

AK 2883 / A2

**IN THE SUPREME COURT OF SOUTH AFRICA
(TRANSCAAL PROVINCIAL DIVISION)**

Case No.:

In the review Application of:

J J WALUS

First Applicant

C DERBY-LEWIS

Second Applicant

And

AMNESTY COMMITTEE

Respondent

REVIEW

AGAINST THE DECISION BY : JUDGE, H MALL, JUDGE, A WILSON,
JUDGE PRESIDENT, B. NGOEPE, ACTING
JUDGE, DENZIL POTGIETER & ACTING
JUDGE, S. KAMPEPE

**OF THE AMNESTY COMMITTEE IN THE APPLICATIONS OF J J WALUS
(AM270/96) AND C DERBY-LEWIS (AM271/96) DELIVERED BY THE AMNESTY
COMMITTEE AT CAPE TOWN ON 7 APRIL 1999**

ON BEHALF OF APPLICANTS

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**VOLUME 2
(Pages 101 – 200)**

MR PRINSLOO: I will rather begin on page 366 at the bottom "I, the undersigned Clive John Derby-Lewis states", the Committee might want to compare this in Afrikaans rather. Right at the top is the surname Holmes.

CHAIRPERSON: Okay Andrew? Yes, proceed.

MR PRINSLOO: Thank you Chair. Mr Chairman, on page 367 there appears the statement which during the court case was handed in on the merits of the case and the witness Holmes, read the statement into the public record as it appears on page 367.

This statement which had served as E1 in the court case and in this statement the applicant, Mr Derby-Lewis, states and in particular on page 368 in paragraph 1, subsequent to his arrest I want to place it on record that "I do not wish to make any statement." This was signed 18 April 1993, immediately after midnight, 20 minutes after midnight.

It is significant or it is clarifying to note in the first paragraph of the statement that the applicant was arrested on the 17th of April of that year, six o'clock at night or in the evening and that he made the statement immediately after midnight.

He was then warned by Captain Deetlief as it would appear from paragraph 2. What is very important and very clear and which is clearly stated therein is that he does not or did not wish to make any statement if you refer to paragraph 7.

My learned friend, Mr Bizos, despite this wish expressed by the applicant on that evening, desires to place statements before this Committee claiming that these statements were made in a voluntarily manner.

I want to refer to honourable Committee also to S v Mqweta (2) 1993 1567 a decision in the Cape court, and a judgment of his Honoured Judge Williams. I want to refer to the heading thereof on page 577.

"Evidence, confessions and admissions. Accused after being cautioned, indicated that he does not want to say anything. Decision already taken to charge accused; improper to direct further questions to him, statements so obtained not satisfying but purely for admissibility".

Honourable Chairman, in this instance after the applicant had made this decision he was held in terms of Section 29 and subsequently the claim of Mr Bizos is that further statements were taken which statements is claimed was being made to Captain Deetliefs and Warrant officer Beetge.

With respect Honourable Chairman, a statement made to a Warrant Officer who is a junior officer, in itself, is not admissible even if it is a statement. It cannot be placed before the Committee. It is clear that Beetge as well as Deetliefs acted together in taking down the statement.

It would appear very clearly in addition that on the appearance of the statement, if it can be called a statement under certain circumstances, no warning had been made in terms of the necessary rules, no such warning was presented to the applicant. It appears clearly if we pay attention only to the document that no court and no legal officer would be able to determine from the appearance of the document, what might have led to the making of this statement.

As we would want to present to you, these so-called statements by the applicant were taken during a detention under Section 29 of the Internal Security Act. It has already been argued to you or presented to you that these statements were not taken down or given voluntarily. My learned friend, Mr Bizos now has the problem that prior to this Committee being able to receive this document R4, the voluntary nature would have to be proven and the onus of proof would be with Mr Bizos.

In terms of the constitution of this country, the applicant does have the right to remain silent and we would argue that the applicant has the right ...

JUDGE WILSON: Are you saying he has the right to remain silent when he is applying for amnesty?

MR PRINSLOO: Honourable Chair this is not my argument. My argument is that on the day when the statements are claimed to

have been given to the police, he had the right to silence, to remain silent.

JUDGE WILSON: But before us, he should make a full disclosure, shouldn't he? Before us he should make a full disclosure, shouldn't he, in terms of the Act?

MR PRINSLOO: In terms of the determinations of the Act, he must make full disclosure and that is what he has in fact done.

JUDGE WILSON: Which includes the fact that he may have made certain statements, is that not part of full disclosure?

MR PRINSLOO: The statements has to be proven to have been made in a voluntarily manner. The statements presented by Mr Bizos to the Committee.

CHADPERSON: Oh, I think the question that is being directed really boils down to this - (a) we are not here to try the guilt or innocence of your client, (b) in terms of the Act he is required to make a full disclosure. Does that not place a burden on him to tell us all the statements he has made, now matter how contradictory they may be? He may give reasons and explanations as to why there are contradictions, but ought he not to tell us that on such and such a day he has signed a document, he made this statement, he made a statement which went contrary to his defence at the trial?

Ought he not to be the one to tell us and give an explanation as to why there were differences between these statements? That is really the point that concerns us.

MR PRINSLOO: With respect Honourable Chair, it is unconstitutional when documents which cannot be allowed, which are not admissible are being placed before the Committee. The applicant can still explain that these statements were taken from him when he was being kept in detention in terms of Section 29, which the determination has been scrapped as being unconstitutional in this country.

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How then can the Committee remove its thoughts from this if a document of this nature is placed before the Committee, without determining the manner in which the document was obtained and what the nature of the document in fact is?

With respect then Honourable Chair, one would then have to make an extensive investigation to determine what was in fact said and was recorded on the cassettes, whether this is in accord with what was in the typed statement and the applicant can then make a further statement in this regard.

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The Committee must at this point decide whether these documents which Mr Bizos, not the applicant is placing before the Committee, is admissible or not.

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JUDGE WILSON: Should the applicant not place these before the Committee if he is making full disclosure? Does full disclosure not include the fact that inadmissible statements were taken from me?

Not debating the contents of these statements at this time, but the fact that statements were taken? Should he not, is that not part of his full disclosure? 10

MR PRINSLOO: Honourable Chair, if this is required at this point, the applicant can mention this. The problem however is that Section 29 statements are privileged in the hands of the Commissioner and the Minister and the applicant did not have these documents available during his court case to him. If this is the only problem presented by the Honourable Chair that he should have mentioned that he had made statements, under certain circumstances, this can be made, but then a further problem emerges namely whether the documents are admissible or not? 20

My learned friend wants to place the documents before the Committee, before it is determined whether this statement was in fact made by the applicant. Are these the words of the applicant and what the circumstances are, were, under which the statement had been made.

Then the onus rests on the person who claims that the statement was made in a voluntarily manner, namely Mr Bizos. 30

This argument cannot be bridged before the Honourable Committee has decided on whom the onus rests to show whether these statements were made in a voluntarily manner or not.

CHAIRPERSON: The Act says that the applicant must make a full disclosure of all relevant facts and those facts may be palatable or unpalatable. Indeed it may be that those facts includes facts which were extracted from him through duress or whatever.

Now, if those facts are relevant, if the contents of that statement, of those statements are relevant, then they must be disclosed to us. If however, an applicant feels that the contents were extracted improperly, the applicant is free to do so. He will explain to us, explain away, explain to us that look, those things were obtained from me through improper means.

But that is a different thing from admissibility, they must first be admitted, first. The contents must be admitted in as much as they are relevant, they must be admitted to us. As to what weight we will attach to that, is a different thing. We may decide that after the applicant has explained to us that look, this information was extracted from me through improper means, then we would decide what weight to attach to that. But that is a different thing.

MR PRINSLOO: Before a document can be relevant, it must be admissible. The contents of the document, if we look at the judgement in the S v Mkaba (A) 1985 476 in which the

CHAIRPERSON: Before you go far, you say before it should be admissible, it must be relevant? Did you say that?

MR PRINSLOO: What I mean thereby Honourable Chair, the contents of the document - if the applicant contests the contents of the document, then this document cannot be placed before this Honourable Committee before it is decided whether it is admissible.

Once it has been decided that it is admissible, it becomes relevant to the investigation.

JUDGE NGOEPE: But admissibility for the purpose of proceedings.

JUDGE WILSON: Is it not a relevant fact that he made the statement as part of what was going on? He can then explain how he made it and we can decide no value can be attached to it.

CHAIRPERSON: My brother had said for example it was suggested to us that in respect of one of the applicants, the statement was made at a time when he had been drinking, he had been given a lot to drink. We were told that.

That is a circumstance we take into account when we decide what value to attach to the contents of that document. We may

come to the conclusion that we attach no value to the evidence contained in that document, but that doesn't affect the question of the admissibility of the document. Do you understand that?

MR PRINSLOO: May I just consult with my —

CHAIRPERSON: Certainly.

MR PRINSLOO: Mr Chairman, we would need a brief adjournment in view of the argument presented to us by you, we would request a brief adjournment. 10

JUDGE NGOEPE: Before you do this, can I just put this a little bit bluntly, because it conveys, you know, it describes the problem very clearly:

At this point, what is admissible to us is anything which is relevant. If the contents are relevant, then that hurdle has been crossed, then it is admissible to us. Unless you say the contents are irrelevant. 20

Once they are relevant, they must be disclosed and as I said, the questions of assault and the like are related to what weight to attach to that.

CHAIRPERSON: We don't want you to understand that we are making a ruling on the point that you are arguing. We are merely testing our questions are testing the submissions you are making.

Please understand, we haven't made up our minds as to the admissibility or otherwise. 30

We think we are entitled to ask you questions to test the validity of your submissions. But you wanted some time to consider your answer to that, to the points that have been raised, we will certainly afford you that opportunity.

You require a short adjournment?

MR PRINSLOO: We request a brief adjournment to consider this aspect. 10

MR BIZOS: Mr Chairman, before the court adjourns and because our learned friends want to consider their position, may I be permitted to make two very short submissions for their consideration by referring to the Act, because I don't want - I want to try and avoid a even further adjournment after I have made the submission.

Firstly, I submit that our learned friends in equating the proceedings in a criminal trial to an investigation of this nature, they are misguided. There is not question of onus in inquiries. That is the first point that I want to make and in support of that submission I want to refer to two subsections of the Promotion of National Unity and Reconciliation Act, 34 of 1995. 20

Firstly 19(2) -

"The Committee shall investigate the application and make such inquiries as it may deem necessary."

That is not the function of a court in a criminal trial. 30

Subsection 8(a), subject to the provisions of Section 33, the applications, documentation in connection therewith further information and evidence obtained before and during an investigation by the Committee, the deliberations conducted in order to come to a decision or to conduct hearings (indistinct) shall be confidential, but that is subject to another Section.

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What I am really contending for is that you've been told about the Mpeta case or any other criminal trial having regard to the admissibility of confessions which are in any event governed by a specific Section in the Criminal Procedure and Evidence Act in relation to writing and to whom they may be made before they become admissible, are completely out of place in an investigation of this nature.

The other matter that I want to refer to Mr Chairman, is this, that I thought that we were going to hear from our learned friends a limited argument as to why the statements are inadmissible in terms of the provisions of Section 29.

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It has not been limited to that. I take no objection to it, but it may well be as has been suggested by members of the Committee, that in referring to those statements, evidence may be led and I have already indicated that we intend call in the police officers in order to show that they were freely and voluntarily

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made, there is no reason in our respectful submission, on the reasoning adopted by our learned friends, from excluding them.

And I would appeal to them Mr Chairman, to continue with what we suggested yesterday, that they address the court in relation to Section 29. I am prepared to hold back any cross-examination on the contents of the statements until they have had a proper opportunity of doing whatever investigations they want to make

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But I submit that we should get on with the matter. The applicant has no right to remain silent before this Committee, he has to make full disclosure and I would submit that we should try and expedite the proceedings and get on with the substance of the matter, thank you.

CHAIRPERSON: Thank you very much. We will afford you an opportunity to consider your position. You can call us as soon as you are ready, but we will adjourn until we are called.

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COMMITTEE ADJOURNS.

ON RESUMPTION

MR PRINSLOO: Honourable Chairman, I thank you for the adjournment. Honourable Chair, with regard to the application of the applicant referred to by the Committee, with regard to full disclosure, with respect you have referred to this that during the

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court hearing now effort had been made to present these statements now before the Committee.

Since the applicant believed and was advised that these statements were in fact not admissible, the statement referred to is a single particular statement, found in Exhibit R4, it is a written statement on page 27, found on page 27.

This is the only statement of which the applicant is aware. Then Honourable Chair, in Exhibit R4 there appears what would seem to be interrogations of which tape recordings were made. No meaningful decisions could be made on the grounds of these, except if we were to listen to the cassette tapes themselves.

If we were to make a reasonable case on behalf of the applicant. The applicant does not have a very good memory of these interrogations, but his memory might be refreshed by listening to the tapes.

In addition in Exhibit R4, there is a document presented as a statement by a Deetlief, found on page 375. I am told that this document does not appear in a docket kept by anyone. This is the instruction which I have received.

What the origin of this document might be, we do not know. It would also appear as if sections have been added to this which would have been part of the interrogations and so forth, which we have not thoroughly studied yet.

As previously stated to you, we would want to look at the original of this document to determine its origin. What I would like to present to you then in addition, is that we would continue with our argument that the statement and the interrogation material is not admissible since this was obtained in terms of Section 29 detention, that it was not presented voluntarily or made voluntarily.

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In addition the applicant is willing, after a proper study of the documentation, to make a statement with regard to the documents presented by Mr Bizos with the proviso that we are availed of the originals, that we have access to the original and can have a full consultation with the applicant with regard to this material.

In addition we want to argue to the Committee that it would not make any sense to present this in a piece meal manner since these documents have bearing on the entirety of the case and it would therefore be not in any way to the advantage of the applicant to handle this in a piece meal manner. Thank you.

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CHAIRPERSON: As far as you response to the argument and the cases advanced by Mr Bizos about the admissibility of these documents, the fact that they were taken at a time when he was detained under Section 29, the authorities according to him show that these would be admissible.

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MR PRINSLOO: Honourable Chair, yet again with regard to the authorities regarding the admissibility will return us to the authority of the Criminal Procedure Act.

And then one would have to use all of the appropriate measures in that regard to see for instance whether the document was made with the purpose of prosecution. It was made while the person was in detention under Section 29, it was made to a member of the Investigative team, it was made to a Warrant Officer Beette and such an admission may not be made to a Warrant Officer, that is not admissible.

In so far as it is with regard to the right to obtain such a document, as Mr Bizos has referred to the case of Mumbaris(?) & Others, which had reference for instance to medical documents in terms of the Section 66 and Section 29, which were considered to have been official documents in the possession of the Commissioner or the Minister, that would be a different basis than a statement.

However, Mr Bizos has obtained the documentation. All that is at issue here is whether these documents are admissible. We want to say that these statements were not made in a voluntarily manner, it is therefore not admissible and further argument in terms of the content of the documents, would seem to

appear that it does not meet the requirements with regard to the admissibility of documents.

We would therefore simply argue that the documents are not admissible.

CHAIRPERSON Is there anything you wish to add?

MS VAN DER WALT Mr Chairman, I have pointed it out pertinently to Mr Bizos that my client, Mr Walus' case differs from that of Mr Clive Derby-Lewis, namely that my client had not been detained in terms of Section 29.

You have already this morning mentioned our reasons. I am struck by the fact that Mr Bizos did not argue at all with regard to the case of my client. I simply would then assume that Mr Bizos accepts the argument of my client with regard to his statements.

MR BIZOS Mr Chairman, may I disabuse my learned friend's assumption that I accept her claim, her client's version of the facts or arguments. I dealt with them on the basis of even if the statement was under Section 29 and I dealt with them both at the same time, and I take this opportunity of disabusing her conclusion, which I don't know from which facts she has inferred that I do not.

CHAIRPERSON The issue of whether transcripts, documents, which are transcripts taken from a tape, the issue of the

genuineness of those documents still remains and quite clearly the other side would be entitled, if those tapes are available, to hear those tapes.

MR BIZOS: We have reason to believe that they are available and in the possession of either the Attorney General or the Investigating Officer. At the consultation we were told that they believed that they were available.

And they can be made available, but Mr Chairman, with respect, I have not heard what the proposal is. We have said that we will withhold cross-examination on the documents until such time as they are reasonably satisfied that they have all the information that they want.

Can we get on with this case or what is the proposal?

CHAIRPERSON: The proposal now is that we can get on with the case, we are anxious to get on with the case. It is quite clear that Mr Bizos has made the position clear.

He will not cross-examine witnesses on information contained on documents which are transcripts from tapes until you have had an opportunity to verify or check the contents of these transcripts that they are a proper transcript of what transpired and what is recorded on the tape.

But until that stage, he is prepared not to cross-examine your clients and we will then proceed with calling your witness. Can you now proceed with your witness please?

MR PRINSLOO: Chairman, no, we would argue against this. Our argument is that we want to be wholly prepared by investigating these documents, obtaining the cassette tapes, consulting conclusively with our client, with regard to R4 which was served on us because of Mr Bizos' responsibility, at a late stage on us, we want to check these various aspects, the information that was not contained in the docket. We want to make our argument as a whole and present our testimony as a whole, rather than a piece meal way so that Mr Bizos will then be able to cross-examine on the whole, the basis of the whole testimony, since the documents presented by Mr Bizos has reference to the entire case.

We would need to have this entire matter therefore be adjourned until we are able to provide the Committee with a written statement of our client in response to this set of documentation and the cassette tapes.

CHAIRPERSON: What is your answer, you have had chance to reconsider, what is your answer to the questions that are being put by members of the Committee, about the duty that is on your client to make full disclosure?

MR PRINSLOO: With respect, Honourable Chair, the clients have made a full disclosure with regard to the matter on which they have been charged.

Whether they have made statements while under detention or not, with respect, Chairman, the statements made during their detention, the clients are of the opinion that these statements are not admissible, the Committee seems to have a different view of this.

There are additional and further documents which have not been contained in the docket, which we have only been availed of now and we would need to present a further statement with regard to this information. It is not that we are not willing, we are willing to make such a further statement, we do however, need to be provided with an opportunity to do so.

CHAIRPERSON: Can you say precisely what it is now that you require?

MR PRINSLOO: Honourable Chair, at this stage we request the cassette tapes, we request the original documents which are copied in R4 to be able to check these.

In addition we have not heard any information in regard to the source of the statements of Deetjefs which have not been contained in the docket, an extensive document, so that we are

able to determine the authenticity and the source of this statement.

Then our client will present a further statement with regard to all of these matters, so that we are able to present our case as a whole and not on a piece meal basis.

JUDGE NGOEPE: I am not sure I understand why you have problems with the suggestion by Mr Bizos that you could proceed with the matter, or we could proceed with the matter and he would refrain from cross-examining your clients in respect of the statements in issue.

It is so, isn't it, that in any trial whether civil or criminal, from time to time, even in the middle of a trial, documents may emerge which may be of some relevance, and which may be used and some adjournment may be given so that the party against whom documents may, are going to be used may be given the opportunity to have a look at them and respond appropriately.

Now, you seem to suggest that we shouldn't start the hearings at all simply because documents, Mr Bizos produced documents which in my view he could have produced them during the course of the trial, he could have allowed this proceedings to commence and in fact only produced them at a time when he wanted to cross-examine your clients, at which stage you would have been, perhaps quite properly, been entitled to say well, hold

on, I want an adjournment to go and have a look at these documents.

MR PRINSLOO: With respect Chairman, that is exactly what we are asking for at this stage. To be able to work through these documents, since the documents now presented have bearing on the entire hearing. They are not just relevant to certain pieces of the case.

If the client does not have a proper opportunity to be consulted with regard to this, we have only been availed of a single set of the documents, we are not asking for an indefinite adjournment, only for a reasonable period of time, if the cassette tapes are available now, we can go and listen to them now.

If the original documents are available, we can go and look at them now and we can cross-refer and we can continue with the case.

JUDGE NGOEPE: That is the point, I am saying to you, you are appearing for the applicants. To start off, as far as I can recall, the applicants have not in their papers, in the application forms or in their papers, have not disclosed to anybody that they had made statements to the police.

Whether those statements were under duress or not, but they have not indicated in their papers that they made statements and nobody would have known had some people not gone out to

go and look for those statements, nobody would have known that they had made such statements.

And here we come, you were ready to proceed with the trial, with the hearing, and somebody produces some documents and he is saying to you I undertake not to cross-examine in relation to those documents.

Let the hearing proceed. I just can't understand what problems that causes you.

CHAIRPERSON: It really boils down to a question of your convenience. You merely think that it is convenient for all this to be made available before we can proceed and the Committee is now left to decide whether we think it is convenient or not, whether your evidence in chief of your clients ought not to be led at this stage, is a matter which we have to now take a decision on.

Do you understand?

JUDGE WILSON: And who do you think should go and fetch the tapes for you? They are not available here, you have heard that Mr. Bizos hasn't got them, we haven't got them, but you are demanding that they be produced.

MR PRINSLOO: With respect Chairman, I am certain that it is easy to arrange for this. Our Attorney can collect it for us if we are told where these tapes are because apparently these cassette

tapes were not in the docket, otherwise it would have been in the possession of Mr Bizos

In all honesty, we believe and with respect, we believe that we will be put at a disadvantage if we are not given an opportunity to properly consult on this matter. A single set of the documents were availed to us and these are matters presented to us by Mr Bizos, we would need to check these before we are able to continue with testimony on behalf of our client, or with our client.

JUDGE WILSON Did you never asked your clients if they had made any statements?

MR PRINSLOO With respect, Honourable Chair, they were advised that these particular statements were not admissible.

With respect Chairman, I want to add to this that in previous cases which I have handled, no such further information had not been made available, and we consider this unfair under the circumstances.

CHAIRPERSON Do you concede that this is not a criminal trial with the provisions of the Criminal Procedures Act don't govern an inquiry, do you concede that?

MR PRINSLOO This may well not be a criminal court case, but we are simply in the dark with regard to what rules are followed with regard to admissibility. We are expecting of the Committee

to give us a ruling to determine whether this or that document is admissible or not and who has the onus of presenting the document?

MS KHAMPEPE: Mr Prinsloo, are you contending that your client should not have disclosed the fact that certain statements were taken from him, even albeit in circumstances which were improper, is that your contention? 10

Having regard to the fact that full disclosure is an important element to be satisfied by an applicant who is applying for amnesty?

MR PRINSLOO: Honourable Chairman, this would depend on the particulars of a particular case, to determine whether it is important to make this, to disclose this. We knew that the document was in the possession of the police, we knew that there was an Investigative team, we are still awaiting a report by the Investigative team. 20

We are completely in the dark, we cannot expect of a client to say what he said or what was asked of him, during an interrogation, if he does not have a copy of the document in his possession. The determinations of Section 29 could at that time imply that he could not obtain a copy of the interrogation transcript. If the police has a copy of the original cassette tape, one can honestly not, and with respect, not expect of a client to 30

be able in detail, to say what he had been asked during interrogation in the absence of the transcript or the cassette tapes.

CHAIRPERSON: What you regard as inconvenience, are there any other reasons why you cannot proceed with the evidence in chief?

MR PRINSLOO: With respect Your Honour, I want to argue that under the circumstances and because of the documents now made available to us, we want to go through this carefully, I want to properly consult with my client, to be able to present the case.

He will be disadvantaged if he is not availed of this opportunity.

CHAIRPERSON: On the documents that he has made available and the statements that are before us in support of his application, can you not lead that evidence?

MR PRINSLOO: Are you referring to the original application? With respect, Your Honour, this can be presented. I do not want to argue with regard to that, however, because of the documents now presented in addition, we want to be able to present our case as a whole, rather than in parts.

I will not have an opportunity to consult with him while he is under cross-examination, that will not be proper.

CHAIRPERSON: Mr Bizos, Mr Prinsloo and Mrs Van der Walt, my Committee is going to take a very short adjournment to arrive at a decision on whether we think it appropriate that you should start leading your evidence or not.

We are taking a short decision to consider that matter, we will give a ruling on that aspect of the matter.

MR PRINSLOO: Mr Chairman, I couldn't hear, there is a bit of noise.

CHAIRPERSON: Do you understand? We are going to take a short adjournment to consider this matter.

COMMITTEE ADJOURNS

ON RESUMPTION

CHAIRPERSON: — has no bearing on the admissibility or otherwise of the documents that we have been talking about. Counsel for the applicants were presented statements, copies of statements contained in R4, they told us that they hadn't had enough time, there was short notice. We gave them additional time to consider the matter.

They are now aware of the contents of those documents, they are aware of the transcript of certain tapes and the position now is they would like more time (a) to look at the original documents, to listen to the tape, to find out whether the transcript is a correct transcript, to find out the source of the

affidavit or statement taken by Mr Deetlief's and matters of that kind.

Mr Bizos has indicated that he is not going to cross-examine the applicants until the applicants' counsel have had time to listen to the tapes and to examine the original documents to see how they vary from the copies that have been made available to them.

A great deal of time has already been taken up in this matter, my Committee has come to the conclusion that we must now call upon counsel for the applicants to commence to lead the evidence of their clients in their evidence-in-chief and Mr Prinsloo, you must now begin.

MR PRINSLOO: Mr Chairman, in view of the decision of the Committee, I would ask for a brief adjournment to consult with my client and Attorney.

CHAIRPERSON: Is it really necessary because you knew that this is going to happen one way or the other?

MR PRINSLOO: Honourable Chair, under the circumstances, I am not asking for an extended adjournment, only for a brief adjournment. Under the circumstances it is in fact necessary. Up till now the entire matter has been with regard to legal aspects, and now it has to do with the presentation of testimony and I

would beg your indulgence and patience for a brief adjournment for such preparation.

CHAIRPERSON: I will afford you a short opportunity to consider this matter and if possible, we should make a beginning within the next ten minutes or so. You will call us as soon as you are ready.

COMMITTEE ADJOURNS

ON RESUMPTION

MR. PRINSLOO: Before I present the testimony of the applicant, I want to place it on record in view of the fact that the Honourable Committee is forcing me to continue with testimony at this point. I want to make it very clear that under the circumstances I do not consider myself ready to continue. I will, however, submit myself to the instruction of the Committee. I do this with the proviso that I will not be willing to do this to the disadvantage of my client.

I also request the Committee to instruct that the cassette tapes as well as the original documents, referred to in R4 be availed to us as soon as possible and I will, as the testimony proceeds, ask for a adjournment to consult with my client when these matters arise.

With regard to the documents R4 made available to us at quarter to ten, on Monday morning, documents of an extent far

beyond 100 pages, I want it noted that this is the case, thank you.

JUDGE WILSON: Should it also be noted that you were given a three hour adjournment to consider them?

MR PRINSLOO: Honourable Chair, I want to place on record that the documents made available to us, had been a single set. My client, the applicant, had not yet had the opportunity to read through this set of documents. 10

The larger part of the adjournment provided had been to consider the legal aspects, rather than the merit of the documents with respect, Your Honour.

CHAIRPERSON: Very well, you may proceed. Mr Bizos will no doubt take the necessary steps to make sure that the originals that are required will be made available as soon as possible and so will the tape be made available as soon as possible? 20

MR BIZOS: Yes, we have taken steps together with the Commission's employees to try and get it as soon as possible. We had difficulty in communicating with (indistinct) - we are instructed that they are continuously trying to get in touch with the people responsible.

CHAIRPERSON: Yes. Thank you. Yes, Mr Prinsloo.

MR PRINSLOO: Mr Derby-Lewis, may I commence the evidence? 30

CLIVE JOHN DERBY-LEWIS (affirms)

EXAMINATION BY MR PRINSLOO: Mr Derby-Lewis, you are the applicant in this matter in which you are applying for amnesty, is that correct?

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MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: Mr Derby-Lewis, your application relates to a charge of murder of which you were convicted in the Supreme Court, is that correct Mr Derby-Lewis?

MR DERBY-LEWIS: Correct, Mr Chairman.

MR PRINSLOO: The charges relate to that you murdered Mr Chris Hanu, is that correct? 10

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: And that your co-accused at the time, Mr Janusz Walus, is also an applicant in this matter?

MR DERBY-LEWIS: Correct.

MR PRINSLOO: You were also convicted for possession of an unlicensed firearm and ammunition?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: Is it correct Mr Derby-Lewis that you were arrested on the 17th of April 1993 in connection with this particular case? 20

MR DERBY-LEWIS: This is correct Mr Chairman.

MR PRINSLOO: And after being detained you were subsequently detained in terms of the provisions of Section 29 of the Internal Security Act?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: For how long were you detained in terms of the provisions of the Act, can you recall? 30

MR DERBY-LEWIS: 20 days Mr Chairman.

MR PRINSLOO: So in other words, after a period of detention of 10 days, there was a renewal for an additional period of 10 days, is that correct?

MR DERBY-LEWIS: That is correct Mr Chairman, and during those 10 days I wasn't asked a single question.

MR PRINSLOO: During the second period?

MR DERBY-LEWIS: That is correct, Mr Chairman.

MR PRINSLOO: Is it correct that your wife, Mrs Gaye Derby-Lewis was also at some stage arrested and detained in terms of the same provisions?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: Is it correct that she also appeared jointly with you and Mr Walus as a co-accused in this particular case?

MR DERBY-LEWIS: That is correct Mr Chairman.

CHAIRPERSON: Sorry, when was your wife arrested, can you remember?

MR DERBY-LEWIS: I think it was Tuesday or Wednesday which would make it the 20th or the 21st of April. Mr Chairman, I don't know whether you can hear me, it doesn't sound as though this thing is working. Can you hear me?

CHAIRPERSON: Yes, I can hear you clearly. Thank you.

MR PRINSLOO: Is it correct Mr Derby-Lewis, that since your arrest you were in detention until to date?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: You were at no stage released on bail?

MR DERBY-LEWIS: Not, in fact the Attorney General used a special legislation to make sure that I couldn't apply for bail for three months and then after that, my Advocate decided that it was not advisable. 10

MR PRINSLOO: Is it correct that your wife, Mrs Gaye Derby-Lewis was after a period after the certificate issued by the Attorney General had lapsed, that she was released on bail?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: That was after a bail application?

CHAIRPERSON: Once again, can you tell us when that was?

MR PRINSLOO: I beg your pardon Mr Chairman?

CHAIRPERSON: Can you tell us when she was released? 20

MR DERBY-LEWIS: I think it was approximately three and a half months after her original detention, Mr Chairman. But I am not one hundred percent sure.

CHAIRPERSON: Thank you.

MR PRINSLOO: Is it correct the time the Presiding Judge was his Lordship, the Honourable Mr Justice Eloff, the Judge President and two assessors? 30

MR DERBY-LEWIS: That is correct Mr Chairman. That is correct.

JUDGE WILSON: That is at the trial, not at your wife's bail, is it?

MR PRINSLOO: No, the trial Mr President, sorry.

MR DERBY-LEWIS: That is right.

MR PRINSLOO: Mr Derby-Lewis, is it correct, after you were convicted that you were sentenced to death? 10

MR DERBY-LEWIS: That is correct.

MR PRINSLOO: On a charge of murder?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: And so was Mr Walus?

MR DERBY-LEWIS: Correct Mr Chairman.

MR PRINSLOO: And your wife was acquitted on all charges?

MR DERBY-LEWIS: That is correct Mr Chairman and Mr Walus and I were acquitted on the conspiracy charge. 20

MR PRINSLOO: Is it correct that you at present, that you lodged an appeal subsequent to the first of all, you made an application to lead new evidence, is that correct?

MR DERBY-LEWIS: Correct Mr Chairman. My application was refused.

MR PRINSLOO: And is it correct that you appealed against your conviction and sentence?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: And that was also refused?

MR DERBY-LEWIS: Correct.

MR PRINSLOO: Is it correct that at present you are still under the death sentence?

MR DERBY-LEWIS: That is correct Mr Chairman. I don't know why certain elements of the media are conveying this misimpression that we have never been, although the death penalty has been ruled unconstitutional, our sentences have never at any time been replaced with any other sentence. We are still under sentence of death and we are detained at Maximum Prison under the strength of a death warrant.

MR PRINSLOO: Mr Derby-Lewis, I now want to revert your background. Where did you grow up, where were you born and where did you grow up?

MR DERBY-LEWIS: I was born in Cape Town, Mr Chairman, on the 22 of January 1936. I subsequently moved to Kimberley as a result of my late father's ill-health and grew up in Kimberley, attended school in Kimberley. I matriculated from the Christian Brothers' College and also achieved the Hoër-1saalbond Certificate at that time.

I then entered into articles with a firm of chartered accountants, where I remained for approximately three years.

After this, I was offered a post by the then Vacuum Oil Company, subsequently Mobil and I think they are now Engen.

I joined them and served a period with them. All of this time I was in Kimberley. During that time also I was very active in youth matters and became very involved and interested in politics at a very early age. In fact I think it was, I was 16 when I won, I was part of the winning team of a debating competition held at Christian Brothers' College, but ever since I can remember I have had this driving ambition, to unlike the majority of my English speaking compatriots, to be involved in some way in the future of my country.

As I considered it my duty to do military service, while my peers were thanking their lucky stars that they had missed the ballot for compulsory military service, I served 19 years as a volunteer, ending my military career as **Commanding Officer**, one of South Africa's better fighting regiments, the **Witwatersrand Rifles Regiment**.

I held that post for 6 years of my 19 year period of service, during which time my regiment became the second Citizen Force Unit to do border duty. I was also awarded the John Chard(?) medal for meritorious service.

Whilst on border duty I initiated a practice which was to become part of the system, namely to provide as a gesture of

goodwill free medical treatment to the local population. As a lead up to our border duty I also introduced my own method of training to the Unit, which involved the use of ex-servicemen from other armies who had seen active service in places like the Far East, Rhodesia and the Congo, where bush warfare was waged as well as experts from Universities such as Zoologists and the like so that my men, who were all city dwellers would know how to handle situations like confronting snakes and scorpions and I can tell you that on the border of this country and Zimbabwe and Mozambique, we experienced scorpions twelve inches long, 300 mm long.

I see Judge Wilson also nods, he knows the story, it is quite an horrific experience, Mr Chairman. And how to live off the veld should such a situation arise. When I became Officer Commanding of the regiment, I was the youngest ever OC in the regiment's history, a distinction I hold to this day.

I also became actively involved in the affairs of the city of Germiston where the regiment was based. As the regiment was highly regarded by city fathers, it being the only regiment that at that stage had been granted the freedom of the city.

During my period with the regiment, I was to become quite close to a man with a formidable record of achievement in every field he entered. Colonel Charles Stallard EDDSO and

(indistinct), who in his day was Chairman of the Johannesburg Bar Council, Minister of Mines in the Coalition Government of General Jan Smuts, leader of the Dominion Party, Member of Parliament for Roodepoort and Colonel of the Duke of Kent's own regiment in the United Kingdom before settling in South Africa.

He was also the Honorary Colonel of my regiment, who not too long after I took command of the regiment, and in view of the SADF policy of retiring Commanding Officers after a single term of command, regardless of age, advised me to enter politics as he felt that I had a contribution to make

On his advice, I became involved in Ratepayer affairs in Bedfordview where I lived and was elected Secretary of the Association in 1970. In 1972 when local government elections were held, I was asked to stand and was elected unopposed to the Bedfordview Village Council

I was elected Deputy Mayor in 1973 and Mayor in 1974, becoming in the process the youngest Mayor in the history of the Village. During my Mayoral term I initiated many new activities involving the citizens of the community and was instrumental in raising a record amount for charity, a record that has not to my knowledge, been bettered.

During that year, I had the privilege of inaugurating the Seheto School, the fire station and the new post office. I will

never forget the patriotic manner in which I was welcomed to the inauguration ceremony of the Seheti School.

It was one of the highlights of my Mayoral year and I think that Mr Bizos played a major role in that, in his capacity as Chairman of the Governing Body of the school at the time.

At the beginning of each Mayoral year, the Mayors of the Reef used to elect one among them as a kind of PRO, whose function was to introduce all of the visiting Mayors to the VIP's of each, whichever municipality they happened to be visiting.

In my Mayoral year that distinction befell me. Besides my involvement as Mayor, I also served as a councillor from 1972 to 1977 and introduced into Bedfordview the Civil Defence System, that was the first to be granted an A-category in the Transvaal.

I also was part of the council that succeeded in attracting the Eastgate Shopping Centre to Bedfordview in spite of strong competition from the Johannesburg City Council.

This success with Eastgate having the distinction of being the largest project of its kind undertaken in the southern hemisphere, was to be used by the liberals to unseat the whole council in 1977.

Their justification Mr Chairman, was that in bringing Eastgate to our Village, although it was located on the border between Bedfordview and Johannesburg and would ensure a rates

income that would be of tremendous benefit to all residents, we had destroyed the Village atmosphere

In September 1977, I see you also appreciate that Mr Chairman, in September 1977, a general election was called and I was approached by the National Party to be their Provincial Council candidate in the strong PFP constituency in which I lived, Edenvale. 10

This was one of the PFP strongest, held by Professor Nick Olivier, I think with a majority of 3 500 votes at the previous election. And as my running candidate, Senator Piet van Vuuren, as a Senator had nothing to loose and did not believe that we could win, I found myself having to run the election on my own.

I decided to do something that had not been done by the National Party up to then and involved an advertising agency in our campaign. When the dust settled on the 1st of December 1977, Edenvale had a National Party MP and Provincial Councillor and I became one of the few Provincial running mates to obtain a larger majority vote than my Parliamentary colleague. 20

We also became the only National Party candidates, to take a PFP seat at that election. In quick time I became one of the MP spokesman on education and hospital services in the Provincial Council and spearheaded the attack against the decision by private schools to open the schools to children of 30

other ethnic groups, as all available information indicated at that time, that this would, if not properly handled, lead to a lowering of standards and the subsequent destruction of the schools concerned.

I must also state that it was quite strange that the Catholic Church which was mainly behind the integration of the schools, apparently suddenly had qualms of conscience after operating private schools in the country for something like 80 odd years, without ever once trying to integrate them either before or after the assumption to power of the National Party.

In retrospect, my opposition was justified by the subsequent closure of many of those schools and to a dramatic lowering of standards in those that remained. At a caucus meeting attended by the then Minister of Education, Minister Piet Jansen, I proposed that the National Party should instead of permitting the integration and destruction of those fine schools, support the erection in Soweto where the need for something better existed, of a superior private school, staffed by the best teachers available, to be paid for by those parents who could afford the fees they were already paying at private schools far distant from their homes.

My suggestion was vetoed on the basis that the erection of such a school could not be afforded by the State. It was

becoming then more and more obvious to me that the National Party was not what it presented itself to be.

But I and many others had already decided to fight the battle from within, when after the confrontation arranged by Mr P W Botha and his henchmen, demonstrated that the majority feared the loss of their salaries and their positions, more than they feared the consequences of P.W. Botha's disastrous leadership, it was decided there was no longer any purpose to remain part of the treachery.

The break came and I decided to leave and aligned myself with Dr Treurnicht in February 1982 and became a founder member of the Conservative Party.

It did not take me long to become part of the top structure of the Party. I was almost immediately elected Chairman of the Johannesburg region of the CP and was also elected to the first General Council of the Party. In 1984, when the party, after winning its first two by-elections in the platteland, wanted to test its impact on English speakers, I was asked to be the Party's candidate in a Provincial by-election in Rosettenville in 1984.

This constituency was the last stronghold of the old New Republic Party and we succeeded, we, the CP, succeeded in polling more than 30 percent of the vote in spite of the fact Mr

Chairman, that we started the campaign with only one enrolled member of the Conservative Party in the area.

In the process, we forced the NRP into third place forcing the Party in the Transvaal, to make way for the Conservative Party.

Around that time, I arranged a press function to introduce Dr Treurnicht and the CP to the media. The success of that function which took the form of a champagne breakfast, for which the media accorded us the title of the Party with the most panache, the success of that function, which took the form of a champagne breakfast, held at the Johannesburg Country Club, led to my becoming the PR of the CP for South Africa. A function I performed until 1989.

Shortly after, I arranged an international press conference for Dr Treurnicht, which was transmitted to a reported 750 million TV viewers world wide.

I also served on the Information Committee of the Conservative Party, the Finance Committee and was a member of the Transvaal Executive at the time of my arrest in 1993.

After my entry into Parliament in 1987 when the CP became the official opposition and its first Parliamentary election, I was elected as the Party's spokesman on Economic Affairs and in the

process also became the spokesman for the official opposition in that respect.

During this period, I served on a number of Parliamentary Committees, as well as Party study groups on Defence, Foreign Affairs, Economic Affairs, Finance and others.

In my second year of Parliamentary service, I set a record by submitting more than 500 questions to Ministers in a single Parliamentary session. I can assure you Judge Wilson, that gave them such headaches and the Chief Whip I see, of the Conservative Party, Mr Frank le Roux is also in the audience, for which I am very grateful.

My leader is also there, and he will tell you how tricky it became in Parliament as a result of that whole question. This caused so much concern to the NP regime, that they changed the system to the system presently used in order to restrict the number of questions any single member could ask.

As well as restricting dramatically the number of questions that had to be answered orally or in written form by any Minister on a single day.

What I considered to have been my three major achievements during this period, were the focus I managed to place on the world's and particularly America's dependence upon South Africa for a supply of strategic minerals. My persistent

calling for more intensive beneficiation of minerals in South Africa which finally saw JCI launch a factory to make automotive catalytic converters locally and which reportedly achieved a turnover of R900 million in its first year of operation, and in the process provided additional employment for more than 30 000 people.

And the overseas visit was the final accolade which I give myself. I arranged for Dr Treurnicht, during which he met some of the world's leading bankers who assured him that what they required for them to invest in any country, particularly a country with as much potential for investment as South Africa, was not a certain political policy or philosophy, but stability.

All of these projects Mr Chairman, I initiated and carried through in the interest of the Party, only going back to the caucus once all had been finalised. The overseas visit I cleared first with Dr Treurnicht as he was physically involved, and his agreement was all that I required.

The rest I did on my own, with the knowledge that what I was doing, was in the best interest of what we stood for in my capacity as a senior member of the Party. Throughout my time with the CP until my arrest, I was an elected member of the top body of the Party, namely the General Council which consisted of

plus minus 35 people representing the four Provinces plus MP's and President's Councillors.

During this 11 year period, I was never in a position where I did anything that was not in the best interest of the Party and my loyalty to South Africa, its people, and the Party, has never been in question.

My political involvement has at times been at what some would call, great cost to myself. And certainly at times also to my family. But our Almighty Father has provided me with certain talents Mr Chairman and I consider it my responsibility to use these where and when I can.

MR PRINSLOO: Mr Chairman, may this be an appropriate stage to adjourn?

CHAIRPERSON: We will take the adjournment at this stage and resume at two o'clock.

COMMITTEE ADJOURNS

ON RESUMPTION

CLIVE JOHN DERBY-LEWIS: (s.u.a.)

MR DERBY-LEWIS: Thank you Mr Chairman.

CHAIRPERSON: Please proceed.

MR PRINSLOO: Mr Derby-Lewis, where you left off before the adjournment, will you proceed with the background?

MR DERBY-LEWIS Thank you. Thank you Mr Chairman. I believe that we have arrived at an appropriate moment Mr Chairman, to mention something which has worried me since my sentencing.

It will be remembered that the Presiding Judge used the alleged lack of remorse displayed by us during the trial in partial justification of his imposing the maximum sentence, namely the death penalty.

A sentence that has been hanging over our heads ever since, so to speak. I am sorry that the Judge interpreted what I believed to be a display of respect towards the court, which I believed to be appropriate behaviour, as indicating that I had no feelings of remorse regarding the assassination.

I wish to make it clear that I at all times, and even to today, feel remorse towards Mrs Hani and her children. Also with regards the innocent people who died or who were injured or suffered in any way as a result of actions following the attack.

It is unfortunately so that during every war there are casualties. And the ones who suffer, are those who remain. I have feelings of remorse towards my own and (indistinct) family, Mr Walus' family as well.

They have also suffered as a result of our action and I hope that they too will understand that what we did, we did because we felt a deep obligation towards them and our and their countrymen.

The difference in this procedure Mr Chairman, and it is this difference which makes it so difficult is that in a normal war the next of kin of combatants killed in action, would never know the identity of whoever it was who pulled the trigger or planted the mine or dropped the bomb.

Perhaps this makes it easier to bear. But even in that case, I am sure there is no forgiveness for the deed and so I do not expect the Hani family to forgive me. I want them to understand that there was nothing personal in our attack against Chris Hani.

In fact Mr Chairman, if anything, it was an indication of the importance, the status of the man, that he was chosen as the target for our attack.

If he had just been one of the ordinary members of the Communist Party and MK, he would in all probability have still been alive today. I sincerely hope that the purpose of the legislation that resulted in the establishment of the Truth and Reconciliation Commission, that of reconciliation, is realised and that time will heal the wounds.

I can understand Mr Chairman, the anger towards us from the family of Chris Hani and from his friends, and I sincerely wish to repeat my regrets to especially his wife and family.

It must be remembered that I too, as was the case with thousands of others Mr Chairman, have lost people dear to me. One of them, a man who was almost a brother to me, who was shot down in cold blood during the struggle period.

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I, Mr Chairman, can say that I have no bitterness towards his killers, only a deep regret for his wife and children, the real victims of the act.

In addition, and let me state Mr Chairman, I am not looking for sympathy, nor do I expect to receive it, but I certainly expect understanding on my position and I am sure here I speak the voice, the sentiment of Janusz Walus as well.

In addition I too have been punished as much as was the case with many of the freedom fighters on the other side. And perhaps even more than many. Like them, I was and in fact still am, under the death sentence and lived for almost four years within a stone's throw of the gallows.

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Both my mother and sister and two brothers-in-law passed away during the time of my imprisonment and I was not able to greet them. We have all suffered Mr Chairman, as a result of this conflict period.

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And it is therefore essential that this period become a closed episode so that we can move forward from there. And it is in that spirit Mr Chairman that I am here today and that I tender this evidence.

MR PRINSLOO: Mr Derby-Lewis, the leader of the Conservative Party, Dr Andries Treurnicht, will you please tell the Honourable Committee Members, what was your relationship with Mr Treurnicht, Dr Treurnicht, the late Dr Treurnicht?

MR DERBY-LEWIS: Yes, Mr Chairman. As was the case with the vast majority of Conservatives in South Africa, I had an extremely high regard for the late Dr Andries Treurnicht and would have done anything he asked of me in the interests of the cause of our people and their freedom.

My personal association with him began with my election to the Transvaal head committee of the National Party in 1978. He was the kind of person who noticed everyone, including one such as I, a relative newcomer at that time to the representative ranks of the National Party after my election to the Transvaal Provincial Council the previous year.

I only realised to what extent I had been noticed when he agreed to support me in what was to prove to be an unsuccessful bid by myself to secure one of the nominated Parliamentary seats

after a bad re-delimitation of my constituency led to my defeat as a Parliamentary candidate in May 1981.

The confrontation between Dr Treurnicht as Transvaal leader and Mr P.W. Botha, came to a head at a special head committee meeting called in February 1982 and what was before that meeting a comfortable majority support for Dr Treurnicht, was manipulated into a defeat for Dr Treurnicht by Mr Botha and his henchmen.

A reason was concocted for Mr Botha's presence at what was strictly a Provincial matter, was used to wangle Mr Botha into the meeting, where he sat and glared at everybody from his throne and actually challenged people to defy him to his face. When issue of support for Mr Botha's interpretation of National Party's policy was put to the vote only 33 members of the head committee, myself included, voted by a show of hands, against Mr Botha. In spite of the opposition of my first wife to the move, I decided I could no longer remain in a Party led by people as politically dishonest as I had witnessed at that vote.

And I contacted Dr Treurnicht in Cape Town the following Monday and offered him my support. He invited me to bring 4 key people from the National Party, Edenvale structure, who felt the same way with me to a meeting due to be held at the Pretoria Afrikaans Boys' High School hall the following Saturday.

At that meeting I became part of the decision to call an urgent meeting of the people to discuss the formation of a new political party, truly representative of the interests of the people.

In the process, I became one of the original 600 odd people who were to be seen as founder members of the Conservative Party.

During those initial years we together, shared the joy of victories and near victories as well as the sorrow of defeats. In the all important by-elections referred to as the "battle van die berge", I was regularly given the honour of sharing a platform with Dr Treurnicht at meetings held in support of our candidates in those by-elections.

This honour Mr Chairman, normally was only accorded to members of Parliament or Parliamentary candidates in their own constituencies. Provincial leaders of the Conservative Party were the only other members of the Party who addressed meetings together with Dr Treurnicht and then mainly to introduce him to the audience and to talk briefly on specific Provincial matters.

At the meetings I addressed with him, I would concentrate on economic and financial matters, while he covered philosophical and policy matters. I like to believe that we made a really successful combination after the tremendously successful international press conference I arranged for Dr Treurnicht in 1984 for which I wrote his entire speech.

I was given more and more opportunity to perform this most important function. In the process I became a confidant of his and it was obvious to me that we had built up a wonderful relationship of trust between us.

When I entered Parliament in 1987, he and his wife, Engela, also sought my and Gaye, my wife's assistance with certain personal problems with which he was confronted and which we were able to resolve.

He trusted me implicitly and I never, ever gave him reason to regret this. I am not aware of any of my colleagues in the caucus except perhaps the present leader, Dr Ferdi Hartzenberg, enjoying a similar relationship with Dr Treurnicht and subsequently also between his wife and mine.

We were more, Mr Chairman, than colleagues and I was proud to have been able to consider him also to be a friend. When I arranged an overseas visit for Dr Treurnicht in 1989, to meet with senior bankers and politicians from Britain, France, Germany and Switzerland, I experienced opposition from certain senior colleagues of mine in the Parliamentary caucus.

Dr Hartzenberg, of course excluded, who were not prepared to allow me to take Dr Treurnicht overseas without disclosing the itinerary. I was on the other hand, not willing to do this as I was sure that the itinerary which should have been discussed with the

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Department of Foreign Affairs, that I was sure that between the Department of Foreign Affairs under Mr Pik Botha and the media, many of the confidential meetings I had arranged, would have been aborted. Because that is the sort of opposition which we received from the National Party regime who abused everything they had at their power to try and shipwreck whatever the Conservative Party was doing.

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And after explaining this to Dr Treurnicht, he demonstrated the extent of his trust in me by overruling any objections. Fortunately the successes we achieved only served to confirm to him that his trust was not misplaced. From the CP point of view, Dr Treurnicht himself underwent a transformation, once he had had the opportunity to see for himself that the Conservative Party's policy was accepted by the real role players overseas as a realistic alternative for South Africa in the event of the CP coming to power at a subsequent election.

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That overseas baptism of fire, Mr Chairman, for both of us in the real power circles overseas, further cemented us together in our special relationship.

Mr Chairman, I think it is opportune at this stage to draw certain comparisons between the combatants of the various camps and the war which waged within and without our borders.

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It is quite obvious to me from the information available, that all Parties which were involved in the conflict of the past, were equally honourable or dishonourable in their conducting of the conflict.

There can be no preference given to anyone. We all committed real sins, bad ones. The slogan of the ANC every patriot a combatant, every combatant patriot applies equally to all Parties involved.

We in the CP and others on the right, truly believed ourselves Mr Chairman, to be involved in the same freedom struggle professed by the ANC. We were not trying to perpetuate so-called Apartheid, but only trying to secure our rightful place in the sun earned for us so dearly through the blood, sweat and tears of our forbears as well as through our own efforts.

It is equally clear that all sides carried out assassinations, be it through the use of bullets, car bombs, land mines or cross-border raids. All Parties had supporters who carried out tasks at their own initiative, according to their assessment of the situation and the need which they identified for certain action.

The ANC have agreed with the statement I have just made and have accepted responsibility for the actions of their supporters, whether ordered by them or not.

So too have the PAC and various other organisations which participated in the struggle. The CP has already come out in support of their supporters in prison, this is on record and it is a tragedy that the National Party regime or the former National Party regime, but the National Party of today, will not accept responsibility for actions resulting from their approach to the problem as it is clear that the members of the Security Forces, who perpetrated certain questionable deeds, were doing what they believed to be best all things considered, right or wrong.

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Senior elements of the ANC Mr Chairman, we know planned the assassination of the entire National Party Cabinet. A project that was subsequently rejected, not because Cabinet Ministers or civilians were involved, but because there was concern expressed that the action could change the accent of the struggle in a negative way.

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The NP regime failed to repudiate or reject any Security Force attacks on prominent ANC leaders in exile creating clearly the impression of tacit approval for those attacks.

All Parties were involved in actions that resulted in the deaths of civilians. So no fingers can be pointed in this regard. The ANC and "die Orde Boerevolk", by their own admission, were involved also in revenge attacks. The purpose of the Tambo authorised Pretoria car bomb attack, being to avenge the cross-

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border raid into Lesotho against ANC cadres by the Security Forces and "die Orde Boerevolk" attack on a bus load of people in Durban to avenge the attack on Whites on the Durban beach by elements of the ANC/SACP/PAC alliance

It is also patently clear that in spite of the unbanning of the ANC/SACP alliance, that the ANC, the IFP, the Security Forces and the Right were still involved in that undeclared, by some, war up until the time of the April 1994 elections

Just as it is clear that the ANC alliance, the IFP and elements of the AWB were still fighting this war, even till today as we sit here, Mr Chairman, the war continues

There is no doubt that the ANC seem to believe that their methods of waging the freedom struggle were exclusive to themselves. When these tactics were used by opponents, they suddenly became atrocities

However, Mr Chairman, there can be no difference drawn between the use of a car bomb, a land mine, a letter bomb or a bullet when an assassination is carried out

The only distinction that exists, exists between the method used and not the deed itself. The following information which I quote Mr Chairman, has been extracted regarding the ANC and its tactics have been extracted from various documents which I think are also in the possession of the Truth and Reconciliation

Commission unless otherwise stated, however, the information set out hereunder comes mainly from their statement to the TRC.

It will also give some indication of their thought process.

JUDGE WILSON: Can I interrupt you at this stage?

MR DERBY-LEWIS: Certainly.

JUDGE WILSON: Is all this written out?

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MR DERBY-LEWIS: Not totally Mr Chairman, sorry. I can if you like, redraft it and submit it to you at a later date.

JUDGE WILSON: If you could just let us have a copy of what you have been reading from, it means we don't have to keep such an exact note.

MR DERBY-LEWIS: Yes, fine.

JUDGE WILSON: Thanks.

MR DERBY-LEWIS: Thank you. For example, when referring to the assassination of the late Chris Hanl, it is clear that they actually believe press reports to be factual when it is patently obvious to the informed observer that the press reports concerned, were mere press speculation without a basis of fact.

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"There have been press reports indicating that there are grounds for suspicion that Janusz Walus convicted of this murder, was in some way linked to this network where they were referring to the Orde Boerevólk with which organisation Janusz Walus has no connection whatsoever", page 43 of their submission.

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Further on Mr Chairman, they call on the TRC to reopen investigations into the Hani assassination "in the light of information which was not available at the time and which could come to light in the course of the hearings of the Commission or through applications for amnesty "

It is clear from this statement that they are hoping that something will come out, but have no evidence whatsoever on which to base their suspicions and yet Mr Walus and I, Mr Chairman, found ourselves sitting in prison, not permitted to make statements refuting all of these terrible smoke screen allegations without any basis of truth, whatsoever.

The ANC statement Mr Chairman, contains views that equally apply to others waging a freedom struggle. For example they say "the time comes in the life of any nation when there remain only two choices - submit or fight." They also say "the government has interpreted the peacefulness of the movement as weakness"

These statements Mr Chairman, I submit apply equally well to the Afrikaner.

CHAIRPERSON: Sorry, are you in a position to tell us where we would find that — (intervention)

MR DERBY-LEWIS: Yes, that is on page 46 of their submission Mr Chairman. These statements apply equally well to

the Afrikaner whose inherent desire for peace was used to compel them to surrender their rights in the belief that they would not resist, no matter what.

While strongly condemning the assassinations directed at themselves, as unacceptable, they admitted as I said earlier, that they were planning in 1981 already to assassinate the whole National Party Cabinet in Bloemfontein.

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That is according to their report page 51. At the Kabwe conference held in 1985, the late Mr Oliver Tambo, however, said that "I think the distinction between hard and soft targets is being erased by the development of the conflict."

The ANC's 1986 slogan which I mentioned "every patriot a combatant, every combatant a patriot", page 53 was also equally applicable to Afrikaner patriots and judging from the acts of violent resistance that were carried out from 1990 to 1993, as per our addendum A submitted, as part of our documentation Mr Chairman, right-wingers were far more active than had been the case for the ANC and their allies even at the height of their revolutionary campaign.

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The only difference being the revolutionary struggle was played up by large sections of the left-wing media whereas little or no prominence was given to acts of resistance perpetrated in support of the freedom struggle of the Afrikaner.

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Equally so Mr Chairman, claims by the ANC to having been engaged in a just cause applied to the freedom struggle in which we the Afrikaners, were engaged.

After all, what more just cause than waging a war to prevent a treacherous regime from betraying its mandate received from the Afrikaner and in the process signing away everything the Afrikaner holds dear.

And I do not mean Apartheid as in the NP regime, which by their own admission Mr Chairman, meant the maintenance of White supremacy. What they in reality meant was maintaining at all costs the power base of the NP regime.

No freedom loving Afrikaner would be prepared to fight for that. Unfortunately for us the regime finally succeeded in convincing most of the Generals, both in the SADF and the SAP that their duty was not to the State, the State being of course the people, but to the NP government.

Of course in the process they did to the senior State officials what they had previously done to National Party politicians. During the P.W. Botha era Mr Chairman, salaries of politicians rose to such an extent that there was a sudden emergence of professional politicians, mostly in the case of the NP regime.

Party hacks were no longer needed to earn a living outside of politics as they could as a result, survive quite comfortably on a Parliamentary salary. In the process Mr Chairman, Parliament lost many of those really sincere people who entered politics to serve their community and their people.

The result was a dramatic drop in the standard of NP politicians, in particular. This was in fact confirmed when the break came from the NP in 1982. After the first general election which was held in 1987 after the formation of the CP, in which the CP became the official opposition, it was discovered that the CP had on average the highest and best qualified team of members of Parliament in Parliament.

In the process Mr P.W. Botha used taxpayers' money to surround himself with the largest group of yes men in Parliamentary history. He bought their loyalty. This technique proved so successful that the obvious next step was to do the same with State officials, the results we see here before the TRC Mr Chairman where it is already quite obvious that the vast majority of the atrocities being disclosed were perpetrated during the P.W. Botha/F.W. de Klerk era.

In fact things became so bad in South Africa that it was obvious to us that we were living in a State so aptly described by Lord Acton when he stated that "power corrupts and absolute

power corrupts absolutely". And even today Mr Chairman, I express the hope that we never get to the stage again in this region where we have governments with so much power that they don't even see corruption as a sin any longer.

The things that were done Mr Chairman, were done on the basis of doing whatever was necessary to ensure the continuance of power and I am sure that most of those actions were carried out by senior members of our Security Forces in a genuine belief that what they were doing was what they were duty bound to do.

It is therefore extremely dismaying to see that while the ANC, the PAC, the CP, the Freedom Front, certain Generals and others who were involved in the freedom struggle in some way or another while perhaps not taking responsibility for issuing the orders in some cases, still acknowledge that the deeds perpetrated were carried out by their people genuinely and sincerely believing they were doing what was required of them and then accepting responsibility for them, the NP have left their people high and dry.

And have in fact Mr Chairman, condemned the actions in the face of the facts that never were these actions such as cross-border raids or assassinations either publicly refuted or the people repudiated, I personally cannot believe that the NP

leadership can now try to present themselves as the lily white's of the past conflict.

What the NP regime forgets with its majority absence of real patriots, is that when we were, and I was an elected representative of the National Party Mr Chairman, that we all cheered our Security Force people on when they scored certain successes. We were in a war time situation and as even the ANC have declared, almost anything goes in a war.

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Of course Mr Chairman, some really horrific things were perpetrated on all sides. And I, in my capacity as a former public representative of the National Party, before I helped to found the CP, am quite prepared to accept responsibility for those actions and to apologise for the times that mistakes were made and civilians and in particular women and children, were killed.

I invite any of the present National Party public representatives however, to repudiate me if they re not prepared to share the responsibility for what has happened.

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I do this Mr Chairman, once again in a spirit of reconciliation as I know that there are serving and past representatives of the NP who are not in agreement with the attitude of the leadership towards those Security Force personnel now seeking amnesty for deeds perpetrated through their desire to

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serve the government by keeping them in power against those whom they considered to be revolutionaries.

At that same Kabwe Conference in 1985 "a resolution was adopted which acknowledged that there would be unavoidable civilian casualties as warfare escalated", page 56. This applies to all sides in a conflict Mr Chairman and I trust all parties concerned will accept that.

The Act which established the TRC states categorically and I say unfortunately, that no acts of revenge can qualify for amnesty where gross violations of human rights or more specifically deaths, occurred.

Yet the ANC acknowledges that acts such as the Pretoria Church Street bomb was an act of vengeance, as was the Amanzimtoti bomb and so also the attack by the SADF on Maputo in 1983. But Mr Chairman, there can be no doubt that these were acts of war carried out during a period of conflict, or warfare and should therefore be accepted as such with respect, as in the interest of reconciliation.

We should, I believe Mr Chairman, and once again with respect tendered, we should at this time not be looking for reasons to refuse amnesty, but rather be looking in the broadest sense as defined in the Geneva Convention, for reasons why amnesty should be granted. I think that the TRC has been

handled well-intended legislation, but with all of the qualifications Mr Chairman, I think the main direction that of unity and reconciliation has been sidelined in sacrifice of the addition of a lot of qualifications why people shouldn't get amnesty.

It is also clear that the war was still raging Mr Chairman, still raging, at the end of 1992, page 66 of that same report of the ANC and judging from the fact that the highest number of political death occurred during 1993, then people tell me we were at peace from 1990 Mr Chairman, in fact almost 4 000 political deaths, the highest in the history of the conflict, occurred in 1993. That was when the war was at its highest.

The war continued unabated for that year and for the year thereafter as well. In fact Mr Chairman, it is my humble opinion that the war between the ANC and the IFP specifically rages on even today.

Mr Chairman, I would like now to come to the war situation in South Africa.

MR PRINSLOO: May you continue Mr Derby-Lewis.

MR DERBY-LEWIS: Thank you. May I continue Mr Chairman? Thank you. For most of my life Mr Chairman and for years before the ANC declared itself to the armed struggle, I can

remember South Africa being in a wartime situation during which time many people died.

During 1952 I can remember at the age of 16, a particularly gory period in my life when many were killed, mostly apparently by members of the SAP during an outbreak of violent resistance in Kimberley my old home town.

As a result of the fact that my then girlfriend was the daughter of the local district Commandant of Police, I was privy to the real horror of that period at the age of 16.

When according to press reports, 12 people were killed and many more were wounded. I can remember hearing it being related that not 12 but so many people were killed that the SAP were compelled to load the bodies of the dead onto the back of bakkies. Because there were so many dead, the mortuary could not accommodate the bodies and the SAP were forced to take them to the abattoirs prior to them being buried.

I remember vividly the stories of how the blood poured from the back of those trucks as the bodies of the dead as well as those injured, were taken away to the abattoir and the hospital respectively. I recall also at that time a nun being burnt to death in her Volkswagen in the Eastern Cape.

I think it was East London Mr Chairman and at the same time, people being killed in Soweto, including a Doctor who had dedicated his life to the people who subsequently killed him.

Then Mr Chairman in 1960 there was the uprising which took place at Sharpeville with again many dead and even more injured. During May 1960 when I was serving in the Kimberley Regiment, it was obvious that things were even more serious than most people realised at the time. When the regiment was mobilised, and we were called up for active service, the year 1960 I repeat Mr Chairman, this happened again in May 1961.

And an indication which particularly came home to us in the Kimberley regiment of just how serious things were, occurred when our Commanding Officer Commandant Ken Soederland(?), was summarily relieved of command of the regiment.

Shortly after we were informed that it was as a result of his membership of an organisation whose name I am unable to remember, that his loyalty to South Africa was placed under doubt.

In 1963 I transferred to the Witwatersrand Rifles Regiment in Germiston as I had earlier moved to the Transvaal. And Mr Chairman, with the intensifying of our training, due to the escalation of the war situation in South Africa, I wanted to be more actively involved.

After the assassination of Dr Verwoerd, which we believed to be the work of the enemies of South Africa, tensions built up on the border between South Africa and Zambia and South Africa was actively involved in the Rhodesian war.

In 1970 I, as Commanding Officer of the Witwatersrand Rifles' Regiment led my Unit on the second term of border duty ever undertaken by a Citizen Force Regiment.

Although we were based in the Northern Transvaal, we were ready at very short notice to be moved to the Caprivi Strip in the event of a blow up there.

That area had already previously come under fire from a mortar attack launched from inside Zambia. As the defence of the Caprivi Strip would be the responsibility of my Regiment in the event of a flare up, I and my key personnel spent a week on the Caprivi Strip to recon the area to enable us to familiarise ourselves with the conditions in the area.

It was during this period Mr Chairman, that I experienced the positive effect of the political policy of separate development through a close contact with the local tribe in the area headed by Chief Jack Motale.

What really impressed me was the proud way in which these people carried themselves, the way they conducted themselves. When comparing them, and perhaps comparisons are odious in

this situation Mr Chairman, to the people living in the urban areas on the Witwatersrand.

They had a degree of self-respect which I hadn't experienced amongst many of the people living in the urban areas.

It was a great pleasure working with them and it was this period that finally convinced me to enter politics in support of the National Party having prior to that been A-political as a result of my military involvement. 10

And Mr Chairman, let me also here categorically state that neither I, nor anyone that I know in the positions that matter in the Conservative Party, have ever been interested in perpetrating a situation of White supremacy in South Africa.

We have always believed that each of the peoples and there are clearly without any possibility of dispute Mr Chairman, there are clearly identifiable peoples resident in Southern Africa and we were of the opinion and are still of the opinion Mr Chairman, today, that the only way to accord dignity, self-respect, the power of self-determination to people, is through the bringing together of the power structures of each people in a clearly identifiable territory where the leaders of those people can then act on behalf of the people that they know first of all, and the people that they represent, second of all. 20

I have been in politics serving my people Mr Chairman, for a long period, more than 25 years and I can assure you that I have been labelled in that period as a racist, I have been labelled anti-Semitic, I have been given every possible negative label which is difficult to refute. I believe for a very simple reason.

I believe it has been for the reason that nobody can doubt the sincerity of my belief in the real policy of self-determination for all peoples in their own territories.

Mr Chairman, after my military involvement in 1972, I was elected unopposed to the Bedfordview Council. And when I was placed on the SADF reserve of Officers in December 1973, I was already serving a term on the Council as Deputy Mayor.

I had also to facilitate my political involvement, opened my own business and as a result was not able to volunteer for service at the outbreak of hostilities in Angola.

Had my circumstances been different at that time, I would undoubtedly have served in Angola when the SADF was sent in 1976. While I was involved in the political conflicts from 1977, the war raged on. It did not take me long to realise that the NP I had joined and the real NP were two different things.

The betrayal first of Rhodesia followed by the betrayal of South West Africa and the betrayal of the mandate they had of the policy of separate development, was finally capped by the total

betrayal of any mandate which the NP had received from the voter when in spite of assurances to the contrary, they unbanned the ANC and the SA Communist Party.

In spite Mr Chairman, of the unbanning the war escalated in South Africa with an ever increasing number of casualties. And with it, our concern grew.

We consoled ourselves with the fact that our support, that is the support of the CP was growing in leaps and bounds and that after the trouncing we handed out to the NATS in Virginia and Potchefstroom as well as the close loss we experienced in the National Party's strongest constituency in that last outpost, Natal, and in various Cape constituencies, it was just a matter of time before we would assume power in parliament.

I will talk in further detail on that Mr Chairman, this is purely in terms of an introduction, instead of the democratic process of a general election which Mr de Klerk knew was due after Potchefstroom, when the large CP majority showed clearly that he no longer represented the majority of the electorate that had voted him into power. Mr de Klerk called a referendum.

I think it is appropriate at this stage Mr Chairman, to mention that we subsequently had our attention drawn to a report which appeared in the Washington Times in the United States of America, in April 1990 which indicated and we up to this day, I

personally and I don't know, I am sure my colleagues as well, are unable to understand why this information only appeared in an American newspaper and was not released to the South African media, but the subject of the report Mr Chairman was an opinion poll carried out by the National Party regime at the time, which indicated that in April 1990 the National Party had the support of fewer than 52 percent of the White population of South Africa whom they purported to represent.

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And in fact represented illegitimately at any negotiations which they held with the ANC/SACP alliance, because they knew that they were no longer speaking on behalf of the majority.

But instead of an election which he knew he was going to lose, Mr de Klerk called a referendum with a vague question as the basis, assisted by allies planted within the CP to cause the dissension over participation, the NP aided and abetted by obvious gerrymandering in the more liberal areas, where massive voter turnouts, like 105 percent of voters in the George region for example and I will never be able to understand as a man who has been in politics for that period, how 105 percent of 100 percent can vote, and 95 percent in the Constantia region, while in conservative regions the control by the CP made these kinds of tricks difficult or even impossible, the yes vote drew 66 percent of the votes cast.

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There was a stowaway vote of 25 percent of the total voters' role, which meant that in actual terms the yes vote represented two thirds of 75 percent, namely 50 percent of the total voters' role supported it.

I am sure you will agree with me Mr Chairman, that was very close indeed and certainly could not be considered to be a mandate from the people to do what Mr de Klerk finally did

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No problem to De Klerk however, as he now had the opportunity to interpret the vote to suit himself. And that he did.

Once again in contravention of his mandate, he put a total stop to all Parliamentary by-elections and when he saw that even in the strongest Municipal wards and with the full support of the DP, he could still not beat the CP, he stopped those too.

When he stopped Parliamentary by-elections Mr Chairman, he effectively denied us the constitutional means of ridding the country of his government and change the course of action on the Right.

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CP leadership had repeatedly stated that they were committed to the democratic process of elections until that process was denied us. And I believe it was in August 1992, that that finally happened when the first MP was nominated to Parliament without having to fight a by-election.

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He was coincidentally a Conservative Party Member of Parliament. Other patriots have already after the unbanning of the ANC/SACP alliance to which I have referred in appendix A, started resorting to violence in their response to the unbanning. In the CP we started in 1992 a mobilisation process which culminated in the finalisation of full mobilisation structures in 1993.

We now had the structures for war, we were ready for war. The actual reason as I saw it, for the call to the third freedom struggle, made by Dr Treurnicht on the 26th of May 1990, in response to the unbanning of the ANC/SACP alliance and it was in this climate Mr Chairman, that the attack upon the late Chris Hani was launched.

It must be clearly remembered that Chris Hani was first and foremost a soldier of his people. It was in the military sense that he became one of the first to join the armed struggle. And it was his success in this field that led to his being appointed Commander of MK.

In this position, he was in the ANC's own parameters a military target. And we treated him as such. I can assure you Mr Chairman, there were many, many people on the Right who saw the late Chris Hani as the real target, political, militarily, psychologically, whatever you care to name as a result of his

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status, as a result of the man himself, he became the natural target

The fact that he was also the leader of the SACP and also the man most likely to succeed as President, in the event of a take-over by the ANC/SACP alliance, made him also a priority political target.

A target that, if successfully attacked, would most likely cause our objective to be realised and that was to plunge the country into a situation of chaos that could be used to advantage by the Right to effect a take-over.

The events subsequent to the attack up until the aborted defence of Bophutatswana showed that the objectives we anticipated, were in fact in the process of being realised in spite of the fact that I was as a result of my conviction and incarceration, unable to further participate.

MR PRINSLOO: Mr Derby-Lewis, you belonged to various other organisations is that correct?

MR DERBY-LEWIS: I beg your pardon Mr Chairman.

MR PRINSLOO: Mr Derby-Lewis you belonged to various other political organisations, is that correct?

MR DERBY-LEWIS: That is correct, Mr Chairman.

MR PRINSLOO In as far as the other organisations are concerned, you were also involved with other organisations on the Right?

MR DERBY-LEWIS: Mr Chairman, I think it is correct to say that I was involved in whatever I could become involved in to ensure the furtherance of the objectives of our cause and I was in the process involved in many organisations

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MR PRINSLOO Mr Derby-Lewis, in as far as the organisations are concerned to which you belonged to, the Stallard Foundation, will you please tell the Honourable Members as far as that particular organisation is concerned?

MR DERBY-LEWIS: Mr Chairman (if I may, I would like to first give an overview of the development of my career in terms of those organisations are concerned, including the Stallard Foundation.

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I have in fact produced sufficient copies to supply you with copies of these after I have presented it so it won't be necessary to take comprehensive notes.

MR PRINSLOO: You may proceed Mr Derby-Lewis.

MR DERBY-LEWIS: Is that all right Mr Chairman? Thank you.

CHAIRPERSON Proceed

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MR DERBY-LEWIS: Organised resistance, or resistance of a sort Mr Chairman, began with the formation of Die Herstigte Nasionale Party in 1969. Subsequently the AWB, the Afrikaner Resistance Movement was called into being some years subsequent to this

During the 1980's other groups were founded to counter the direction of the National Party and to attempt to halt this. The reason why I have now changed Mr Chair to Afrikaans, is not to make things more difficult for members of the Committee, however, I am an Afrikaner who believes that an Afrikaner should in fact, or has two languages in their background, both Afrikaans and English.

I do this and I will do this only briefly, because I know that certain of the members will find it difficult to understand Afrikaans, but I want to make the point that the reason why I do not do half of my testimony in Afrikaans, is only because of the difficulties that would be experienced by members of the Committee and for no other reason

Thank you Mr Chairman. During the 1980's other groups were formed to resist the direction already been made clear by the National Party. Mr P.W Botha's reforms towards what he called "healthy power sharing" triggered the formation of the

Conservative Party in 1982 whose policy was self-determination for the various peoples.

The policy which the National Party was self-determination for the various peoples, the policy which the National Party was clearly (indistinct). I was a founder member of that Party as I had said earlier.

Shortly afterwards I was asked to leave the National Party dominated Senior Rapportryers Corps and I can tell you that I think, I must have become the first person in South Africa with English as a home language to be accepted as a fully fledged member of the Senior Rapportryers, which for the uninformed will indicate to you that I was already on my way to become a member of the Broederbond possibly, but the Senior Rapportryers was the step before.

And I mention this to give you an indication of to what extent my fellow Afrikaners accepted me as an Afrikaner. But I was asked to leave that organisation because of my politics. In fact I caused a confrontation at a meeting, and this is not in here, I caused a confrontation at a meeting one evening when shortly after Mr P.W. Botha as the leader of the National Party had declared himself State President, the Rapportryers had a tradition of toasting the State President, and I had no problems with that while the State President was not actively involved in politics,

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but when they made P.W. Botha the State President, he became a President who was the leader of my opposition

And I explained to them that I find it very difficult in fact impossible, to join in the toast of loyalty or allegiance to the State President and that I would therefore be forced, if they forced the issue, to refuse to rise and when the toast was raised, I was going to upturn my glass of wine on the table, which in terms of Scottish tradition, is probably the most severe insult one can pay in terms of an action like that.

So, that was why suddenly there was something wrong with my money and they wouldn't accept my payment of subs and of course, because I hadn't been paying subs, I was booted out. Which is quite an interesting experience.

After that Mr Chairman, I attended on invitation the founding meeting of the Afrikaner Volkswag of which I remained a member for many years thereafter and in fact, until the time of my arrest, I was still able to afford the subscriptions and carried on after I became a, what do they call it Mr Chairman, something of the State, when they incarcerated me, it was a little bit difficult to meet all of these expenses.

During the mid-1980's the violence campaign and the ANC's proxy, the UDF, escalated while visits to the ANC in Lusaka and other points overseas by liberal Whites and in particular, by

leading Afrikaner Leftists occurred. Righters could see the writing on the wall.

I must tell you that I was at one stage invited to attend the conference at Lusaka which I refused. While the National Party consistently told its White voters that it would never hand over to the ANC and that it would never sacrifice the members' rights to self-determination without consultation, it was conducting behind the scenes talks with the ANC.

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In fact Mr Chairman, I am on record in 1988 and this was I think what contributed towards the changing of the whole question system. I received interesting information that the National Party in the form of various Cabinet Ministers, had been holding negotiations with Mr Nelson Mandela, both within and outside the confines of prison.

Now, I am sure you will understand Mr Chairman, that if that information had been available in 1988, the National Party would have received the biggest thumping in its history at the 1989 election. Instead they used that, the DP's association with the ANC, to ensure that the DP never, ever figured in Parliament again while the Conservative Party was there.

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But, that is another ball game. I actually when I saw Mr Kobie Coetzee's admission recently, I think the last 18 months, where he admitted he had been negotiating with Mr Mandela, I

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realised then that the so-called sin for which P.W. Botha, Pik Botha and company had claimed the resignation of the late Dr Connie Mulder, a more honourable man than the whole bunch of them together, the deed that he perpetrated namely so-called lying to Parliament, that was carried out in 1988 by at least four Cabinet Ministers who continued to serve with impunity.

Righters, however, as a result of these developments could see the writing on the wall. While the NP consistently told its White voters it would never hand over, sorry, it was during this period that it had become obvious to the Right, that a sell-out had physically begun or be it surreptitiously

Numerous Rightest organisations were formed and all had the same goal - resistance to the NP's abdication to the ANC. Noisy and in many cases violent disruptions of NP public meetings increased. Two of the more vociferous were the Rights break up of Minister Pik Botha's meeting in Pietersburg and the violence and death which occurred when Mr F W de Klerk tried to hold a public meeting in Ventersdorp.

I was one among those who stopped Pik Botha's meeting in Pietersburg. He challenged us to stop his meeting and so we took up his challenge Mr Chairman and when Mr Botha was due to depart for a meeting in the Pietersburg Civic Centre, he found himself confronted by at least 8 000 right-wingers.

He then chickened out, huddled in a back room in somebody's house in Pietersburg, drinking Whisky while the other Party hacks had to come and confront the Right. My National Party opponent Mr Chairman, in the 1987 election, Leon Wessels, printed a picture of myself being carried on AWB members' shoulders during that meeting.

I also attended the rightest Ventersdorp protest against De Klerk and I was teargassed on both occasions

MR PRINSLOO: Mr Derby-Lewis, what was your relationship with the AWB (in particular)?

MR DERBY-LEWIS: Well Mr Chairman, the record is here, but I appeared many times on public platforms with the leader of the AWB. Because the AWB had a similar attitude towards the problem as we in the CP did.

The AWB in fact, at one stage was almost, was certainly unofficially considered to be the military wing of the Right and as far as I was concerned, I was prepared to do anything to further the cause of justice in terms of the Right, Mr Chairman

MR PRINSLOO: You may proceed Mr Derby-Lewis.

MR DERBY-LEWIS: Thank you Mr Chairman. In fact, I go on to say here, I shared many public meeting platforms with Mr Terreblanche including New Castle and Durban and I can tell you Mr Chairman, in Durban it was one of the biggest political

meetings ever held in that City Hall. The City Hall was jam-packed.

Also in Krugersdorp and Swartruggens, the Eastern Cape and the Transvaal Low Veld. At the same time Eugene Terreblanche and other Rightist leaders spoke at meetings of the Stallard Foundation, which I will mention to you.

Which was an information forum for English speakers which I helped to found in 1986. At election time, the AWB called upon its members to vote for the CP and after the 1987 election, and in fact I have documentary evidence of that an advertisement which was placed by the AWB Mr Chairman, and after the 1987 election, the AWB contacted CP Members of Parliament of which I was one, with a view to utilising CP MP's as a forum of communication with the government.

I was also involved in other Rightist organisations. I shared platforms with Mr Robert van Tonder of the Boerestaat Party, with Andrew Ford of the Boere Weerstandbeweging, whom I believe is familiar to this Committee.

I spoke at Durban's Conservative Civic Action League meetings. The Chairman of the Stallard League, sorry the chairman of the Civic Action League and some other members were members of the Durban City Council. I was an active

member of the Durban based S.A. First organisation which I addressed on many occasions in the mid-1980's.

Resistance to the past taken by Catholic Church of which I was a member including having served as a member of the Catholic Order of the Knights of Da Gama, led to my being expelled from the Order.

I formed the, in fact helped to form the Christian Resistance Group to protest against the Catholic Church's actions in Namibia. They intervened, published a book The Truth on Namibia and after reading that booklet, to me it appeared that that truth was as far from the truth as anything could be

Be that as it may, I jointly published a booklet called Is this the Truth on Namibia, where I exposed Bishop Dennis Hurley's deep involvement in revolutionary politics in that country.

The Christian Resistance Group then became a member of United Christian Action, an organisation which may be familiar to you, a loose alliance of anti-Communist and anti-liberation theology church groups, set up in the 1980's to combat the growing politicisation of the churches in South Africa.

During this period I was contacted by the Polish Association of South Africa, which was highly concerned at communist infiltration of South Africa's Christian churches.

They had of course first hand experience of communism. I was personally instrumental in bringing the South American Christian group, the Society for Tradition, Family and Property, TFP, to South Africa during the late 1970's. A bureau was set up in South Africa where information on religious subversion in South America as it applied to the Southern African situation, was published

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This organisation was profoundly anti-Communist. I was also a founder member of the Johannesburg based University Freedom of Speech Association formed in the mid 1980's.

I also as I mentioned earlier, helped to found the Stallard Foundation at that time and in 1991 formed the Republican Unity Movement of South Africa whose goal was to encourage English speakers to become actively involved in politics.

And I can say here, Mr Chairman, that we had a particularly from the Stallard Foundation side, we had quite a degree of success in motivating English speakers into political participation in that we provided a number of Parliamentary candidates particularly in Durban constituencies and Natal constituencies.

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I spoke on numerous platforms within the broad Rightist movements. My message was always anti-Communist and obviously anti-ANC. They were our opposition. In early 1992, I was invited to attend a formation committee meeting of an

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"Afrikaner beraad" in Pretoria to consolidate resistance to the National Party's sell-out. Resistance Mr Chairman, to the National Party's sell-out.

This organisation became the unity committee of 25 under the Chairmanship of Dr Adriaan Pont. I was instrumental in bringing the then General Secretary of the Mine Workers' Union, Mr Ari Paulus, into CP politics. Mr Paulus subsequently became the CP member of Parliament for Carltonville. This led to the launch of a giant White super union in 1991.

Also in 1991 Mr Chairman, while I was a member of the Presidents Council, I actively stopped a proposed ANC march through Krugersdorp. I did this by mobilising CP and AWB members and members of other Rightest organisations, we armed ourselves and we then stood at the City Hall of Krugersdorp and we refused to let the ANC march.

Just details of that situation, the ANC had applied for permission to march. The City Council of Krugersdorp refused that permission. The Magistrate also refused the permission. The Chief of Police then suddenly took it upon himself to make a political position, and he granted permission for the march to take place.

I was then approached by members, residents of the town to do something, what are we going to do and so I in terms of the

wishes of the residents of Krugersdorp, who were represented on the Council who had refused, who were represented by the Magistrate, who had refused and who had approached me, we stopped that march and it was quite obvious we were serious, Mr Chairman, we weren't running around the town, brandishing firearms on our fingers and that sort of thing, but they knew we were armed and they knew that we were serious about stopping an invasion of our privacy and we stopped it.

Because of the increasing violence in the country after the unbanning of the ANC/SACP I started self-defence training for anyone interested, in conjunction with a Cape based firm. In 1991 and 1992 I was invited to become a founder member of two Right-wing fronts formed to counter the NP's abdication.

These consisted of all major political parties and numerous other Rightest groups. The 1992 group was formed as a political leaders' action organisation. I also led a combined protest outside Codesa in Kempton Park.

This group consisted of all major conservative political parties and groups and was in conjunction with the United Christian Action. As I said at the commencement Mr Chairman, I was therefore involved in any and all organisations which could contribute in some way to stopping the NP's abdication to the

ANC and the betrayal of the mandate which they had received from the voter

I tried every route Mr Chairman Meetings, printed propaganda, the formation of organisations to inform my people what was coming. I was deeply involved in the broad Right, hence the invitations sent to me by almost every Rightest organisation or newly formed grouping

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I believed in the mobilisation of like-minded forces to prevent what ultimately became a reality, an ANC/SACP government

During all of this time, I was an active leading figure and public representative of the Conservative Party which has never once repudiated me, Mr Chairman

On the contrary, I believe I was seen as a fighter for the cause of self-determination for my people

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Mr Chairman, I would like to read a letter which I received from the Afrikaner Volkswag regarding my association there and it is in Afrikaans so I will read it in Afrikaans because ...

MR BIZOS: Mr Chairman, I am sorry to interrupt. It is just that we didn't hear precisely what the witness said. And it may be important for our preparation - never once did something or other? Could you just make a careful note ...

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MR DERBY-LEWIS Mr Chairman, I will repeat it for the benefit of Mr Bizos.

MR BIZOS Thank you

MR DERBY-LEWIS During all of this time, I was an active leading figure and public representative of the Conservative Party which never once repudiated me

MR BIZOS Never once repudiated me?

MR DERBY-LEWIS That is right.

MR BIZOS Thank you.

MR DERBY-LEWIS Never repudiated me once, in that order

MR BIZOS No, I am not concerned with the word order Mr Chairman.

MR DERBY-LEWIS Okay, may I proceed Mr Chairman? Thank you I am sorry Mr Chairman, in the interest of clarity, they didn't repudiate me twice or three times either, they never repudiated me.

CHAIRPERSON Yes.

MR DERBY-LEWIS Mr Chairman, the letter I received from the Afrikaner Volkswag -

your letter of the 20th of December has been received and I am astounded in the way in which you have mastered Afrikaans

I presume that should one have to cooperate with conservative Afrikaners in a daily way, this would probably bring one to this. Thank you for the nice words with regard to Donkerhoek, this was a very successful occasion which they had organised. If it is true that you place your trust of that this restored your trust in the Afrikaner, we will have to build together to make these things strong and healthy.

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In the meanwhile we often think of you who must keep up the front in Parliament and which you the best for the sitting of this year.

This letter is dated the 1st of February 1989.

We hope that in one or another way we will be able to make a contribution with regard to our research pamphlets possibly, or in whatever way we will be able to give you our support.

This is a letter then from the AWB to confirm that I had addressed meetings with them, dated the 2nd of October 1986.

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Dear Clive, in the first place, I want to thank you sincerely that you were willing to make a speech at our meeting of the 10th of October 1986.

The speech has been planned.

and then there is detail which I believe we can simply disregard.

We have spoken to a member of the Conservative Party who

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agreed that on that day we can advertise the day as a Right-wing gathering.

And then they invite me to remain after the - then we had on occasion we to invite, we, being the Stallard Foundation at that stage, had the occasion to invite the leader of the AWB to address one of our meetings, which he addressed and which he addressed to the great delight of everyone present, in English and so I wrote to him and the letter reads and I will translate this.

Dear Eugene,

I am writing on behalf of the Foundation to heartily thank you for your participation at our recent members' meeting in Johannesburg.

The general reaction amongst our members was one of great appreciation for your presence, and I can tell you that they were most impressed with both your presentation and your sincere approach.

Also Jan,

that is Jan Groenewald the Secretary, who answered questions,

Jan's contribution was exceptional and everyone was impressed with the manner in which he answered their many questions.

I personally think that it was worth the trouble we went to.

I go on to say I know how difficult it was for him to find the time and I then look forward to meeting him again when he shares a platform with me as guest speaker at a public meeting in Durban on the 28th of July.

I must say that that meeting was not uneventful Mr Chairman. We had a rather vociferous left-wing minority present in the hall and they really exercised their vocal cords for almost half of the evening, but eventually they ran out of steam and then Terreblanche was able to have a peaceful meeting.

CHAIRPERSON: It is unusual to expect him to run out of steam.

MR DERBY-LEWIS: I beg your pardon?

CHAIRPERSON: It is unusual to expect Terreblanche to run out of steam.

MR DERBY-LEWIS: No, no. But I think Mr Chairman, it would have been rather difficult for him because most of the interjections were coming in English and to hold a speech, to make a speech and then have to react to interjections as well in another language, it is quite difficult I think.

Then Mr Chairman, an example of the activities of the Stallard Foundation, a letter to all members, dated 27th of May 1986.

JUDGE WILSON: Are all these part of the thing which you are making available?

MR DERBY-LEWIS: Yes, Sir.

As the country slides ever further into chaos and as the government moves further towards a situation where Whites will loose power over their own affairs, and let me say here Mr Chairman, that the only reason why I use the word Whites is because we have no ethnic title to refer to that population group.

We can refer to the Tswanas, the Zulus, to the Pedis and Mr Chairman with respect, everyone knows what we are saying. I in fact, should be referring to the Afrikaner, but then in the English speaking community there are people who don't see themselves as Afrikaners, they see themselves on the other hand as members of the White tribe of Africa, the Abelungu, Mr Chairman, of which I am proud, of which I Mr Chairman, am proud to be a member and the reason why I mention that is because I want to make it quite clear that we are as much indigenous to South Africa as are the Zulus or the Xbosas or anybody else.

Mr Chairman the letter that we wrote reads as follows:

... where Whites will loose power over their own affairs. Thinking people are asking themselves what are the options for me, my family and the country?

For most of us, there was always the comforting realisation that we could at least show our disapproval of the government through the ballot box, that too has been denied us.

A point of clarification here Mr Chairman, in 1986 we should have had a general election as a follow up to the general election of 1981, but absolute power and so on, Mr P.W. Botha decided he wasn't going to give an election. So at this stage we were under the impression that there were going to be no further elections.

It is obvious that the National Party can see its constituency base crumbling and is in no hurry to call any elections. Indeed, the longer they cling to power, the less chance there is of an election.

A dilemma has been reached in South African politics.

With no election in sight, with the printed media well in the grip of the left, with the SABC now the personal fiefdom of Minister Pik Botha and his leftist ideologies, and with parts of the country under the control of the UDF, it is now time to unite the Right and to consider what options are open to us in the very short term. For we have little time left.

Sorry Mr Chairman, I am trying to gauge the speed here because I believe they are having trouble catching up with me, when I get a

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bit carried away, but I think you can understand my enthusiasm Mr Chairman.

In order Mr Chairman, in order to mobilise every element of the Right, the Stallard Foundation has requested Mr Eugene Terreblanche and his Deputy, Mr Jan Groenewald, to address members and friends on the Afrikaner Weerstandsbeweging, its policies, attitudes and plans for the future of Whites in South Africa. You will be free to ask questions, blah, blah, blah...

Then Mr Chairman, on June 1988, published in Die Volkstem, there is an advertisement which says on the 26th of October,

you can, by using your CP vote, make things happen, and it is placed by the AWB in their local newspaper.

Then the copy of the letter which we got from the AWB to each caucus member of the Conservative Party in Parliament.

Dear compatriot, this is in Afrikaans, I am translating as I go Mr Chairman. Dear compatriot, please receive on my and the AWB's behalf, our hearty best wishes with your election to Parliament.

Congratulations also on the CP's elevated status in Parliament, that is when we became the official opposition, where you are now in the front-line of defence, where you stand in the front-line of defence of our people in the

Parliament, we wish you strength, wisdom, courage and determination.

May the victory also not be excluded from that battle field

MR PRINSLOO: For the record Mr Derby-Lewis, the letter was written in Afrikaans and you translated it into English?

MR DERBY-LEWIS: Yes, I mentioned it. And it is dated the 25th of May 1987

Your battle, your struggle, is not going unnoticed or without great appreciation. The command of the AWB has sent you the following for information, and it was a press release which was that advertisement and then also the programme of principles and policy.

And then they say as far as the programme of principles and policy is concerned,

you will notice that the document is marked confidential, however, the general council of the AWB has in the meantime approved this design and it is ready for publication. So the confidentiality falls away.

Then Mr Chairman, there are photographs here of myself at various functions, an AWB dinner in 1986. Then another one in Johannesburg, another one in July 1986, August 1987, then in May 1988, and then extracts from the South African First Campaign publication which I am not going to read. Then

pamphlets publicising the CRD's publication of the booklet *Is this the Truth on Namibia*

MR BIZOS: Mr Chairman, may I appeal to the Committee to exercise some control in relation to the material that is being placed before it, to matters which are relevant to the issues as defined by Section 20 of the Act. Must we be presented with Mr Derby Lewis' album - (gap in recording)

- to what end, to what portion the matters defined by the Section, is he really addressing the Committee on? I know that he says that he is enthusiastic about that, he didn't explain what he was enthusiastic about, but I would submit with the greatest respect, that the Committee has listened as we have, very patiently to these lengthy memoirs of Mr Derby-Lewis, but can we please get down to one or other of the issues with which the Committee is concerned with and may I appeal to my learned friend who is an officer of the court, he has a better understanding of what is expected, that he should try and exercise some control over his witness' narrative so that we can get down to the issues of the case?

MR PRINSLOO: I respectfully submit Mr Chairman, that Mr Derby-Lewis is disclosing fully what his relationship is with the Right, Right-wing. In order to understand this and for the

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purpose of this application which is relying upon it is necessary and relevant to the issues.

CHAIRPERSON: I think you will appreciate that we have afforded you all the opportunity and I will continue to afford you all the opportunity to make the points that you wish to make in the course of your evidence. If it is at all possible for you to leave out what is strictly speaking, might not be directly relevant, I will be pleased if you do that.

MR DERBY LEWIS: Certainly Mr Chairman. Thank you and I think you have already seen that I have paged over some ... (intervention)

CHAIRPERSON: I understand.

MR DERBY LEWIS: ... publicity documents which I don't consider essential. I am also trying to do my bit.

I can understand Mr Bizos' difficulty though Mr Chairman.

CHAIRPERSON: I did not stop you earlier simply because I thought that I will afford you an opportunity and I hope that at some stage you will deal with facts that are now really relevant to his application.

MR DERBY-LEWIS: Thank you Mr Chairman. As an indication also Mr Chairman, regarding the effect which certain publications had on the general population in South Africa, this booklet which I mentioned, is this the truth on Namibia, we had

numerous orders placed for it. I have included a letter here from the South African Institute of International Affairs who in fact have submitted their R2-00 and requested a copy, just as an example of the interest we generated

Then there is also an open letter to the Commission for Justice and Reconciliation of the Southern African Catholic Bishops' Conference from the Polish Association in South Africa, where they outline their concern regarding the direction in which the church was going. I don't think that is relevant to me, because I am not responsible to the Polish Association.

Then there is also, Mr Chairman, a TFP newsletter included to give you an indication of the activities of the TFP and why I brought them to South Africa. Then there is a press release from both the Stallard Foundation and Mr Eugene Torreblanche on allegations by the Minister of Law and Order, Mr Le Grange at Ellisras.

Mr Le Grange made certain allegations against the Right which I think is relevant. They accused the Right of being violent Mr Chairman. I just want to quote out of one paragraph in this letter for you. As I mentioned earlier Mr Pik Botha had challenged us to stop his meeting, the National Party brought professional boxers, wrestlers, karate experts and students from Johannesburg armed with pick-handles, sjamboks and dye

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