 6-16 ⁵⁸ line 18

He also referred to para 3.5 of the sectional report of exh C102 which he said indicated that the UDF "was fully behind the campaign, it supported it"

Molefe Vol 261 p 14027 l 18 - 14028 l 18

26.4 It makes no sense at all for Molefe to lie once he too openly admitted that there was a desire that the campaign be conducted under the banner of the UDF.

and that he himself had attempted
to persuade the officials to conduct
the campaign under the banner of the
UDF (Vol 271 p 14751 (7-11))

26.5 Once again, the issue on which an
adverse credibility finding is made
was raised by the judge
Vol 271 p 14751 lines 12-18

27. This explanation of the "campaign" referred to in the UDF/COSAS memorandum drafted by himself (exh AB19) as being a campaign to end the schools boycott is false. This document belies everything he says on the UDF's intention to end the boycott.

27.1 This exhibit was raised by the state in the Bebaag and was dealt with by the defence in para 9.9 of the document on Education. The Bebaag, however, does not deal with the document in relation to Molefe's credibility. It was not raised by the court in argument.

27.2 Again, this was an issue taken up by the judge in cross examination
Molefe Vol 272 p 16793 l 15 - p 16794 l 15

28. When cross-examined on the meaning of portions of exh C16 he failed to mention that he was the author and created the impression that it was somebody else's document which he was interpreting. Two days later it appeared that he was the author.

28.1 This was not raised in argument by the state or the court nor was it dealt with in cross examination.

28.2 The first time this document was raised in cross examination is in Vol 256 p 13785 15 ff.

28.3 It is correct that Nolefe does not state that he is the author of the document. However, he is asked a number of questions as to whether the document reflects UDF or SCA policy. His answers are confident showing clearly that he has knowledge of the document and its contents. There is nothing to indicate that he created the impression that it was somebody else's document. What possible reason could he have for wanting to create such an impression? What possible advantage could this secure for him? If there was anything to be gained why did he not persist in creating a false impression when the document was mentioned again? (Vol 263 p 14127 128 ff)

29. That nothing is seen to be wrong with a freedom song about burning the Supreme Court or armed violence is indicative of the attitude of accused No 19.

29.1 This was not raised ^{specifically} in argument by the state or the court although there were general references to freedom songs in the Belong.

29.2 The defense dealt with freedom songs in argument.

29.3 There were numerous references for the proposition that freedom songs were not taken literally.

12. In respect of the call for a national convention and its precondition - release of political prisoners - he hedged when asked whether that included murderers for political motives. His denial that the disbanding of the police and army were set up as a precondition, is not in conformity with political thinking in his circles (ech C18 p9 and C19 p5) and the decision of the NEC (ech #1 para 10) and the N.G.C (ech C102). His explanation for the call to disarm the armed forces but no call in respect of Umkhonto we Sizwe is faulty. His explanation of how the dissolution of the independent states is to be brought about differs markedly from the conditions set out in ech C102. His lame excuse is that it may well be that the whole thing was not carefully thought out.

12.1 Although the national convention was fully argued by the defence none of these credibility issues were raised by the state or the court.

12.2 Re the issue of political prisoners:
This issue was raised in cross-examination, as usual, by the judge

Molefe Vol 258 p 13876 l 22 - 13876 l 1

It is correct that Molefe's answers could be characterised as uncertain. It does not necessarily follow that he "hedged". The issue is a difficult one and Molefe made a serious effort to confront the difficulty.

12.3 Re disbanding of the police

The suggestion that ex C18 and C19 represents "political thinking in his circles" is a surprising proposition in the absence of any proof of the authorship and status of the documents.

It is wrong to characterize para 10 of ex H1 as a "decision". It was clear that this had to be referred back to the regions for discussion.

12.4. Re No call for disarming of Umkhonto we Sizwe.

Why his approach is regarded as "facile" is not stated nor is it by any means apparent from his answers.

See comments on para 8 above.

In essence, all he is saying is that if you unban an organisation you remove the cause for it to carry arms.

12.5 Re dissolution of the independent states.

This issue was raised in cross examination, partly by the judge.

Makhe Vol 259 p 13889, 126 - 13897 & 15

It is not clear why the court states that his explanation differs materially from the conclusion laid down in ex C102.

It is also not clear why his statement that

the whole thing was not carefully worked out is a "lame excuse"

The evidence was that the details (nuts and bolts) of a national convention had not been worked out. The process would be self evidently complex and drawn out and dependant on a range of uncertain factors such as the extent of government commitment to the concept.

Why then is his excuse "lame"?

Accused No 20

Findings on credibility

Judgment Z105-113

1. His explanation of his references to Umkhonto we Sizwe in exhs V12 p50/51 and V16 p33 is unconvincing.

1.1 Although the state refers to V12 in the bekoag in relation to Hukodi, no references to the portions of speeches relied upon are made nor did the state address any criticism of Lekeas evidence in respect thereof. The matter was not raised by the court in argument.

See Written argument on Hukodi para 19

With regard to V16, the issue was not raised in argument by the court or the state.

1.2 The court does not state in what respects his explanations are regarded as unconvincing

2. It is unacceptable that he had never really thought about the contents of the freedom songs before.

2.1 This was not raised in argument by the State or the Court.

2.2 It did arise in ~~the~~ examination in chief. Lebate stated, inter alia:

"Since we have started here I found that the State had problems with the songs, for the first time I realized that now a man must think about this now. I had never really thought about this before frankly, because one has just been taking it for granted, it is part of our cultural activity."

Lebate Vol 286 p 15768 lines 10-15

2.3 It is not clear why this should be "unacceptable". It was certainly consistent with the evidence of many witnesses who testified to the place of freedom songs in black political life and the fact that they saw nothing wrong with the singing of freedom songs.

2. His knowledge of the anti-SAIC conference where the UDF allegedly originated is strangely vague.

3.1 This was not raised in argument by the state or the court.

3.2 This was raised in cross examination by the State
(I think by the judge)

Lebato Vol 287, p 15818-17 - 15819-114

See Re examination

Lebato Vol 299 p 16884-11 - 16885-116

3.3 Lebato's knowledge of the anti SAIC conference is not "strangely vague" having regard to the following.

a) He had nothing to do with the conference at all.

b) He was sceptical about the concept of a united front and did not even participate in the Natal launch of the UDF

c) The anti SAIC seemed to be of very limited life and was apparently formed when Lebato was in jail.

4. This explanation of "leadership of the working class" in
exh A1 p27 (which includes Dr. Mottson and bishop
Tutu) is beyond our understanding.

4.1 This was not raised in argument by the
State or the court.

4.2 This was raised in cross examination
by the judge

Lebata Vol 287 p 15822 line 12 - p15826 line 7

4.3 Lebata stated that a problem was that people in
leadership positions in government structures (who
come from the 'business class' or were better educated)
were not perceived as having the interests of
ordinary working people at heart. ^{Workers class leadership} This included people
like Tutu + Mottson because they were concerned with
the operations of poor people. Lebata accepted the
judge's suggestion that this "is the leadership of
people who have the interests of workers at heart
but they do not necessarily belong to the working class"
The judge then stated "Well is this not just merely
socialist language? Can it be explained in any other way?"
Lebata reiterated his explanation

4.4 Why the explanation should be beyond the courts
understanding is not clear particularly in the light of
the interpretation suggested in cross examination. It
was not suggested to Lebata that his explanation
did not make sense.

5. His professed lack of knowledge whether there is leadership of the working class in Mozambique, Angola and Zimbabwe is unacceptable. So is his lack of knowledge of socialism.

5.1 This was not raised in argument by the State or the Court.

5.2 This was raised in cross examination by the State and taken up by the judge
Lebota Vol 287 p 15824 l 8 - 15827 line 18

5.3 Lebota did not regard himself as a socialist and said he was not knowledgeable on socialism but was attracted to "if socialism has to do with this idea of sharing as I understand it, I am very much attracted to it"

5.4 The judge specifically asked if there is leadership of the working class in Angola, Mozambique and Zimbabwe and Lebota stated: "I cannot say what exactly the position is within those countries. The accounts which I read in the newspapers conflict" This prompted a question from the prosecutor whether Lebota knew about "the feeding of thousands of people who come into South Africa from Mozambique".

5.5 Lebota's knowledge of socialism was not in any way probed nor his knowledge of the leadership in Angola etc.

6. It is strange that he cannot explain the words "courageous struggle" of the students in exh A1 p28. Neither can he tell us what "the increasing crisis in the schools" is, referred to in the minutes of the NEC of 10 September 1985 (exh D1 para 21) where he was present.

6.1 This was not raised in argument by the state or the court.

6.2 The question of what was the "courageous struggle" was raised in cross examination by the judge.

Lehote Vol. 287 p 15861 ¶ 23 - 15862 ¶ 2

Lehote said he could not say what this entailed as he had recently been released from prison and the community organisations at the launch (from whom the resolutions emanated) went far beyond the time he came onto the scene.

He was not pressed on this answer and there is nothing inherently strange about it.

6.3 The question of the "increasing crisis" was also raised by the judge:

Court: Now what was the 'increasing crisis' at this stage?

Lehote: I am afraid I cannot help the Court with the facts of the situation there

Lehote Vol 287 p 15855 lines 22-24

G.6. The meeting in question took place on
10 September 1983. Lebois was testifying
on 16 September 1987 - over 4 years later.
He had been in prison since 23 April 1985
- nearly 2½ years.

Is it really so strange that he cannot
remember precisely what was referred
to in the minutes?

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