

IN DIE HOOGGEREGSHOF VAN SUID-AFRIA
(TRANSVAALSE PROVINSIALE AFDELING)

SAAKNOMMER: CC 482/85

PRETORIA

1988-12-05

DIE STAAT teen :

PATRICK MABUYA BALEKA EN 21
ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST en
ASSESSOR : MNR. W.F. KRUGEL

NAMENS DIE STAAT:

ADV. P.B. JACOBS
ADV. P. FICK
ADV. H. SMITH

NAMENS DIE VERDEDIGING:

ADV. A. CHASKALSON
ADV. G. BIZOS
ADV. K. TIP
ADV. E.M. YACCOB
ADV. G.J. MARCUS

TOLK:

MNR. B.S.N. SKOSANA

KLAGTE:

(SIEN AKTE VAN BESKULDIGING)

PLEIT:

AL DIE BESKULDIGDES: ONSKULDIG

KONTRAKTEURS :

LUBBE OPNAMES

PAGES 27195 TO 28 715 - JUDGMENT

BESKULDIGDES 5, 20 EN 21 ERKEN HULLE VORIGE VEROORDELINGS.

BESKULDIGDES 7, 8, 9, 11, 15, 16, 17 EN 19 HET GEEN VORIGE

VEROORDELINGS NIE.

MR CHASKALSON: We intend to lead evidence relevant to the issue of sentence and our first witness will be Professor Gerwel.

GERT JOHANNES GERWEL: d.s.s.

EXAMINATION BY MR CHASKALSON: Professor Gerwel are you the (10)

Rector of the University of the Western Cape? -- I am the Rector of the University of the Western Cape.

And when did you, since when have you held that post? -- I became the rector on 1 January 1987.

A little bit about your home background first please Professor Gerwel. When did you first become associated with the University of Western Cape? -- I was a student at the University of the Western Cape in the early 60's. I did my undergraduate studies there, I did a B.A. Afrikaans and Sociology and a B.A. Honours in Afrikaans and Nederlands. (20)

And did you subsequently come back to the university and join the faculty there? -- Yes I did. I did my postgraduate studies at the University of Brussels, I did a licentiate in Germanic philology and a doctorate in literature and I joined the staff of the University of the Western Cape as a lecturer in Afrikaans and Nederlands in 1972.

Did you subsequently become the head of the department of Afrikaans at that university? -- Yes I was professor and head of department of Afrikaans from 1980 until 1986.

And from 1982 were you Dean of the Faculty of Arts at (30)
the/.....

the university? -- Yes I was Dean of the Faculty of Arts until I was elected as principal.

Now I want to ask you first of your perception in regard to the importance of the United Democratic Front and then I will ask you to explain that in more detail to his lordship. But could you first of all give your own perception of how you see its role in South Africa? -- The United Democratic Front in my view is undoubtedly of crucial importance if we, I think it is general wisdom, conventional wisdom these days that the conflicts, the divisions, the century old divisions in our (10) society have reached proportions that we can say that our society is in a great crisis and if that crisis is to be resolved the United Democratic Front is of crucial importance in that process.

Right. Now I would like, before we get into more detail of this if you would first of all explain to his lordship a little bit of your own background and development of political thought. You told us you were at the universities in the early 60's? -- That is correct.

How would you describe that time from your point of view(20) as a student in the early 60's? -- Well the period 1960, the 60's, the time that I went to university and I spent at university as a student can be described as a period in which there was, in black politics, a general void. It was a period of political paralysis, it was, we are often told these days about the nature of the repression but the 60's was a deep repression, there were virtually no political, black political action at that time and it was a period, one which bred a sense of despair. There was no sense that we were moving towards a situation of a healed nation or a single nation. I, one's (30) sense/....

sense of apartheid, having grown up as a black person in South Africa, was one of national oppression, that one was excluded from power, one was excluded from privilege just because of the fact that you were black and in that period there was really no hope, there was no vision of us moving out of that. So the 60's was really a period of void, of political paralysis, a period of political despair and one out of which a great sense of bitterness and embitterment could grow.

Then the early 70's, what happened in the early 70's, again from your experience? -- Well at the end of the 60's and then (10) in the early 70's, and especially at the black universities, the ethnic universities which had been created at the beginning of the 60's, out of those campuses mainly developed the movement of black consciousness. For the first time again blacks had the sense that they could conduct themselves politically again, that they could take the political initiative again. The, as I say the black consciousness movement was primarily an outflow of the black campuses where black students for the first time got together in their great numbers as blacks, that they reflected upon their situation and out of that grew that (20) movement of black consciousness which again for the first time filled the void which had existed in the 60's since the banning of the major black political organisations.

Were you yourself caught up in any way with that movement at that time? -- Yes I was party to it, I was closely associated with the South African Students Organisation, SASO, at that time.

From your point of view in reflecting upon that time are you able to make any, well let me leave that a moment. Who were the leaders really of, what was the source from which (30)

this/....

this emerged, you told us it was the students? Are you able to describe in relation to age the leaders of the movement and the thrust for this movement? -- Well there was, as I say the student led movement, youth led movement, people, important persons in that were people like Steven Biko who was at that time a student of the University of Natal, Bani Pitjaan, Strinie Moodley, these were the main leadership figures but it was generally a student led and a youth led movement.

Was there a perception at that time of how the black person might liberate themselves? -- Well yes there as a (10) lot of theorising going on. In a sense we, that generation was involved in the black consciousness movement, it was involved in the renaissance of black politics, black extra-parliamentary politics, and it essentially was cut off from the history that preceded that. So a lot of theorising, we were starting anew, had to go. So there was a lot of talk about the psychological liberation of the black man, there was a lot of definition of the intrinsic value of being black. For example an important piece of theorising at that time was about the nomenclature of non-white or black and theorising (20) how the blacks had to take their own future into their own hands, how blacks had to take responsibility for themselves, how we had to shed the image of being non-whites, that we only lived by the grace of whites and that we had to intrinsically define ourselves as black people.

At a later stage did other, you have mentioned SASO, did other black consciousness movements emerge during the period of the 70's? -- Yes there were others like the BPC, the Black People's Convention, for example developed later.

Yes. And what actually happened to that movement? (30)

-- Well/....

-- Well the black consciousness movement was dealt a death blow in a sense, well not a death blow but a heavy blow by the banning of the organisations in 1977.

Yes. Now you told us that the black consciousness movement was youth led. Did that have any impact in relation both to the position of the youth and the black community generally?

-- Yes it did. Because it was youth led, because it was basically or was primarily education based a lot of the protest politics of that time occurred within educational, black educational institutions. A lot of it took the form (10) for example of educational boycotts. But one sociological result of that was that the youth took a leadership position in politics which I often at that time, in hindsight, still think was sociologically an unusual situation, that youth, the young people at that time felt - and again as a result of our being cut off from the history of the black resistance and the black politics in that 60's generation - youth felt that they in fact were starting the liberation of black people, that the adults had done nothing and that they had to take it upon them to set the blacks free. (20)

What impact did that have upon the adult population at that time? -- Well you have got to generalise, largely the adult population in a sense sat back in some awe at the courage and the initiative of the youth. There was a fearlessness and a strange kind of heroism about the intensity with which youth at that time felt that it had to take upon itself the responsibility for leading the struggle towards freedom in South Africa. We have seen that, as I have said, basically in education based protests, we have seen the Soweto uprisings for example as a prime example of that, of youth taking upon (30) itself/....

itself that leadership role.

Now you told us that by 1977 the black consciousness movements were back? -- That is correct, yes.

Can you take us beyond that, after the banning of the black consciousness movements did the youth at all continue to remain active? -- Yes they certainly did continue to remain active, as they do until this day. But it did occur round about that stage, and as in human history, in social movements it is difficult to put exact dates to that and exact points to that, but at the beginning of the 80's, the end of the 70's, (10) because of the re-emergence of black politics we did again slowly start to learn about the history of our, the resistance, the history of black politics, we were in a sense weaned of our innocent perception that we were those who started it and slowly again the history and the concepts of previous generations got integrated into the youth movement.

Did adults begin to emerge in a different role or different relation to the youth during this period? -- Yes they certainly did. But again, I suppose that is somewhat related too to the, what you call the educational struggle, the way (20) that the youth conducted much of their struggle on the educational front and slowly but gradually adults started taking an interest in that, the adult generation started involving itself, bringing the maturity and the wisdom and also the sense of historical experience to that.

Were any of those people who were emerging in the early 80's people with any history in black politics in the past? -- Yes certainly. To talk about the Western Cape only where I come from, yes there were senior people with long histories of involvement in politics who came into the movement and (30) whose/....

whose wisdom and whose influence was felt within it.

Now when the United Democratic Front emerged in 1983, and we have heard about the circumstances in which it was established, what impact did that have on politics within the black community? -- Well the major thrust of the UDF, an organisation like the UDF, I think was to bring to organisationally and actively embody again the idea of a single South African nation. After the black consciousness movement, or in a sense flowing too from the black consciousness movement, came a re-emergence again of the non-racial position which goes back (10) a long way in the history of black politics. So that the UDF became the primary, the main organisational carrier again of the idea of a united and a non-racial democratically ruled South Africa. So if you would ask me what the major impact of the formation of the UDF to be it was that it again brought into South African politics, into the centre of South African politics that ideal of an undivided nation, of a non-racial single South Africa again.

And again from your perception what importance do you attach to that idea and to that development? -- Well as I (20) said in the beginning the crisis of South African society, and I am involved in black education and speaking about that crisis of South African society it is nothing abstract or academic. We in black education feel that continually, we experience that almost from day to day and a person like myself who has got to manage, who has got to run a large university, who is going to educate in that university, I am aware that the problems that we experience educationally are not mere education problems, that it is a reflection of the crisis of our society. So that crisis has got to be resolved, we have got to move (30) towards/....

towards a healed nation again, we have got to move towards a single nation. We have got to move away from a racially divided nation. We have got to move away from a society where the minority rules over the majority. We have got to move towards a nationhood where we can all truly say that we share in the government of that society. And in that, as I said in the beginning, the United Democratic Front is an important and crucial component.

We have heard in this case about the concept of people's power. Are you able to say anything, again from your per- (10)
ception and understanding within the circles and the communities in which you live as to the understanding of that concept?
-- Yes, I understand the concept of people's power - one has to see it again against the background - it is the opposite of minority rule, it is the opposite of apartheid where the minority rules over the majority and as a notion it stands for a situation where the people were democratically all South Africans who rule our society.

Professor Gerwel we have also heard about the concept of people's education. Is that a matter or an issue which is (20)
discussed in educational circles within this country? -- Yes it is widely discussed. If I may give as an example of that in my own inaugural address as Rector and Vice-Chancellor of the University which was held in June last year and which addressed the university and which addressed the academic, the university community, I raised that an institution as the UWC and universities in South Africa generally will have to take seriously the concept of people's education. People's education, and I speak as an educationist now, is certainly the most innovative piece of curriculum and educational renewal (30)
that/....

that this country has seen since I have been involved in education. It has again come out of the educational struggle which was started by the youth to which we referred earlier, that protest had largely taken the form of withdrawal, in the form of educational boycotts which had developed to a situation where one then started looking at alternatives to what was being rejected and people's education, that concept, embodies the most mature development in that and it has certainly been taken very seriously by a number of academics in my own university, academics at other universities, educational organi-(10)sations, I think for example of a large body like the Cape Teachers and Professional Association which is itself giving a lot of time and energy to the development of the concept of people's education.

This Cape Teachers and Professional Association, you describe it as a large body. Could you tell his lordship just a little bit more about it? Who does it represent and who are they, what sort of people are involved?

COURT: How is this evidence relevant in respect of which accused Mr Chaskalson? (20)

MR CHASKALSON: My lord the evidence which we are trying to put before your lordship is relevant to the subjective attitudes and the subjective position and thinking which the accused have talked about in their own evidence and in regard to perceptions which the accused have told you that they have held about matters.

COURT: And then? When you have done all that where does it lead us?

MR CHASKALSON: Well that becomes relevant to the subjective position of the accused and their moral responsibility in (30) relation/....

relation to the acts which your lordship has found that they have committed. It is to show that the beliefs, and to help support the submission to your lordship that the beliefs which they have put to your lordship, subjectively, are shared, are reasonable and that that is the position from which they moved. It is really to ...

COURT: There was a finding that violence was accepted as an option.

MR CHASKALSON: Yes.

COURT: Is this witness going to tell me that he accepts (10)
violence as an option? If he does that, he can do that but if he does not do it how is this evidence relevant?

MR CHASKALSON: Because it is relevant to the situation in which people found themselves and in which, resulted in the acts which form the basis of your lordship's finding.

COURT: I listened for three years to evidence about the situation in which people found themselves and that is all set out in the judgment.

MR CHASKALSON: Yes my lord, we want to bring other evidence around that because it seems to us to be relevant to the (20)
way in which the question of sentence should be approached.

COURT: Well go ahead and ...

MR CHASKALSON: I do not intend to be long with the witness, I am not going to go into the whole case again. I am trying to produce to your lordship perceptions from different people within the community representative of important sections within the community so that your lordship should understand at the time of sentencing exactly where these people stand in relation to the broader community, what has moved them into the position in which they find themselves and that in (30)

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choosing a

COURT: Does it not appear from the judgment that there is a measure of understanding what moved the accused?

MR CHASKALSON: Yes I appreciate that but I would still think that it is important to show the extent of the shared feelings with the communities from which they come.

COURT: Yes go ahead.

MR CHASKALSON: All I want you to tell us at this stage Professor Gerwel, you have mentioned that it is studied by your university, you have mentioned it is studied by the (10) Cape Teachers Professional Association. Is that the biggest teacher's association amongst the coloured community in the Cape? -- That is so.

Is it studied at other universities? -- Well I know that the University of Natal and the University of Witwatersrand for example have got educational policy units where I am sure that is being studied and taken serious academically.

And the Human Sciences Research Council, has it shown any interest in that? -- Well some academics have been involved with HSRC support to investigate the concept of people's (20) education.

Now your own campus Professor Gerwel, what is the main student organisation on your own campus? -- Well the main student organisation is SANSCO, the South African National Students Congress, which of course you know is now a restricted organisation which restricts its activity, although not its administrative functioning. So it remains the most important student organisation on our campus.

And did you, do you in your own dealings with the student body do you have, what sort of dealings do you have with (30) your/....

your own student body Professor Gerwel? -- Well university principals generally, well at the English universities and at the black universities spend most of their time or a lot of their time liaising with students and with student governments. So I have regular meetings with the organised student leadership on my campus.

And within your campus are you able to indicate the relationship or the support on your campus for a body such as the United Democratic Front? -- Yes I certainly can. The university campuses, it is possible for one to describe the (10) student politics on those campuses as reflecting one or the other position. Such as the time when I started at the University of the Western Cape for example there was no doubt that it was in the 70's a strong SASO supporting, a black consciousness supporting university and equally today it is quite easy to say and to demonstrate that the University of the Western Cape in its student politics reflects a very strong characteristic position, a position of non-racialism, therefore support for the UDF position.

Yes. Again very briefly I would like to ask you about (20) the perceptions within your community in regard to the African National Congress. -- Well the African National Congress is seen, and not only within our community, it seems to be generally seen that way - one has quite recently seen the South African Rugby Board going and speaking to the African National Congress and it comes as no surprise to find that within the community where I come from the African National Congress is equally recognised as an important component in the South African society. The African National Congress is seen as a body representing the majority of South Africans and again I may (30)

refer/....

refer your lordship to my inaugural address and I keep on referring to that because I take it to have been not a radical rabble rousing occasion but one where I as hopefully a fairly respectable person in South African civil society, and again in that I pointed to the fact of the African National Congress is seen in that way and again made the appeal which I have often made about its admission to the legal space of South African politics. So in reply to that question it is seen as a very important actor in the South African politics.

And can you tell us about perceptions in regard to the (10) choice of the armed struggle which was adopted by the African National Congress? -- Well again that, seen historically, the African National Congress has a long and well known history of non-violent struggle, non-violent attempts to having things changed in South Africa and again that is well known that historical circumstances placed them in a position where they felt that the armed struggle became part of their struggle, part of their strategy. So one recognises the reality of armed struggle as part of the African National Congress' strategy and I know it is often asked how one stands towards (20) that, how one stands towards violence on the part of the African National Congress. Your lordship if you were to ask me then all I can say that again historically I have an understanding of how the African National Congress came to that position. If you were to ask me whether I would condemn the armed struggle on their part again unfortunately it is not something that I would simplistically be able to do, to say that I condemn them for the armed struggle. I in fact would feel, if I were to advise on South Africa, which I am fortunately not asked to do, that it would be historically even not the responsible (30) thing/....

thing for the African National Congress to lay down the armed struggle at this stage, it has become part of its own strategy and struggle and one understands it in that way.

Professor Gerwel there has been talk about perceptions of leaders of the African National Congress as to whether they are perceived within your community as terrorists. Can you comment on that? -- Well that is certainly not my experience or my impression that they are perceived in that way. They are seen as South African patriots, they are seen as men and women of strong conviction, men and woman who in fact have (10) sacrificed a lot because of their conviction and again the African National Congress is in the first place seen as a political organisation and not as a so-called terrorist organisation.

People such as Mr Mandela and Mr Tambo, are there perceptions within your community of the roles of such people and their standing within the community? -- Well they are certainly seen and often spoken of as the leaders of the people, so yes they are seen again as I said as patriots and often referred to as the true leaders of the people. (20)

Perceptions within your community in regard to the Tricameral parliament, can you talk about that? -- Yes the Tricameral constitution was a controversial one, to say the least, immediately when those proposals became current there was a lot of discussion and debate about that. I for example, like other people had said that one should examine them with an open mind, which I was prepared to do, one looked at it whether in fact represented an advance or a broadening of democracy. Unfortunately the answer to that analysis that it did not represent that. I, and many others at that time, after our (30) analysis/....

analysis of those proposals and of the constitution, feared and said so that because of the exclusion, the explicit exclusion of the majority of South Africans from that dispensation that the Tricameral system was creating the conditions for heightened conflict rather than reducing conflict, and when the elections took place it is now history that the majority of the people, the coloured people, did not participate in those elections.

I would like to take you back to the emergence of the UDF and the question of the youth led resistance. How can, can (10) you see any, can you explain to his lordship from your point of view how the two related to each other, the emergence of the UDF at a time when there was youth led resistance. -- Well the major development was that whereas the 70's one had youth led resistance, youth led protest, the 80's was marked by the fact that the youth protest, the youth based protest became part of, was based then within a broader political context. The development of mass based organisations like the UDF meant amongst other things that a greater measure of, and I am not wanting to condemn the UDF by painting them as being the (20) moderates but I mean a greater maturity and maturing influence came to bear upon student and youth politics.

COURT: Why do you not want to condemn the UDF by painting them as moderates? -- Well I actually always feel it a bit of a slur in South Africa to be described as a moderate.

I see. -- And I do not want to pay the UDF that kind of backhanded compliment. But what I am in fact saying is that they have that moderating and maturing influence upon the development of the youth politics from the 70's.

MR CHASKALSON: Perhaps you would like to say something (30) about/....

about why you sense it as a slur to be called a moderate?
What do you mean by that Professor Gerwel? -- Well again with so many things in South Africa, concepts and words themselves become contested terrain, it becomes captured and used within particular political contexts so that they lose perhaps even their original dictionary meaning and the concept moderate has, within the South African lexicon, taken on that meaning of one not committed to really working for fundamental change in South Africa.

Are you talking about within the black community? -- (10)
Well within the black community and generally within South African politics. I mean if a newspaper, a government supporting newspaper were to refer to me as being a moderate or refer to anybody as being a moderate words carry with them a lot of this history and how it has been used and within which context it is being used and that has just taken on that puritive, or that negative political connotation.

Now in regard to the question of the attempt to produce, or the maturing influence, the youth organisations you have had to deal with them - can you describe how they - let me put (20)
it to you simply is it easy to give instructions to the youth?
-- I do not think it is ever easy to give instructions to youth and especially where one has a highly politicised generation of youth, politicised in the way that I have described because of the voids in the 60's when the influence of our adult organisations were removed. So in that period of the 70's, that kind of politicisation and youth, of the youth. So it becomes doubly difficult to give instructions or orders to youth. The youth in that time, when one is studying with one at university or colleges that is a time for experimen- (30)
tation/....

tation, that is the time hopefully when all of us will have stronger feelings about things and in our context those feelings were so much stronger. So no it is never easy to give those kind of instructions to youth. In my own dealings with our student leadership I have never sought to give instructions to them. I would rather, and our university has walked that way, we have rather developed a style and a tradition of negotiating with them, negotiating with them as equals, as people who we respected, respected also for what they have done politically. There is no way that anybody in this (10) country can deny the contribution which the youth, which students, have made to political development in this country and we deal with our youth in that way and they see themselves and they act on the basis of that. So there is no way that one could give orders to them.

And within the student body itself, and youth movements itself, the leaders within those bodies, is it easy for them to control their members? -- No not always. Quite often the student leadership would hold a particular position and part of the student mass would take a different position or take (20) different actions. So no, as in all mass movements and also in student movements it is not always possible or easy for the leadership to control their membership.

The boycott, the history of boycott that you talked about is it something which started in the 80's or is it something which has been ongoing for, since the times that you discussed in the 70's? -- No the boycotts come from long ago, from the 70's. My own university for example boycotts, the first major boycott there started in 1973. Which again was a product of the ethnic universities which were created at that time. (30)

I/....

I do not want to bore your lordship with the history of those institutions but they were places of aggregated, of compounded resentment. Most of the students when I went to the University of the Western Cape that was not my choice, I wanted to go elsewhere. I grew up a stone's throw away from the University of Rhodes or from the old University of Fort Hare. I was forced to go to the University of the Western Cape and that went for all the students of the ethnic universities. So there was that resentment and the educational boycotts started there and it became a feature of black educational life since (10) the 70's.

And has it been a regular feature? Has there ever been a, within that period, the 1970's right through until today has there been any period when it has not been a feature? -- Oh there have been better years and there have been worse years, which again is a sad commentary on the state of our society, the state of education that we would say that this has been one of the better years in our black education. No, but it had been a regular feature of black education since the 70's.

Involving both universities and schools? -- Both uni- (20) versities, colleges and schools.

And the, your own dealings with UDF leaders in relation to education have you ever had occasion to deal with them in relation to education? -- Yes I have, especially since I have become principal of the university and the university which stands within a particular social and political environment which sees its functioning also as being heavily impacted upon by that social and political environment. I have found that and I have the support of the council of the university to do that, I have found it necessary to continuously consult (30)

with/....

with and keep in contact with the leadership in the democratic movement and I have had opportunity to consult with persons in the United Democratic Front when it was necessary within the university.

And from your own university what has the success been in coping with the boycott situation? -- What we basically, I think busy in education - and I cite it generally - is the creation of the practice of democracy. We are dealing with a generation of people, of young people, where no sense of having been part of a democratic culture, they have been excluded (10) from politics, they have been excluded from government and what we are about in education, in the youth movements, and together with the leadership of the UDF I have found that to be the important thing that we are doing in these joint consultations at the university, to create those practices, that culture of democracy and democratic decision making. Because obviously in a situation like ours in black education conflicts arise, tensions arise, contradictions arise and the way to resolve that, that is the question that we are continuously faced with and we have a democratic leadership, the leadership of the (20) UDF in our part of the world has been very helpful in creating that kind of environment.

As far as this particular trial is concerned, the people who are on trial here, do they have any symbolic position within the community? Are they, let us talk for a moment about the UDF leaders who are on trial here, do they have any symbolic position within the community you have been talking about? -- Well they certainly have. They are seen as the leaders of the people, they are seen as the leaders embodying that concept which I spoke of earlier of a united democratic South Africa. (30)

So/.....

So they very certainly carry symbolic value.

Do you see such persons as having any role in relation to the reconciliation which you, of the conflict which you have described as existing within this country? -- Undoubtedly, if I actually reply in the negative I, it is difficult to perceive how we can unite this nation, how we can create a South African nation, how we can heal a very deeply divided society without persons like these, without this quality of leadership, without these people who represent and articulate so much of the ideals that live within the black communities. (10)

The punishment of these people, how will it be perceived? What impact might it have upon the community about which you are talking? -- It is unfortunately so, again because of the history of our society, that there are two South Africas in a sense that so many things that happen, so many of the symbols, so many of the meanings in our society are interpreted differently and again the punishment of these persons who are leaders and are respected, venerated leaders within the black community can only again lead to a sense of alienation, a sense of growing embitterment. So again it will leave that (20) kind of void, that feeling of that those people who represent us and who can contribute from our side to the healing of the nation, that they are not there, that they are removed.

Would, and I do not want you to express any views on the sort of punishment but can the type of punishment be relevant, or the approach to punishment in this case have any relevance to the process of reconciliation about which you have talked? -- Yes certainly. The reconciliation in any situation has got a lot to do with giving and taking, has got a lot to do with grace, with gracefulness and the severity of punishment (30)

would/....

would obviously have an influence on people's perceptions of the possibilities of reconciliation in the nation.

Thank you Professor Gerwel.

CROSS-EXAMINATION BY MR FICK: Professor do you have any personal knowledge about the UDF? -- Well yes I know many of the people, the leadership people in the Western Cape of the UDF.

Did you attend any meetings of the UDF, public meetings? -- Well I have attended meetings of affiliates of the UDF, yes.

Which affiliates? -- For example like the Cape Action Housing League in Cape Town. (10)

Any other affiliates? -- Yes I am myself a member of an organisation that is affiliated to the UDF, an organisation called MERGE in Cape Town.

COURT: I am sorry, MERGE? -- MERGE.

M-E-R-G-E? -- Yes, M-E-R-G-E.

What does it stand for? -- Well it used to be M-I-R-G-E which stood for Mowbray Interracial Group and that was subsequently just changed to MERGE and it stands for nothing, it is just MERGE.

MR FICK: Did you attend any meetings of the UDF, any committee of UDF? -- No I did not attend any committee meetings of the UDF. (20)

Now you spoke about an organisation SANSCO, is that the former AZASO? -- That is correct.

COURT: It is now SASCO?

MR FICK: SANSCO, S-A-N-S-C-O. Did you attend any meetings of AZASO? -- No I did not.

Did you attend any meetings of COSAS? -- No I did not.

You testified that you were closely associated to SASO, what do you mean by that? -- Well I was educational adviser (30)

for/....

for example for SASO at a time. I ...

How long before SASO was banned? -- Well from 72 and SASO was banned in 77.

Did you know accused no. 20 during that period? -- Mr Lekota?

Mr Lekota. -- Yes I did.

You mentioned also the name of a person, a certain Moodley? -- That is correct.

Do you agree that this Mr Moodley was convicted in the same case as Mr Lekota? -- Yes I am aware of that. (10)

For the same crimes? -- Yes.

Did you study any documents of the UDF, any minutes of meetings of UDF? -- No I did not study minutes but I saw UDF publications and pamphlets from time to time.

COURT: As far as the UDF is concerned would you regard yourself as an outsider or an insider? -- I would like to think of myself as one closely associated with the UDF. I am not sure what your lordship would mean by "insider", obviously individuals are not members of the UDF.

Well let me put it in this way, can you say that you (20) were au fait with exactly what went on in the inner circles of the UDF or are you merely a man who perceived the UDF from the outside though being closely associated with it? -- Yes no I was certainly not au fait with all the inner workings as your lordship puts it.

MR FICK: You are not, you cannot give any opinion of the ANC's, or the UDF's perceptions about people's power? -- Well I certainly cannot speak officially for the ANC or for the UDF. I could ...

Nor do you know what they meant with people's education?(30)

-- Well/....

-- Well I could certainly give my interpretation of what I understood to be meant by people's education.

I am talking about the UDF and ANC's perception about people's education. You do not know what they mean by that?

-- Well the ANC certainly not but the UDF's perception of people's education, the UDF is not an educational organisation so if people's education means anything it means the meaning, the interpretation and the content that educationists like myself give to it.

Another aspect you testified that the ANC represents (10) the majority in South Africa. Is that what you said? -- Well I said that is the perception of the ANC, that is is an organisation representing the majority of South Africans.

But what do you say, do they represent the majority ...
-- Well that is certainly my perception as well.

Do the ANC, does the ANC also represent you? -- Let us put it hypothetically with that question, I mean does the ANC representing me there would have to be a free and fair elections, the African National Congress were to be unbanned at the moment for me I cannot have the ANC representing me. If (20) there were to be free, fair elections with the African National Congress unbanned I think the chances are very high that I would vote for them, yes.

Even if they pursue a policy of violence? -- Well the African National Congress as I said is involved in armed struggle as part of its strategy. I accept too that if there were to be free and fair elections the African National Congress, such as all the other contending forces, would stop the armed struggle or the violent part of their respective struggles.

Do you regard the government and the state as the (30)
enemy/....

enemy of the people of South Africa? -- I have previously referred to the fact that I have grown up as a black South African. I, in all my experience in this country has been one of exclusion and all I can say to that question is that my socialisation has not been that of seeing the South African government as my greatest friend.

COURT: No, no that was not the question. The question was do you regard the South African government and the state as the enemy? -- Well I regard them as political opponents. The "enemy" is a metaphorical concept which one uses differently(10) in different contexts.

MR FICK: No in the way you use it do you regard the government or the state as your enemy? -- No, again that is just part of my own intellectual training that I seldom use that concept of enemy.

COURT: Is the answer then no? -- Well for me I would not describe them as my enemy. I am not saying that I do not share any of the contents put to that when other people use that concept.

Yes but why are you hedging about this issue? Your (20) answer is no. You could have given an easy no to it? -- I could have but with respect the answer to that question is not as easy as all that.

Yes?

MR FICK: Tambo being a violent man do you regard him as your leader? -- Yes I certainly have great respect for the leadership of Oliver Tambo.

And you are not prepared to condemn his violent acts? -- I am not prepared to simplistically and unilaterally condemn the African National Congress decision to take up arms. (30)

Are/....

Are you not prepared to condemn land mines, limpet mines, car bombs placed by the ANC? -- I am prepared, I am not a principled pacifist to put it that way. I think it was correct for the allied forces in the second world war to take up arms against Naziism so I am not a principled pacifist but I am prepared to condemn all forms of violence where that needs to be addressed in South Africa. So where there is indiscriminate killings I am prepared as a South African to express my sadness at that.

And nothing more? -- Unfortunately not your lordship, (10) because I would again as a responsible South African, as I say a person holding a responsible position in civil South African society I will have to look at all sides of violence now. Because we do have a violent society and I think that all, the most that I can say about that I have spent my educational life and my parallel political involvement in trying to get our society to move towards a non-violent and peaceful solution.

Do you regard the people here on trial as your leaders? -- Well I certainly regard the three UDF people on whose (20) behalf I am appearing here as being leadership, national leadership figures.

As your leaders? -- Well that includes me as part of the nation, yes.

Notwithstanding the fact that they were found to be violent people? -- With respect I do not have all that before me, what you found that. The reason why I am standing here is that the UDF, of which they are leaders, has always been seen by me as an organisation representing non-violent struggle, I have always seen it as an organisation representing the (30)

legal/....

legal struggle against apartheid.

Thank you my lord, I have no further questions.

RE-EXAMINATION BY MR CHASKALSON: No questions.

NO FURTHER QUESTIONS

COURT ADJOURNS FOR TEA.

C.1563 COURT RESUMES.

NGANANI ENOS JOHN MABUZA: d.s.s.

EXAMINATION BY MR CHASKALSON: Mr Mabuza are you presently the Chief Minister of the KaNgwane Legislative Assembly? -- Yes I am. (10)

Can you tell us whom that legislative assembly represents?
-- The KaNgwane Legislative Assembly represents the Swazi speaking people in South Africa in the KaNgwane homeland and consists of 80 members in the legislature.

And the population whom the legislative authority or that territorial authority is meant to represent in numbers?
-- The territory as such has about three quarters of a million resident blacks but seeing that it is designated for the Swazi speaking South Africans it is also supposed to represent about one and a half million people of Swazi extract within (20) this country.

Well I am going to come back to that aspect of your position a little later but I would like you first of all to tell his lordship about your own background prior to attaining this position. What was it Mr Mabuza? -- Well I am originally a teacher by profession and I practised as a teacher and was inspector of education and serve in teacher's associations, communities and associations as well as in the Education Advisory Council before I was elected to the Swazi Territorial Authority in 1976. (30)

And/....

And do you have an honours degree in psychology? -- Yes I do.

Did you also hold senior positions in the North-Eastern District, Transvaal United African Teachers Association? -- Yes I was elected vice-chairman of the North-East district of the Transvaal United Teachers Association.

Have you written on language and related subjects? -- I am a co-author of the Swazi Grammar book and I am also an author of Seswati Language series and other books in Seswati.

And have you served as a, are you a member of the (10) Royal African Society in London? -- Yes I am. I am also a trustee of the Wilderness Leadership School and also a trustee of the 1820 Foundation.

Now your own political movement, does it have a name? -- Yes my political movement is the Inyanza National Movement.

How many paid up members does it have approximately? -- We have just over 200 000 paid up members, and we also have a youth wing which has 30 000 members.

Are those in addition to the 200 000 that you have referred to? -- Yes. (20)

Now in the legislative assembly how many seats are held by your party in the legislative assembly? -- The constitution of the legislative assembly is as follows: there are 57 popularly elected members and 23 designated members all of whom, that is the 23, are chiefs.

Now of those 57 constituencies how many are represented by the Inyanza National Movement? -- The Inyanza National Movement is represented by 52 out of the 57 popularly elected members.

Now I would like to ask you, when were the most recent (30) elections?/....

elections? -- The most recent elections were held on 24 September this year.

Yes. And in the course of those elections did you campaign throughout the territory? -- Yes I did. I campaigned in almost all the 57 constituencies on behalf of my national movement.

Can you indicate your position in relation to, well let me put it differently. What do you perceive to be the central position or attitudes of your people in regard to first of all the homeland structures? -- The attitude of the majority of (10) the people living in our territory is that the homeland structures are part of the apartheid system in the country and that they are structures which have to be dismantled and that is, that was part of the platform that I used during my election campaign, namely that apartheid should be dismantled and that that also refers to the homeland system.

Yes. As far as the attitude to ethnicity is concerned could you explain the position of your people, of your party in relation to ethnicity? -- My own movement is not a tribal movement, it is not an ethnic movement. In fact we are (20) opposed to ethnicity as a basis for political organisation in this country. We say ethnicity is divisive and therefore perpetuating a policy which is not acceptable amongst the black people. As the composition of my movement is non-ethnic in fact it is multi-ethnic.

Are you able to say whether this view that you have expressed as being the view reflected by your party in KaNgwane, whether it is shared elsewhere in South Africa? -- I would say it is believed in in my territory explicitly. In fact ethnicity is very incidental. We do not think of each(30)

other/....

other as Swazi, Zulu or Sotho. We think of each other as africans and as blacks and I believe the same situation pertains in metropolitan areas where black people do not regard themselves as belonging to ethnic groups but they regard themselves as belonging to one nation or one group.

We have heard in this case about the liberation struggle, can you locate yourself in relation to what you understand the liberation struggle to be and your own attitude to it? -- The liberation struggle relates to black people wanting to assert themselves in the country of their birth. It relates to (10) government policy which has discriminated against them. It relates to a policy which has led to some of them not to be aware of their own human dignity. It is therefore a struggle not belonging to a particular political group or ethnic group. We regard it as a struggle of all the people, the disadvantaged people in this country.

Do you, can you tell us of your attitude to the African National Congress? -- My attitude towards the African National Congress is that it is a long standing political organisation which was banned in the early 60's. My movement and I asso-(20)ciate ourselves with the aims and objectives stated by the African National Congress of a united non-racial democracy in this country but we are opposed to their strategy of armed struggle. We believe in non-violence and we believe in negotiation within the parameters of prescribed by the law in this country.

As far as the, is there, incidentally have you yourself had any meetings with the African National Congress? -- Yes and in 1986 I led a delegation of 21 members of my political organisation and we held consultation with the leadership (30)

of/....

of the ANC.

Was there any particular reason why you chose to take a delegation to call on the ANC? -- We believe that the ANC is very much central to the solution, political solution which our country needs. We feel it is part of that solution which we need. We believe that there can be no peaceful solution as long as the African National Congress remains a banned organisation. So we met them to, in that spirit to discuss the future of our country in which we believe they have a role to play.

Do you ever refer to the African National Congress in (10) your campaigning in your constituencies? -- Yes in my campaign I always made it a point to put into perspective black resistance in this country to the discriminatory laws that exist and the role that the African National Congress played up to the time when it was banned and the role that we have to play in the present moment to try and shape a peaceful future for our country.

Are you, do you have knowledge of the United Democratic Front? -- Yes I do.

Have you had an opportunity of seeing the declaration (20) of the United Democratic Front? -- Yes I have seen the declaration.

I do not want to take you through the declaration Mr Mabuza but I would like to ask you whether you can comment upon the issues addressed in that declaration in relation to black aspirations in this country? -- One should point out first that the United Democratic Front when it was launched opposed the institution of a Tricameral parliament vigorously as well as the Koornhof bills at the time and later on addressed several issues, issues which pre-dated the founding of the (30)

UDF/.....

UDF, issues which transcended and still transcend political groupings in this country, black political groupings as it is and issues which are shared by the majority of black people as I know.

Do the UDF leaders have any standing in the black community? -- Yes they do. I would say within my own territory they are respected as a broad based organisation, as a progressive organisation and they are known to be committed to non-violent strategies of bringing about change in this country. (10)

That is a perception of the organisation in your community? -- It is my perception and it is the perception shared by the majority of the people in my own constituency.

Well I do not want to deal with that issue at the moment but I want to ask you this. Do you see the United Democratic Front as having any role in the political process in this country? -- First of all one must look at its support. My perception is that it has a very strong base of support throughout the country and secondly one must look at the stand that it has taken, that of non-participation in government (20) created structures and I am aware of the fact that government created structures are used as an excuse not to accommodate black people in the central decision making processes of our country. I therefore see the United Democratic Front as having a role to play in the evolvment of a peaceful solution in our country.

There is the, you mentioned that within your movement there is a youth section which was called the Inyanza Youth Congress, is that right? -- That is true.

Do you, have you been at meetings of the young people? (30)

-- Yes/.....

-- Yes normally I address them once a year at their annual congress, annual conference.

Do the youth sing what we have been told about here as freedom songs? -- Yes they do quite vigorously and very enthusiastically.

Do they sing at all about Mr Mandela and Mr Tambo? -- Yes they do sing about Mr Mandela, they do sing about Mr Tambo and they do sing other freedom songs.

COURT: What do you understand by freedom songs? Give us the names? -- One such freedom song is that even if black people(10) can be hurt, injured or killed one day they will march and be in Pretoria. One other such song is that they are looking forward to Nelson Mandela being released at four o'clock in the morning. But to answer the question a freedom song is a song about the aspirations of black people, that one day they will also be free like other section groups in the country of their birth. In fact it is in keeping with african tradition which is when they meet they sing, be it due to a tragedy, whether it is through happiness they sing and also in political meetings they do sing such songs. (20)

MR CHASKALSON: When the people have sung about Mr Mandela and Mr Tambo have you tried to stop them? -- No I have not stopped them because as I have said it is an expression in song of their aspirations.

How are Mr Mandela and Mr Tambo perceived within your constituency? -- They are respected and they are regarded as leaders, not just of a particular political group, the African National Congress, but as national leaders. They are given that respect within my constituency and I believe within the broader black constituency in our country. (30)

Have/....

Have you yourself ever made any statements in regard to your, the banning of the African National Congress? -- Yes I have made statements in my speeches to our annual congress. I have made representations to the South African government about the unbanning of the African National Congress and the release of political prisoners.

And what is your position there? -- My position is that the African National Congress should be unbanned and political prisoners should be released.

And the exiles? -- The exiles should be allowed to (10) return to the country but not just allowed to return to the country, become part of a process which will bring about a peaceful solution for our country's problems.

I would like to bring you back to the Tricameral parliament. How was, what impact did that have upon black politics within this country and the aspirations of black people within the country? -- It was seen in my own particular constituency as an extension of the strategem to exclude blacks from the central legislature of our country and it was also sadly seen as a means to accommodate the coloured people and the indian(20) people to the exclusion of blacks, and it was also seen as a way of bringing out polarisation between the population groups. Hence it was opposed vigorously by my own movement. I was personally opposed to the institution of the Tricameral parliament.

Yes. We know that there was unrest which swept the country in the years 1984, 1985 and 1986. Did any of that unrest, was any of that unrest experienced in KaNgwane? -- From the beginning of 1986 up to June of that year there was civil unrest in our territory. So we did experience the same unrest that had occurred in certain metropolitan areas in (30)

our/....

our country.

What do you see yourself, Mr Mabuza, as the cause of conflict within the country? -- I see as the cause of conflict being that of the apartheid policy. Apartheid is at the centre of conflict in our country, and I think you have to live in a bantustan where people have been forcibly resettled on arid land, barren, where they can hardly subsist, where breadwinners have to migrate, become migrant labourers in order to feed their families, where families are broken. One has to live in a township ghetto and smell the stench and see the poverty (10) that exists there to understand the civil unrest. One has to be subjected to the enforcement of laws such as the now abolished influx control law, the pass laws, the group areas act. One has to be classified as a black, thus have his destiny predetermined in terms of the population registration act to understand the frustration, to understand the bitterness, to understand the powder kegs that have been placed by the apartheid policy in this country. So I see apartheid as being the centre and the cause of such violence. I, however, do not condone it because I do not think it solves the (20) problems.

Were there funerals in your area Mr Mabuza? -- Yes when the civil unrest took place we unfortunately lost people, mostly young people at the beginning and mass funerals were held for these people and the death of these people was not seen as deaths occurring within certain families but they were regarded as deaths within the nation. That is why there was national mourning in a way when such funerals took place.

Your own personal perception of the use of force to put down unrest, and can you just explain what your own personal(30)

perception/....

perception of that is? -- When force was used to quell the civil unrest I saw that as treating the symptoms of a serious malady instead of addressing the legitimate grievances of the people, instead of addressing the fundamental issues that were at stake, rubber bullets, teargas were used to quell the civil unrest and I personally called on the government at the time to be aware of the grievances which were at the centre of the civil unrest and address those grievances as a way of solving and quelling the civil unrest.

Mr Mabuza we have heard in this case about calls for (10) the unbanning of political organisations, the return of the exiles, the discussions to establish a non-racial society in South Africa. I understand that you have expressed your own attitude to that. Do you perceive that to be a realistic method of solving problems in this country? -- Yes I do. I think our country does not need conflict, our country does not need violence in order to solve the problems. I think our country has great leaders who can sit down and resolve these problems and I believe amongst the leadership of the African National Congress and other political organisations I believe (20) that amongst the leaders of the United Democratic Front, there are those who should be part of that process of working out a peaceful future for our country and of being part of the process to bring about such change.

Do you see violence in this country as coming from one side or more than one side? -- I think we experience here violence from different sources. There is the violence of the armed struggle of the ANC, land mines exploding, limpet mines exploding, violence which we do not condone. But there is also institutionalised violence perpetrated on black people which (30) violence/....

violence we do not condone. But I do not think both types of violence have in them the seed of solutions to our country's problems. I think that a negotiation process has in it the valuable seed of reconciliation and a peaceful future.

Do you see any relevance to that process of reconciliation in the future in the way the courts respond to leaders of the UDF?

COURT: Which court?

MR CHASKALSON: Let us ask this court.

COURT: This court has not responded as far as sentence is (10) concerned.

MR CHASKALSON: No, no, I am asking ...

COURT: We are busy with sentence at the moment.

MR CHASKALSON: That is right and I am asking this witness to express an opinion as to the relevance of an approach to sentence in a broader context of the problems of this country and the attitude and the conflict that exists within it.

COURT: Let us first ask the witness whether he knows that this court's findings were. Do you know what this court found on the UDF? -- I am aware that this court has found the (20) trialists guilty of treason and also guilty of terrorism.

But why? Let us stick to the treason charge. Why? Were you informed? -- I have not read the evidence.

So you are asked to express an opinion without knowing why these people were convicted? Is that so? Did you ask counsel why exactly were they convicted? Were you informed that they stand for something to which you are directly opposed and that is violence? Were you informed of that? -- As I say I did not have time to read the evidence.

Well do not give me your opinion if you do not, on (30)

what/....

what this court does.

MR CHASKALSON: Perhaps I can take it a bit further my lord. Were you shown extracts from the judgment Mr Mabuza? -- Yes I was.

Did you read the extract from the judgment? -- I did read the extracts.

Did you see that his lordship had made a finding that the UDF was, that the UDF contemplated violence? -- Yes. On that I can express my opinion.

I am not asking you for an opinion on his lordship's (10) finding Mr Mabuza. But you have read of the fact that the UDF, that his lordship has found that the UDF sought to overthrow the state by violence? -- Yes.

Were you given a number of extracts and pages from his lordship's judgment dealing with the UDF? -- Yes.

You yourself have not read the evidence? -- That is correct.

But are you aware then of the basis of his lordship's finding? -- Yes I am.

Fine. Now in the knowledge that his lordship has found that the UDF sought to overthrow the state by violence (20) will you please tell his lordship in regard to how an approach to sentence of such persons in this case could have a bearing on the attitudes of your people, on the black people and on the future of the country? -- My understanding is that the United Democratic Front pursued non-violent means of bringing about change.

COURT: Well now it is that your understanding has been incorrect, that has been found by this court. Now proceed from there. -- I do not say that the judgment is incorrect.

MR CHASKALSON: Mr Mabuza let me move on to, I will come (30) back/....

back to this from a different point of view. You have told us that the leaders of the African National Congress like Mr Mandela and Mr Tambo, are sung about in your area and that they are seen as leaders. Can you tell us how, within your part of the world, the people who have joined the African National National Congress are perceived? -- The people who have left the country to join the African National Congress are respected for their conviction of their decision, whilst the majority of people in my own constituency do not approve of violence as a means of bringing about change, armed struggle of bringing (10) about change. But these people are hero worshipped in the same manner that in Zimbabwe Robert Mugabe was hero worshipped, in the same manner that in Mocambique the late Samora Machel was hero worshipped. People probably do not express openly their feelings for fear of being charged and convicted on account of the laws of this country but deep down in their hearts these people are respected for their conviction to adopt the way that they have adopted.

Now in response to people who have chosen to oppose apartheid by a method which in this case has been found to (20) contemplate and include violence, make that assumption, can you tell his lordship how the nature of the sentence upon such persons may be seen and the repercussions it may have within the black community of this country. -- My perception is that the leaders have been advocating non-violent change and my concern is that if they are put out of circulation the communities where they come from will be without leaders, the regions where they come from will be without leaders. Nationally they will be without leaders because of the high esteem in which they are held. My understanding and my perception is that (30)

these/.....

these people should be used as part of the reconciliation process, as part of seeking ways and means to bringing about change in this country. I am personally concerned that their incarceration, possible incarceration, will again draw the wedge back in the sense that credible leaders find it difficult to participate in the negotiation process while other leaders are in prison and while other leaders are in exile, and the same will apply to the trialists here.

And does the fact that they have been found guilty of violent treason make any difference to that opinion that (10) you have expressed? -- The fact that they have been found guilty of treason or terrorism does not change that understanding, it does not change that perception, it does not change their placement in the leadership structure of our people.

No further questions my lord.

CROSS-EXAMINATION BY MR JACOBS: Mr Mabuza during the unrest do you agree many innocent people were killed in the different townships? -- Yes I agree.

And do you agree that many innocent people, wives and children of councillors, were threatened with death, their (20) houses set on fire while they were in the houses? -- I would not vouch for other areas where I was not present but in my own area I am aware that threats were issued but councillors were not killed.

So you do not know what happened in the rest of the country? -- I do not have the facts.

Yes. Now in your own area where you had threats and violence who organised the people in that areas? -- Sir I believe this was a wave that occurred throughout the country as much as the 1976 riots. There was no actual organiser. (30)

Were/....

Were there no ... -- The same, could I just complete my sentence sir. The same applies to the 1984 to 1986, in my own particular area we could not identify a particular organiser. That is why I and community leaders in my own area went out of our way to talk to young people, to talk to community leaders, to talk to traditional leaders, to talk to parents to try and resolve the problem and drive the point home that killing will not solve the problems and destroying property will not solve the problems.

Were there no organisations organising people in your (10) area, no organisation at all? -- No organisation that I could identify.

Do you know what the complaints were, why the people participated in unrest? -- Sir I think that question has been answered during cross-examination ...

Cross-examination of whom?

COURT: Wait a minute let us first get the answer Mr Jacobs. -- If sir you lived at Barberton township, if you lived at Matsula township, if you lived at Sabie township I think you would be aware of the accumulated complaints of black (20) people, complaints which could not be addressed in spite of protests and representations, complaints which made people feel bitter, people feel frustrated and complaints which if people had their anger burst and become violent one would understand but one would still not condone it.

MR JACOBS: Would you condone the violence in the rest of the Republic organised by say for instance the ANC and UDF? -- Certainly not.

And would you agree then that the people in the different townships had to be also, to be safeguarded against unrest (30) and/....

and violence being conducted against them? -- I agree that they had to be safeguarded but that was not solving the problem, that was treating the symptoms of a problem.

That may be so but they need protection, do you agree? -- The protection they needed but sir I would like to state my point here, I stated to my constituency that protection will not help because if the police and the army go away the problems remain and they will not be solved. So the violence will escalate. I appealed to their moral conscience to understand that it is not through violent means that we should (10) solve our problems but that we should talk about our problems and try to resolve them peacefully.

And do you agree also that people who instigated and intimidated people to participate in violence they must be sentenced by the courts and, after a due process of law? -- I am in favour of the due process of law taking place but in my own constituency I felt that speaking to people who we understand favoured certain actions which would lead to conflict should be made to understand that conflict will not solve the problems. I believe in dialogue rather than confrontation. (20)

And do you know, Mr Mabuza will you relinquish your position as the leader of your party and your country to the ANC leaders? -- I believe in a democratic process sir and I believe in a democratic process and I believe in a government by the consent of all the governed people. So I would release the governing of my country to people who have been democratically elected by all sections of the population.

Do you regard Mr Tambo and Mr Mandela at the moment as your leaders? -- Yes I do.

And you said you adhere to the policy of the ANC as (30)

well?/....

well? -- Insofar as a non-racial democracy in an undivided South Africa is concerned, yes.

Are there any restrictions on the policy of the ANC that you do not adhere to? -- Armed struggle, no.

Is that all, only the armed struggle? -- The armed struggle, yes.

And what about a socialist government? -- I believe sir that the type of government that we should have in this country should be a negotiated government, it should not be imposed by any other group. (10)

Do you also adhere to the socialist ideal of the ANC? -- I cannot subscribe to socialism in as much as I do not subscribe to capitalism. I believe our country has such a backlog of injustices insofar as the economic wealth of this country that we will have to reach a negotiated solution insofar as the administration of the economy of our country is concerned.

It seems as if you know quite a lot about the ANC. Do you know it is their policy for an eventual socialist government in South Africa? -- That was not articulated to me in the (20) formal meeting I held with them at the beginning of 1986.

Have you not read and studied any documents of the ANC? -- In this regard no.

Do you know anything about the South African Communist Party? -- I have heard of it.

Do you know that it is the known and admitted colleague and partner of the ANC? -- That is what I am informed.

Do you subscribe to communism? -- I do not.

And are you satisfied with the fact that the ANC and the SACP are partners and are you still willing to accept them (30)

as/....

as leaders in South Africa? -- Sir I am not informed. I have been told by the government controlled media that that is the case. I have not heard the SACP state its case nor the ANC state its case in this regard.

When you visited them, have you heard before this, previously did you hear about the ANC and the SACP being partners and subscribing to socialism? -- Yes as is from time to time expressed in the media, in the news media.

So when you met with them did you not ask them about that? -- We discussed that particular question. The answer (10) was that is their own strategy, that is their own decision. It is the decision of the African National Congress.

Did they admit to it? -- We did not ask whether that is true, that is a fact or not.

Now what did you discuss on the matter? -- Well we did not go to that detail because we felt it was not pertinent to the discussions that we held.

I cannot understand your answer then. You said you discussed it with the ANC when you had your meeting. -- We asked about the relationship but not about the details of the re- (20) lationship.

But when you discussed it did you not ask them? -- Ask them what?

About the relationship between the SACP and the ANC? -- Sir as I have said we said to them it is said that you have a relationship with the SACP and they said that is a matter for them, it is part of their own decision and we did not go into details as to how the relationship works.

Mr Mabuza can you tell the court, do you know about the policy of the UDF to bring about change in this country by (30) violence?/....

violence? -- I know the policy of bringing about change through non-violent means and not the one about violence.

That is the one I specifically asked you about, is the one that they want to bring about change in this country by violent means. Do you know about that? -- I do not know about it and it has not been my perception.

So you cannot tell the court very much about the UDF and its ultimate aims? -- I think I can insofar as the UDF is committed to a non-racial society as is stated in their declaration, in an undivided South Africa. (10)

COURT: When did you read the declaration? -- I was aware of the declaration after the launch of the UDF and it was brought to my attention also in preparation of my giving witness in this court.

So did you read it closely for the first time while preparing your evidence now? -- Yes I did.

So your perception about the UDF you merely gained from the newspapers before that? -- I have from time to time held discussions with the leadership of the UDF and their own operation within the country. So the UDF has not been brought to my attention through the newspapers or documents but I have held personal discussions with the leadership of the UDF. (20)

MR JACOBS: Mr Mabuza can you tell the court with which leaders of the UDF did you hold discussions? -- Amongst others Mrs Albertina Sisulu, Samson Ndou, Mathew Morobe, Azaa Patalia(?).

Is that all? -- Yes.

And did you discuss their policy in depth? -- I did not discuss their policy in depth. (30)

Is/....

Is the UDF declaration the only document that you studied? -- Yes it is.

About these freedom songs that you referred to would you have allowed them to sing about the killing of people, of specially whites, burning of courts, supreme courts? -- In the meetings I have attended they have not sung such songs and I therefore would not have allowed it.

On the question of the Tricameral parliament do you know whether the UDF is prepared to discuss representation of blacks in any parliament at all? -- I believe that the UDF is (10) committed to a national convention at which the future of the country will be discussed by representatives of all our people.

Is that all you know about, will they, do you know whether they will participate for instance in a fourth chamber in parliament? -- I doubt if they would participate in a fourth chamber inasmuch as my constituency and I would not participate in a fourth chamber.

And this national convention, do you know what the UDF's requirements or demands, minimum demands are for a national (20) convention? -- The release of political prisoners, the unbanning of political organisations are amongst some of the conditions that are laid.

Is that all? What other conditions do you know about? -- One other condition is the dismantling of the defence force and the South African police.

When did you discuss that with the UDF? -- I really cannot state an exact date. The UDF was founded in 1983 and in the interim I have had from time to time an opportunity to meet some of their leaders. (30)

Was/....

Was it shortly after the launch? -- Not shortly after the launch.

How long after it, which year? -- 1986.

1986. With whom did you discuss it then? -- I have already mentioned some of the leaders I met.

No but this very important question, when did you discuss it? -- I did not regard it as an important issue on the agenda that we had to discuss with them.

Thank you sir.

RE-EXAMINATION BY MR CHASKALSON: Do you yourself know the (10)
freedom charter? -- Yes I do.

As far as the freedom charter is concerned do you support the freedom charter, are you opposed to the freedom charter, what is your attitude to the freedom charter? -- My attitude to the freedom charter is that it is a basic working document stating certain principles regarding the future of the country and my own political organisation has adopted the freedom charter.

Yes. You say that you do not condone violence. How do you react to people that have chosen the violent option? (20)
-- I condemn the violence that occurs but I have respect for people who out of conviction believe that all options for democratic opposition to the system that exists in this country have been closed and that they have no option but to follow the violent option.

And is that the perception within the constituencies that you have been describing? -- I believe that is the perception that is broadly shared, but it should be stated clearly that the majority of people do not condone violence but they respect the decision of those who have opted for that path. (30)

Your/....

Your own role within government created structures, can you comment on whether or not you have been able to achieve much? -- I can comment that I have managed to obstruct and frustrate some of the objectives of the policy, namely in 1982 the government decided to hive off over one million South Africans and dump them in Swaziland. I used democratic means to oppose that decision. In 1985 two communities from the Eastern Transvaal were supposed to have been dumped at our doorsteps. I used democratic means to oppose that. So to that extent I have succeeded. But I cannot on the other (10) hand show a healthy balance sheet of the success I have made in my quest for peaceful negotiation with the government at this stage. In fact I should point out that on 1 August I was one of two chief ministers of self governing territories who met Mr Heunis in Pretoria as part of my commitment to dialogue. Four other chief ministers did not turn up because they believed that talking to the government would not help.

Is this perception then that you expressed one which is shared with other chief ministers throughout this country? -- Yes, taking this incident into account it is shared even (20) by other ministers or chief ministers of self governing territories.

And do you from time to time have discussions with such persons as well? -- Yes I do.

I have no further questions.

NO FURTHER QUESTIONS.

WOLFRAM KISTNER: d.s.s.

EXAMINATION BY MR BIZOS: Dr Kistner were you a director of the South African Council of Churches? -- I was a director of the South African Council of Churches. (30)

Until/....

Until when? -- Until the end of February 1988.

And when did your association with the South African Council of Churches commence? -- It started in 1976, the beginning of 1976.

And was it a continuous association with the South African Council of Churches in various capacities up to your retirement? -- I was a staff member of the SACC for all these years.

COURT: Administrative? -- Director of the division of justice and reconciliation. (10)

Is that a study division? -- A study division also a division which has certain projects.

MR BIZOS: It may be necessary in view of certain of the evidence that you will give Dr Kistner to have some of your personal background. Were you born in South Africa? -- I was born in South Africa.

As the son of a Lutheran minister? -- That is correct.

And did you go back to Germany to study for part of your studies? -- I studied in Germany partly during school time and later also. (20)

And did you serve as a pastor in the Federal Republic of Germany between 1952 and 1954? -- I served as a pastor in a German church during those years.

And did you return, did you become the superintendant and pastor of the Hermansburg(?) School institution in Natal on your return to South Africa? -- That is correct.

And general superintendant of the Hermansburg Mission in South Africa with its headquarters in Escourt in Natal? -- That is correct.

And between 1969 and 1972 did you again become a pastor (30)

in/...

in the congregation of the Lutheran Church in Hanover in the Federal Republic? -- I was serving in a congregation of the Hanovarian church at that time.

On your return to South Africa in 1973 were you appointed lecturer to the theological training programme of the Lutheran Church of the University of Natal, Pietermaritzburg? -- That is correct.

And you have already told us that in 1976 you became a director, one of the directors of the SACC? -- That is correct.

Do you hold a doctorate? -- Yes that is true. (10)

Where was it conferred on you? -- In The Netherlands, I studied in The Netherlands for a time.

From 1976 to 1988, with some interruptions, was Mr Tom Manthata an employee of the South African Council of Churches? -- He was an employee of the South African Council of Churches at this time.

And in what division or section of the South African Council of Churches did he work? -- He initially worked in the division of justice and reconciliation and also helped in the division dependence conference and later I think it was in (20) 1979 he was completely taken over by the division dependence conference.

Now perhaps for the benefit of his lordship you should explain as briefly as you possibly can what the division of justice and reconciliation in the SACC did and thereafter what the dependence conference did. -- The division of justice and reconciliation has study projects where an attempt is made to relate the biblical message of justice, of reconciliation to justice in society and justice in general and there is bible studies, there is also study of South African context(30)

and/....

and in addition certain projects are undertaken, also study projects, for instance the whole project of human rights, the whole issue of ideologies has been studied. Furthermore this division has other practical work. There has been the training of field workers and the network of field workers, justice and reconciliation field workers has been established in different parts of the country and the division tries to promote the training and to gather them, exchange of experiences and so on.

And the dependence conference? -- The dependents conference takes care of the needs of political detainees, (10) their families, provides help for the needs of families, takes care that the relatives of political detainees can visit the detainees if that is possible, takes care of their children, provides assistance in political trials, the best possible legal defence and visits the families of detainees so as to find out what their needs are and how they can be assisted.

And was Mr Manthata involved in this dependence conference? -- He was involved in the work of dependence conference.

And what did his work actually involve? -- He was (20) mainly asked to attend to people who came to the offices and to listen to them, identify what their situation was, their needs were and to advise the council of churches on how they could be assisted. In addition he was asked to visit the families of detainees, also he quite often did get special assignments from the general secretary of the council of churches when he was sent out to areas where there was difficulty and visiting the detainees and reporting back to the council of churches.

Did Bishop Tutu, before he became archbishop of the (30)
Church/....

Church of the Province, become the general secretary of the South African Council of Churches? -- Bishop Tutu before he became Archbishop was the Bishop of Johannesburg. He was general secretary I think from 1978 to 1985.

And during the period that Archbishop Tutu was the general secretary did Mr Manthata hold any special position or any special relationship with the general secretary? -- He was a staff member of dependence conference but when there were cases where special advice was needed Bishop Tutu very often relied on his advice because he had very close association (10) with the community, he could listen to them and he could identify their needs very accurately and in that respect Bishop Tutu made use of his advice quite frequently.

Do you know who accompanied Bishop Tutu when he travelled to receive the Nobel Prize? -- I know the staff members of the SACC who accompanied Bishop Tutu and Mr Tom Manthata was one of those people who were present when the Nobel prize was conferred on Bishop Tutu.

Now did you yourself personally have close contact with Mr Manthata during this period of his employment by the South(20) African Council of Churches? -- I had close contact with him because he was a staff member of the division of justice and reconciliation for several years and even when he was a staff member working in the dependence conference I had a certain responsibility, an indirect responsibility for that division too as senior director and he worked on the same floor and we often consulted on problems which arose.

Now what can you say to his lordship, from your personal experience, about the attitudes of or the attitude of Mr Manthata in relation to the use of violence in the attempt (30)

to/....

to solve the problems that South Africa is facing Dr Kistner?
-- I have known him for twelve years and I never had any experience where he was in favour of the use of violence. It was rather the contrary when talking to young people particularly, he had a very great influence on them and tried to admonish them to be responsible in whatever they were doing.

Now were you aware that he was detained from time to time?

-- I was aware that he was detained, of course as a director I had to be aware because he was not there and I visited him also while he was in detention, several times. (10)

And did you discuss his detention after his release from detention? -- Yes we discussed after his release. First of all we discussed how he was, what his experiences were, that was discussed.

And was there any bitterness in him as a result of these detentions without trial? -- It was one of our experiences, surprising experiences, that each time when he came out of detention he was not a bitter man and was joyful and relaxed and could laugh and there were many visitors also who had exactly the same impression. (20)

Do you know Mr Dieter Trautwein?

COURT: Dieter?

MR BIZOS: Dieter, D-i-e-t-e-r.

COURT: D-i-e-t-e-r, yes I cannot promise the pronunciation to be

Trautlein? -- Trautwein.

Will you spell that please? -- T-r-a-u-t-w-e-i-n.

MR BIZOS: Who is he? -- He is a prominent minister in Germany in the church of, in Frankfurt and he is known as a hymn writer. He has a big circuit for which he is responsible (30)

but/....

but he is particularly known as a writer and composer of modern church hymns.

Do you know whether Mr Manthata's detentions and attitude to violence and attitude to the violence who were actually responsible for detaining him, whether that inspired Mr Trautwein to write a hymn? -- I know that there is a hymn which Krups(?) Trautwein wrote on the occasion of the release of Mr Manthata from detention. It was in 1978.

Has this been published in a hymn book? -- It has been published in one hymn book as far as I know, it has been (10) published in various hymn books and it is used in Germany quite frequently.

And is this the book published by Mr Trautwein? -- This is the book which is published and this book contains the hymns of Dieter Trautwein.

And are these photostats in German of the music and the verse

COURT: Yes could you just put the name on record please, of the book.

MR BIZOS: Yes, would you just put the title and the date of (20) publication and the publisher please? -- The author is Dieter Trautwein. The title of the book is "Frankfurter Lieder" and the publisher is Borkhauphaus Litariverlag(?).

COURT: What is the page number? -- The page number, it is the number 117.

MR BIZOS: Actually hymn numbers rather than pages I think. -- Hymn number, ja.

Would your lordship receive photostats of that my lord?

COURT: Yes certainly.

MR BIZOS: And we have a translation. I do not know whether (30) your/....

your lordship will be able to compare it. Will you hand those in please.

COURT: What is our next exhibit number Mr Bizos?

MR BIZOS: I know that it will be in the DA series and it will be, could we make it, a new series has been suggested. I am sorry it is something that I have ...

COURT: We will call it DS, DS for sentence.

MR BIZOS: As your lordship pleases.

COURT: DS1.

MR BIZOS: And have you translated this hymn for the benefit of the court Dr Kistner? -- I have translated this hymn. (10)

Would you lordship call it DS1?

COURT: DS1 and DS1(a), the translation.

MR BIZOS: And is that a correct translation to the best of your ability? -- I translate it to the best of my ability of the German and the English language, knowledge of the German and the English language.

Yes. I just want to read this into the record and then ask you whether you feel whether this speaks about Mr Manthata or not and whether the feelings expressed in it are correct. (20)

"Three times he came out of prison without hatred.

Tortured and once with only one eye.

Three times he came out of still without hatred

Against the whites, against people like you and me.

2. What some people can take only lets us wonder

Where does the patience come from.

We have to ask to suffer without hatred.

Where does the strength come from not to hate

The torturers and all those who allow to happen

What people do to people.

(30)

3./....

"3. What some people can take only lets us wonder
Because not by nature people are prepared to suffer
without hatred.

Does not their strength come from the contact with Him
who captured and tortured does not grant the enemy to
feel hatred.

What Christ has in store for us only lets us wonder.
That he gives patience, allows love our unbending
enemies instead of hating them.

Giving us the strength Lord to live in the freedom (10)
of those who follow you.

Not to allow that hatred that drives us to death.
Three times he came out of prison without hatred,
At least another time. What will he do?

Three times he came out still without hatred against
the whites, against people like you and me."

Now does this, do you know whether this refers to Mr Tom
Manthata or not? -- I know that it refers to Mr Tom Manthata.

And does it correspond or contradict your own experience
with Mr Tom Manthata? -- It reflects my own experiences (20)
with Mr Tom Manthata and this hymn has been composed on the
basis of reports which Mr Trautwein received from people who
had visited Mr Tom Manthata.

Now you have been given the portion of his lordship's
judgment dealing with the findings of fact and the reasons for
the findings of fact which made Mr Manthata guilty of treason.
Have you studied those extracts from the judgment? -- I have
studied that, ja.

Now have you been advised that it is not for you to
comment on his lordship's judgment? -- I am aware of that. (30)

Now/....

Now on the assumption, on the assumption that Mr Manthata did say what his lordship found him to have said at the meeting of 19 August 1984 at Sharpeville what do you say? Is that in keeping with his character as you know him or not? -- It is completely contrary to the nature of Tom Manthata and his outlook also, his Christian outlook as I have known him for a period of twelve years in different situations, in work and in his family context too.

Did you also see in the extracts from the judgment that were handed to you that Mr Manthata appeared to be in (10) possession of certain documents which led his lordship to the conclusion that Mr Manthata must be a marxist of sorts? Now are you familiar with the documents which were described by his lordship in the judgment? -- I saw those documents. I saw one document also which was signed by him and I saw also the list of books which were mentioned.

COURT: Did you see them before the case or for the purposes of your evidence? -- For the purposes of my evidence.

MR BIZOS: You in your experience as a theologian or as an employee of the SACC of a number of years, what do you say (20) about this sort of document and this sort of book Dr Kistner? -- I could not say, see how the possession of books reflects on one's own convictions because in the SACC people are expected to read books and we also get staff members of the SACC many books which were given to us for reading and I suppose some of those books came into the hands of Mr Tom Manthata in that way. We also, we expected staff members to be knowledgeable about what happens in the neighbouring countries and also we had a study commission on faith and ideologies where we had to study also socialist documents, marxist documents. That (30) was/....

was part of the assignment. Thus I, well I cannot say how, at least from my perspective the possession of a book does not reflect necessarily my convictions.

Yes. This study of faith and ideologies is this a study which is confined to the SACC or is it something that the universities concern themselves with? -- This was a study commission which was sponsored by the SACC but which made use of the expertise of university professors from Cape Town, from other universities, Unisa and then we, people from the black community were participating, also young people in that (10) study and a book has been published on that topic, faith and ideologies, trying to make people acquainted with the different ideologies that are known and that play a role in not only in South Africa but in the world in general.

Is it a study which, is it a study which theological faculties encourage or participate in? -- Those professors were mostly professors of theology from different universities in the country.

Here in South Africa? -- In South Africa.

And is the Christian faith compared with the various (20) ideologies and discussed at length? -- The concern was to show how the Christian faith relates to ideologies in general, not only to socialist ideologies, to other ideologies also, liberalism, capitalism and so on.

Which universities in South Africa concerned themselves with this field of study Dr Kistner? -- I do not think there is any university which will not have any study on this type of ideologies and sociology, we have to deal with that, you have class analysis in sociology, in history.

Theologians actually learn about sociology and the (30)
different/....

different theories of government? -- They are expected to do so.

Thank you my lord, I have no further questions.

COURT ADJOURNS UNTIL 14h00.

C.1564 COURT RESUMES AT 14h00.

WOLFRAM KISTNER: d.s.s.

CROSS-EXAMINATION BY MR FICK: Dr Kistner you can only testify, is it correct, as far as the activities of accused no. 16 is concerned and only as far as some of the activities of accused no. 16 in regard to the South African Council of Churches, (10) you cannot give evidence about his speeches elsewhere at public meetings? -- I do not remember details of speeches he held in public meetings.

You did not accompany him to public meetings? -- Public meetings which took place in the Khotso House I participated in but otherwise meetings in Soweto I did not go particularly with Mr Tom Manthata to those meetings.

Now Doctor on what basis do you say that hymn no. 117 in EXHIBIT DS1 refers to accused no. 16? -- I know this pastor, minister, in Germany very well and I know that he (20) spoke to me when he had composed this hymn. That was already in 1978.

Did that pastor visit South Africa? -- He visited South Africa but according to my knowledge not after the release of Mr Tom Manthata, not on the occasion when he was immediately released, he was not present.

Not after his release? -- He visited South Africa after Mr Tom Manthata was released.

Which year? -- He attended an SACC national conference I would think it might have been in 1983. But he had (30)
contact/....

contact with people visiting South Africa all the time. In fact his wife visited South Africa various times.

So the only basis for your knowledge about hymn no. 117 is hearsay? You were told about it? -- By the author of this hymn himself.

Now you gave an explanation with regard to the documents found in the possession of accused no. 16. Do you know what explanation accused no. 16 gave to this court? In regard to the documents found in his possession? -- From my memory in reading those documents I think he said simply that these (10) were documents which he used for his work.

Did you read his evidence, accused no. 16's evidence in this case? -- I read part of it, ja. But I do not remember details about what he said about ...

COURT: I am sorry Doctor let us not misunderstand each other. Were you given portions of the record of the evidence or were you just given portions of the judgment dealing with the position of Mr Manthata? -- I was given the evidence, the judgment.

The judgment itself? -- Yes. (20)

Not the evidence as the witnesses gave it in court or as Mr Manthata testified in court? -- No, no.

So when counsel refers to the evidence he refers to the recorded evidence of witnesses, otherwise he will refer to the judgment. -- I was referred to the judgment, ja.

That is which you got. -- Ja.

MR FICK: Thank you my lord. Now do you regard the South African Council of Churches as a revolutionary movement? -- The South African Council of Churches is a body which comprises the main-line churches of the South African church life and which is (30)

bound/....

bound to the bible and committed to the gospel.

Ja, but now that is not an answer to the question. Do you regard the South African Council of Churches as a revolutionary movement or part of a revolutionary movement? -- I do not exactly understand the question, what is understood by revolutionary movement because the gospel in itself is a radical message and, but I do not understand that question quite right because it is not a political movement. It is simply an organisation which comprises the different South African churches, mainline churches, for mutual consultation(10) and co-operation in view of the tasks and the mission and the witness they have to give in South African society.

During October 1987 did Reverend Frank Chikan hold any position in the South African Council of Churches? -- He held a position as general secretary in 1987.

Did you attend, during October 1987 any consultation in Katini(?), Geneva? -- I was not present at a consultation in October/November 1987 in Geneva.

Was the South African Council of Churches represented there? -- I do not know any details about that meeting but (20) I was told that there was a meeting in Geneva at that time.

Did you receive the minutes of that meeting? -- I only saw minutes or a paper on that meeting which was presented to me in preparation of this occasion, here for the court. But I did not see minutes before the time.

COURT: Well I am sorry Doctor. Did you see any minutes at any stage? -- Of that meeting.

Up to now did you see any minutes or did you not see minutes but did you see a paper? You differentiate between the word "paper" and the "minutes". -- Yes I saw the paper (30)

which/....

which I was allowed to see by Mr Bizos in preparing for the hearing here and I was not quite clear whether it was official minutes or not because it was sent out by the WCC, there was no signature, I could not recognise who has written that and whether that is official minutes of the SACC or whether it is a record of proceedings from the WCC.

MR FICK: Do you know whether the SACC functions as an alternative government in South Africa? -- The, according to my knowledge the SACC has never claimed that it would function or would like to function as an alternative government for (10) South Africa. They have, the SACC has always asked that all groups in South Africa decided on a future dispensation for South Africa but they did never intend to be the government themselves.

Do you know on how many occasions did the SACC give financial aid to people to get out of the country, for security reasons? -- I do not have any knowledge about the SACC giving money to people wanting to leave the country for security reasons. I know that the SACC has supported people within the country whose lives were endangered by vigilantes in (20) particular situations. They have been receiving moneys for giving shelter within the country because they could not stay at home.

And did the SACC in any stage give assistance to any councillor or family member of a councillor? -- I am not quite clear about that question, what is meant by a councillor.

A black local authority, a councillor appointed in terms of the act, the Black Local Authorities Act? -- I am not sure about that because I did not handle the applications myself, who applied for support. (30)

Thank/....

Thank you my lord, I have no further questions.

RE-EXAMINATION BY MR BIZOS: No questions.

COURT: Do you know whether Mr Manthata suffers from glaucoma?

-- I know that he suffers from an eye ailment but I do not know the medical details, what is the reason.

Is that not what is referred to in the hymn? -- That maybe to that the people believe that he has received that ailment in prison. It could also refer to the fact too that that ailment has become worse while he was in detention. I am not sure. (10)

But now you were involved with the SACC when he came out of detention? -- Yes.

Is the suggestion in this hymn that he was tortured and lost his eye in detention? -- Not necessarily but his eyesight might have been impaired.

Yes but is the suggestion in the hymn that through torture he lost his eyesight? -- No it refers to torture but not necessarily torture applying to his eyesight, but it says that he could not see properly when he came out, with one eye. That is how I interpret it. (20)

Yes. No I ask these questions because we did not hear from Mr Manthata that he had been tortured in detention or that his eye condition was anything else than from natural causes. -- That must have been the impression of the people who visited him and who had the impression that his eyesight was not good. I myself know that his eyesight was not good but I do not know any details about the causes of his ailment.

Yes but if you do not know it would the people in Germany know better? -- Well if you are at a distance of course you try to interpret what has happened. I do not know what (30)

details/....

details they had or did not have.

But reading this hymn does it not strike you that what is conveyed in this hymn is that through torture he lost his eyesight? -- It can be interpreted like that but not necessarily.

Yes, thank you. Thank you Doctor you may go.

NO FURTHER QUESTIONS

BUTI JOSEPH TLHAGALE: d.s.s.

EXAMINATION BY MR BIZOS: Father Tlhagale do you, or was a master's degree in theology conferred on you by the Gregorian University in Rome, Italy? -- Yes that is correct. (10)

And prior to that was a Bachelor's degree conferred on you in Roma University in Lesotho? -- That is correct.

And thereafter a Bachelor of Theology degree prior to your master's degree also at the Gregorian University in Rome? -- That is correct.

And are you a duly ordained Catholic priest? -- Yes I am.

And were you the parish priest in Dube and Endeni in Soweto from 1976 to date? -- Yes I am.

You will forgive me but because of your youthful appearance may I please ask your age? -- I am 41 years old. (20)

Do you hold the position of associate director in educational opportunities council? -- Yes I do.

In 1985 were you a visiting scholar at Notre Dame University? -- Yes I was.

In the United States. Did you take part on a part time basis in the South African Council of Churches justice and reconciliation division? -- Yes I did.

Incidentally is the Catholic Church a member of the South African Council of Churches? -- The Catholic Church has an observer status in the South African Council of Churches. (30)

Are/....

Are you a director of Skotaville(?) Publishers? -- I sit on the board, yes.

COURT: Skotaville? -- Skotaville Publishers.

MR BIZOS: S-k-o-t-a-v-i-l-l-e. Do you serve on the board of the United States - South African leadership exchange programme called USALEP? -- Yes I do.

Do you serve on the board of the Community Agency for Social Enquiry? -- Yes I do.

And on the board of the Black Theology Project? -- Yes I do. (10)

For how long have you known Mr Manthata, accused no. 16 before his lordship? -- I have known Tom Manthata for over ten years now.

As it appears that you know him in various contexts could I ask you to first deal with the context of you being a parish priest. Was he a member of your congregation? -- Yes. I was at the Dube parish for six years and that is also Tom Manthata's parish and that is where I came to know him very closely. He has been, was involved in parish activities. He has been a very regular churchgoer and if it did happen that he would not (20) be there on a Sunday he would routinely inform me about his whereabouts. He has been an active member and because he was the kind of person who was known to be a leader within the community he has always been an asset in putting the minds of the parishioners at ease with regard for example how do we use church facilities, do we allow people who are not Catholics to come in. People have always felt at ease when somebody who could talk relates to other groups outside the church, would actually suggest ways and means of handling those. Tom has also been very active as somebody who is (30) particularly/...

particularly interested in the youth in the church, who has always advised us to make sure that they are involved and not simply allowed to come in and go. And mainly this has been through organising youth seminars and things like that where he has always been very enthusiastic. Within the church in general Tom has been somebody who has been consulted not only just at parish level, at diocesan level, certainly the late Archbishop Fitzgerald used to consult quite frequently with him about issues in the community, about what the role of the church should be and Tom has enjoyed the kind of esteem (10) within the church leaders, and certainly at the South African Catholic Bishops Conference where he has always been invited to come and talk to the bishops and address them about social issues. Within Soweto itself I believe because he is a practising catholic and therefore known certainly to most of the catholic priests in Soweto Tom has been very active in promoting an ecumenical spirit among clergymen, not just catholics but also of other denominations. So that if there are common issues, and there always has been very troublesome issues like school boycotts for one, where he has always been in- (20) volved in encouraging us as clergy to come together and try and help the students who were stranded. I have also come to know him as a person, an affable person, very friendly. More on the quiet side. In spite of the fact that he has been a leader and well known outside our own parish Tom never imposed his own political views on the parish and I think that has been something which has impressed me deeply and has also impressed the parish at large because of the kind of conflict that can still be there where there are different groupings, different ideologies. He has never pushed his own line. He has always (30) been/....

been the one who leads discussions with calm and because he is by nature a quiet person people have tended to listen to him very easily and that has been asset during our stay at that particular parish with him.

Father did you know him as an adherent of black consciousness? -- Yes I have.

Did he try to push that line in your parish or in the communal life of the parish? -- No he did not, even though he was known virtually by everybody in the parish because of his long history of activism he has never pushed his own political views on the parish as such and I think even the people who were suspicious of a person involved in politics or for example we have had now parish people who belonged to Inkatha or we have also had people who were in the security police and therefore there has always been that kind of tension within the community but because he has never pushed his ideas, his political views, he has always been well respected for that. (10)

Do you know the family well? His wife and children? -- I know the family very well. During our stay here at Dube I also received Barbara, Tom Manthata's wife, into the Catholic church. I baptised their children and we have been involved, they have been involved in the parish as a community. I have been privileged, because I have come to know them very well, to share also their family problems and I find both Barbara and Tom to be a very warm and close couple and I think that is how they are also known to their friends. (20)

You also told us that you had a part time appointment with the South African Council of Churches? -- That is correct. Between 1979 and 1981 I did a part time job for the South African Council of Churches in the department of justice (30)

and/....

peace. I mainly worked on doing reports for example at that time on labour issues such as the Wiehahn and the Riekert reports, a study on ideologies, those were the kind of things I worked with and there also I came to know Tom who was also a field worker at that time who was mainly involved with working with families of detainees. Which was one remarkable aspect about the main who even after hours, certainly at parish level, has always encouraged us that we should never neglect the families of those people who are in jail for one reason or another because they need the community, they need support (10) and that we should always teach our parish community to be supportive of such families.

So that his lordship may have some idea of some of the work in this division of the South African Council of Churches that you were working in what was your involvement with the Riekert Commission's report and the Wiehahn Commission's report? -- My task was simply to look at those reports and we were involved with unions and also to be able to talk to them in a very understandable way, what that implied, that the legislation is changed and that in fact for the first time in (20) the history of this country workers can begin, are now recognised as workers and therefore can begin to make, to join unions and support unions so as to be able to bargain with management. This is the kind of work we are doing in discussing with unions.

Yes. Now other than the parish level and the level of, as a field worker in the South African Council of Churches at what other level did you know Mr Manthata Father? -- I have also known Thomas Manthata as a community leader generally speaking. In this context one has always met him in (30) conferences, /.....

conferences, in seminars organised by either AZAPO or the Committee of Ten, the Soweto Civic Association, in various contexts and especially during that time when we used to have school boycotts and also the removals of people. A couple of years ago Tom was involved in all this and most, in some of the meetings in Soweto and particularly with regard to student boycotts he used to chair some of the stormy meetings in an admirable fashion. I would imagine the younger people would have accepted him simply because he had been there when many leaders have come and gone he seemed to have stuck at it (10) and gained himself that particular kind of respect and he has been the convenor of some of these meetings where some of the leaders in Soweto have also participated to try and resolve some of those problems. We have had over the years a conflict within the black community. One can recall for example when the UDF came into existence way back in 1983, the years following that, 1984, 1985, where there was conflict in terms of sharing platforms like funerals for example, or commemorative services where there was conflict. Tom Manthata has been very useful in that sense where he came in and tried to work (20) for that people should not be looking at their own positions but try and co-operate and not to be vying against one another and he has been an asset in that respect. He has also participated in seminars where younger people who shared different views would simply accept a position or that a meeting should go on simply because a person of his stature would suggest that they be calm and so in a sense he has been very helpful in quietening and in being articulate about the aspirations of the black people in some of these meetings. Tom has also been involved with the unions where he has also been able to (30)

help/....

help people who sought help. How do you begin to form a union, where do you start. He has always been having information on these things and has always made it very easy for people to come together, invite people who are knowledgeable and share with them. These are some of the roles, activities, in which Tom was involved in.

Before I go onto the next topic the Warrant Officer advises me that at last an adequate escort has been arranged to take Mr Matlole to the doctor. May he be excused my lord?

COURT: Yes certainly. (10)

MR BIZOS: Father have you been shown the extracts from his lordship's judgment dealing with the conviction of Mr Manthata on the main count of treason? -- Yes I have been shown the documents.

And have you been advised that it is not for you to comment on that aspect of ... -- Yes I have been so advised.

Now on the, I am asking you to assume the correctness of that finding with respect, how do you say that that conducts squares up with your knowledge of Mr Manthata as the person you know? -- On the question that Tom Manthata incited people on (20) 19 August 1984 the Tom Manthata I know, and therefore that he promoted violence, I as I said cannot make any comment on that but only to say that the Thomas Manthata I know has been a peaceful purpose and if indeed it is as the court says, that the court found what he did there I must admit I find that to be completely contrary to his nature and I am truly shocked that he could have advocated violence.

You have known him since 1985 you have told us? -- No.

I beg your pardon since ... -- 1978.

Since 1978. -- Even prior to that actually. (30)

Yes, and up to 1985 did you remain close to him? -- We have been pretty close over all those years, yes. Even up to now.

Whilst in the Council of Churches did he confine himself to parochial matters within Johannesburg or Soweto or was he expected to go beyond? -- No the field work of the South African Council of Churches, I remember this on a number of occasions, even over weekends when he would not be present at church he would for example be going to Port Elizabeth or Pietersburg. His work at the Council of Churches carried him far and wide around the country so he was not just confined to Johannes-(10) burg or Soweto as far as I know.

Were the documents mentioned in his lordship's judgement as evidence of the state of mind of Mr Mantatha made available to you? -- Yes they were.

Can you generalise, can you give a generalised comment as to the type of document you regard this as in your experience in the universities, in your community, in the council of churches? -- Some of the literature which he had, some of the documents which he had where there are political speeches and things like that, I would say the kind of language in (20) those documents and as one certainly comes across this, one even has some of those documents, they, most of them they contain the political rhetoric that is quite familiar in township politics or with people who are interested in different ideologies and so the language does tend to be, words like "revolution" are used very frequently, "revolutionary greetings" etcetera and all this is part and parcel of the language of township politics. That tends to be much more appealing so that in itself that kind of language I would say would not necessarily mean that a person who has that (30)

literature/....

literature means that he either supports that or stands for violence as some of this literature would suggest. Nor does it necessary mean that one who has marxist literature with him, that talks about revolution, necessarily means that he is a revolutionary or that he is a marxist simply because he is in possession of such documents. This is quite familiar for people who are interested in politics to be in possession of such documents.

Have you yourself had to study marxist texts Father? -- I have studied philosophy for six years at university, both(10) at Rome and Lesotho and we have always had a course of marxism as part of the history of philosophy. Yes I have studied that.

In your dealings with Mr Manthata did you get any idea whether he was an adherent of any of the branches of sub-branches of Marxism? -- In my opinion and certainly as far as I know him Tom Manthata, who has belonged to the black consciousness movement, has always been involved more in national politics and therefore in national struggle and indeed the black consciousness movement then never spoke about a class(20) analysis or the leadership of the proletariat. That kind of rhetoric or language only emerged towards the end of the 70's, the beginning of the 80's and he has not been part all along of that tradition because of the kind of movement he has been belonging to and I certainly do not know him to be somebody who has been going out to stress that particular approach to the analysis of society. He has been much more concerned with politics at a national level, as a national struggle of people.

Now in his involvement in the various phases in which (30)

you/....

you have known him and in which he has played a leading role do you want to say anything to his lordship in relation to the state of the communities at the moment? What is it that in your view your community really needs most? -- I think our community, and here one can certainly speak about Soweto and the townships around here that have gone through a trying time in the past few years where there has been violence, where there has been conflict, where the community has become fearful, the role of a person like Tom Manthata as far as I am concerned who over the years has emerged as a sober, reliable, consistent and (10) persistent leader known to campaign relentlessly for justice, I think to take him away from the community would put the community at a disadvantage, it would disillusion people. But I think we would be depriving the community of an asset of somebody who has proven himself in being faithful to what he stands for, who has been a sober leader all along and to have him in the community would simply mean that the kind of conflicts that are there at least we would have the kind of leadership accepted by many who would be able to sit down and talk about the best way of overcoming problems. And if (20) you do not have such leaders what you actually do you perpetuate the situation where there are no outstanding people respected by the community who can actually call people to come and discuss and dissolve problems. It would indeed be sad if he were not to be in the community.

Thank you my lord I have no further questions.

CROSS-EXAMINATION BY MR JACOBS: Reverend if the court has found Mr Manthata to be a revolutionary toward a violent overthrow of the government do you still say that he is an asset to the community? -- I certainly cannot make any comment (30)

on/....

on the findings of the court. The only thing I can say is that the Tom Manthata I know is a person who has proven himself to be a leader and accepted by many different people and I hope he will continue to be that kind of an asset. I am talking about the Tom Manthata I know without making any comment on the judgment.

How many public meetings did you attend with accused no. 16? -- Many meetings. I do not think I ever kept a record of those.

Public meetings? -- Yes.

(10)

At what occasions? -- For example in Soweto there is always, one is talking now almost in terms of the last ten years there have been meetings with regard to school boycotts, several meetings that were held almost endlessly. There has also been, that is one type of meeting. There is the meeting where funerals were being arranged, community funerals. There is the occasion where commemorative services have been arranged. There are occasions where conferences or seminars have been called on black theology. These are some of the meetings I have been present at at which Manthata has been (20) present.

And meetings in relation to Black local authorities? -- No I have been at one meeting by the Soweto Civic Association but that was much more in terms of the purpose of the meeting was to raise the awareness of people so that they become involved about their own life, about the needs in the community and not simply to be expecting that other people would prepare things for them. That is the one I recall of the civic association.

And also to take part in the freedom struggle? -- That (30)

is/....

is correct, yes.

COURT: Yes but could we now get clarity. The question relates to meetings where Mr Manthata was and you were. -- Yes.

You are now answering a meeting of the SCA? Is this one where Mr Manthata was? -- Yes he was present at that one.

And did he speak? -- He was the convenor of the seminar, yes.

No this is a seminar. Was the seminar a public seminar? -- It was a public seminar.

Yes.

(10)

MR JACOBS: And did he speak at that meeting, that seminar? -- He was the convenor, he was the organiser, yes.

I beg your pardon? -- He was the organiser of the seminar.

Yes but can you answer me now. Did he speak at that meeting, did he address the public? The people who attended that seminar? -- He did not read a paper if this is what you mean. He did stand up because he was the convenor of that meeting, how group discussions should go, how we should break up, that is the kind of role he was playing.

So he did not address the ... -- No he did not have a (20) speech at this

People attending the meeting at all? -- If you mean addressing a speech, no.

COURT: And the public in general did not attend? These were invited guests? -- These were invited people, yes.

MR JACOBS: Now can you answer my question then? How many public meetings where he addressed the public, accused no. 16, did you attend? -- I do not know. I have not kept count of the number of meetings. Several meetings. Over the years.

Have you attended any meetings in relation, public (30) meetings/....

meetings in relation to Black Local Authorities? -- No.

Where he addressed them. Have you attended any meetings in relation to school boycotts and educational questions? -- Yes I have.

Where accused no. 16 addressed the meeting? -- Yes.

Public meetings? -- Public meetings.

And is it correct that the youngsters, the youth were encouraged to participate in the freedom struggle in those meetings? -- The idea was simply to try and resolve the problem of young people going back to school. This was during (10) the year when schools virtually in the entire South Africa, black schools at least, had come to a virtual standstill and the idea was to try and find out what is the problem, how can they go back to school. And this was the gist of this particular kind of meetings of school boycotts.

Can you tell the court over what period it was, from when till when? -- The school boycott generally, this would have been during the years of 1984, 1985 and 1986, generally speaking.

And who was responsible for the organisation of those (20) meetings? -- Various groups were responsible. Some of them were called by the students themselves, some of them were called by the Soweto Civic Association. I do not think I can guarantee as to who actually called some of these from memory.

You said some of them were called by the students themselves. Any specific organisation? -- Students in Soweto.

By any specific organisation?

COURT: I am sorry, I did not understand the witness to say that. Did you say that the meetings were called by the (30) students?/....

students? -- By, some of them were called by the students.

Yes now counsel wants to know by which organisation of the students? -- My memory with regard to dates might not be, this was during the days before COSAS for example was banned, I think they also used to call meetings. I cannot be very precise about the dates.

MR JACOBS: Were they called by COSAS? -- That was before it was banned, they used to call meetings. The Soweto Student League also used to call meetings before it was dissolved.

Do you know to which organisations accused no. 16 (10) belonged to? -- He belonged to SASO in the old days, he became a member of the Black People's Convention. And since then I do not think he belonged as a member to AZAPO although I know he has been a supporter of AZAPO.

So you are not sure about that, you do not think so? -- I do not think he is a member of AZAPO.

So you are not sure, is that correct? Is it correct? -- It is correct. He supports the movement but I do not think he is a member of the movement.

Do you know any other organisations he belonged to? (20) -- He belonged to, he was a member of the Committee of Ten, a member of the Soweto Civic Association.

Any other organisations? -- No.

And you yourself are you a member of SASO? -- No.

Were you a member of any other of the organisations in Johannesburg? -- No.

No other organisations? -- No.

Since when were you part, when did you become part of the South African Council of Churches? -- 1979, 1979, 1981.

How did it happen because if I understood your evidence (30) correctly/....

correctly your church, the Catholic Church, only had status as an observer? -- Yes but that does not mean that I could not take employment with them.

And did you take employment, what kind of employment did you take with them? -- On a part time basis. As I said we were involved with the study of ideologies and the study of the labour legislation.

So you were not, you were only there as a part time, in a part time position and you were not conversant with what accused no. 16 was doing at other times when you were not (10) there, is that correct? You were not always present to tell the court ... -- No I was not always present, that is correct.

How many times as a part time worker did you go to the offices to work there on ... -- Twice a week.

Twice a week. For how long? -- For two years.

No for an hour, two hours a day? -- For the whole day.

And do you know whether the Council of Churches, did they support or did they assist anybody getting out of the country for security reasons? -- No I do not know that.

What do you know about the Council of Churches, the (20) policy of the Council of Churches on people wanting to get out of the country for security reasons? -- I do not know whether they have a policy on that at all.

Is it also correct you do not know, actually you do not know what accused no. 16's political views are in regard to a revolution? You cannot tell the court? -- With regard to revolution no I certainly cannot tell you.

Thank you sir.

RE-EXAMINATION BY MR BIZOS: You have told his lordship that (30)
you/....

you attended a number of meetings in relation to school boycotts and other meetings at which Mr Manthata was present and spoke? -- That is correct.

Did you at any of these meetings hear him advocate violence or revolution or any other disorder? -- I do not recall him saying anything to that effect. On the contrary, even in simple rowdy meetings that do often happen when we have students he has always been more the peacemaker, the one who calms down the people. He has never to my mind ever advocated revolution. (10)

Thank you my lord, I have no further questions.

NO FURTHER QUESTIONS

NADINE GORDIMER: d.s.s.

EXAMINATION BY MR BIZOS: Are you the author of some nine novels and seven collections of short stories that have been published? -- Yes.

Have you also written non-fiction and has that been collected and published in a volume known as the Essential Gesture? -- Yes I have.

Has your work been translated into any foreign languages? (20)
-- Yes into nineteen foreign languages.

Have you been honoured as a writer by having literary awards conferred on you? -- Yes I have had nine literary awards conferred on me in South Africa, in the United States, in Britain, in Italy and in Germany.

Have you had literary doctorates conferred on you by a number of universities? -- Yes nine. Again in my own country, in South Africa, in the United States, in Britain and in Lurven, in Belgium.

Do they include the Universities of Cape Town, (30)

Witwatersrand/....

Witwatersrand, Yale, Harvard, York, Luwan(?), Columbia and others? -- Yes.

Do you know Mr Lekota, accused no. 20, personally? -- Yes I do.

You were also present at the Anti-Site(?) meeting in 1983? -- Yes I was.

Before we come to the details of these two matters I would like to ask you some general questions. Does your literary work generally concern life in South Africa in the main? -- Yes almost entirely. I was born here, I have lived(10) here all my life and that is my material so to speak.

And does the political life in the country concern you as a writer? -- It does because it permeates to my mind every aspect of life, even the most personal, in South Africa.

And does your work reflect this? -- Yes it reflects it closely.

Could you just very briefly, as briefly as you possibly can, tell us what early experiences really turned you to the political writing in South Africa, or rather writing which reflects political life in South Africa? -- Well I was (20) born in a small mining town into a family without any particular intellectual interests and to me one of the most significant things that happened in my early life was my use of the local library in the town of Springs. I truly believe I would never have been a writer, grown up to be a writer if I had not been able to have the use of that library and early on I realised that I could use that library because I was white, the library was closed to blacks. This was one of my first perceptions of the injustices between black and white in South Africa. (30)

Have/....

Have you ever become a member of any political party in South Africa? -- No I never have because I did not feel ever, and do not feel now that I would want to belong to a segregated party. I did not see this as an option for me.

Have you confined yourself to cultural organisations in the main? -- Yes I have.

Were you a member of PEN? P-E-N-? -- Yes I was a member of the PEN which is an international organisation of writers in the 50's and 60's when I was a young writer. It was very much a white organisation. I resigned because I felt this (10) did not reflect the cultural and other realities in South Africa. But in the 1970's Southern African PEN was formed, a totally non-racial PEN which had a black chairperson, and I was on the executive committee of that body. We concerned ourselves particularly with encouraging young black writers.

Did you become acquainted with a number of black writers during this period? -- Yes during that period and even before, in the 50's and 60's. I was struck very much by their frustration in our society, the feeling that they could not develop their talents, mainly because they were the products (20) of bantu education. It was sad to see people with talent who did not really have sufficient education or education of a standard to allow them to use that talent.

Did the non-racial PEN survive or did it dissolved? -- It had a useful life for a few years but in the 70's, during the rise of the black consciousness movement pressure was brought to bear on the black members of our executive committee and our general membership to resign and to identify themselves with the black writer's organisation AWA, African Writers Association. (30)

Was/....

Was there any meaningful contact between black and white writers in other fields of cultural activity during the late 60's and up to the late 70's when this happened, the advent of black consciousness? -- Well there continued to be, in my own case, a friendship based on professional interest and affinity of interests between individual black writers and myself.

But not in an organisation? -- But not on an organisational basis and while I regretted this very much I understood it, I accepted it as something that blacks felt they had to do in order to establish their own identity, particularly their (10) cultural identity.

With this background did it come to your notice that there was going to be an Anti-SAIC Meeting on 23 January 1983? -- Yes it did. I saw an advertisement in a newspaper and I telephoned my friend Mr Cassim Saloojee and asked him whether people who were not indians would be welcome to come and he said yes and I went.

Did you hear anyone speak at this meeting? -- Yes I did. I heard among others, and most importantly Dr Allan Boesak speak. (20)

Did you know him before this? -- I did not know him. I knew him by reputation, having read reports of odd speeches that he had made in the newspapers.

Do you remember the gist of his speech? -- Yes I remember some of it very well because it was a most important, almost a watershed in my life, in my political thinking anyway.

He was going to speak as I knew against the Tricameral proposals. This accorded very much with my own views. In November 1982 I had voted no in the referendum and so I was extremely interested to hear what he would have to say (30)

about/....

about this. He spoke against the proposals but he did something else that was very important to me, after the long separatism, black separatism I had experienced in the 70's he held, literally held out the hand of friendship to democratic whites. He, as I remember, congratulated the official white opposition and the white opposition generally on the stand they had taken against the Tricameral proposals and he said that he hoped they would have the wisdom to move forward and to join with blacks in a broad democratic movement. And I remember particularly that he said with emphasis "Join us". (10)

MNR JACOBS: Edele ek wil nie eintlik beswaar maak teen die getuienis wat nou aangebied word nie maar nou gaan ons presies oor die veld wat gelei was in die meriete van die saak, gaan ons weer oor waar daar alreeds getuienis is wat die verdediging aangebied het op hierdie punt. Beteken dit nou dat die verdediging nou getuienis gaan aanbied weer oor die meriete van die saak want dit is nou wat dit nou op neerkom edele. Ek het nog niks in hierdie aspek gehoor wat iets, wat sover is wat iets ter versagting oor vonnis vir die beskuldigdes behels nie. My geleerde vriend kan sê of dit is want (20) anderste dan maak ek beswaar.

MR BIZOS: Yes, firstly I think that the quotation of the facts is not entirely correct because I do not think we had a witness giving direct evidence on the Anti-SAIC meeting if my memory serves me correctly. But leaving that aside for the moment the argument that will be addressed to your lordship will be that the perception of people such as the witness, together with many others, of the reason for the coming into being of the UDF, the reasonableness or otherwise of the beliefs expounded by people who formed the UDF and who carried out (30) its/....

its activities is a relevant factor on the question of sentence and this is evidence which in our respectful submission is relevant and the argument in due course will make it plain by reference to the cases as to why it is particularly relevant. To put it very simply the motivation of people in their subjective state of mind is very important in the, on the question of sentence. Their deeply held views are particularly relevant. There is a simple proviso though, that they must not be so weird or out of the common acceptance that the court must of necessity reject them. I do not want to give your lordship any topical examples. But the fact that witnesses such as the present one in the witness box had certain perceptions in relation to the reason for the formation of the UDF, how its work was perceived, how it was seen as a home of people who wanted a particular South Africa and for your lordship to judge whether that was an out of the way or a reasonable perception is particularly relevant in the final decision which your lordship has to make.

COURT: I may be entirely mistaken Mr Bizos but at some stages I was wondering whether the evidence which had been led was not led, maybe unintentionally, to counter findings of fact made by this court already. (20)

MR BIZOS: No my lord....

COURT: And if that is the situation with this witness then it will not be allowed.

MR BIZOS: No I am not my lord intending to contradict your lordship's judgment. In fact your lordship might have noticed that I deliberately guided the witnesses, in the two previous witnesses that I led, to refrain from expressing any such views because it is not permissible for us to do so. But (30)

to/....

to say that we cannot lead the evidence of the perception of what we will ask your lordship to hold reasonable people of the UDF is another matter.

COURT: Yes go ahead.

MR BIZOS: As your lordship pleases. As this meeting, was it a meeting of indians only or ... -- It was a meeting mainly of indians with a sprinkling of blacks and whites.

Was any particular ideology propagated at this meeting?
-- None.

How was Dr Boesak's call for the formation of a united(10) front received? -- Very enthusiastically.

And how ... -- To me it was a breath of fresh air and I felt this was so for others.

I have not asked you to give any detailed evidence about the call because it was actually part of the state's case. Can you remember the terms in which the call was made by Dr Boesak? -- I think I, I can only repeat as I remembered them before that his call was for a broad democratic front, completely non-racial and in pursuance of this he then made this appeal to the white opposition to join with blacks in (20) this initiative and he actually said "Join us".

Had you been aware of the ANC in the 50's? -- Yes I had.

Were you aware of their adoption of the freedom charter?
-- Yes.

Did you come to know any of the leaders of the African National Congress? -- Yes I did and in particular the late Chief Albert Luthuli, whom I met through a friend Anthony Samson who had been editor of Drum magazine and who was interested in the trial as a journalist. He introduced me to a number of the people on trial and I got to know Chief (30) Luthuli/....

Luthuli, and he was not in very good health and he then was a guest in my house, my husband's house and mine during the late part of the 50's when he was in consultation and giving evidence I believe at the trial.

Did you as a result of that contact become aware of the image of the African National Congress, particularly in sections of the community in South Africa at the time? -- Yes I did and since I had the opportunity of quite long talks with Chief Luthuli off the public platform so to speak, I got a very good idea of the kind of thinking of ANC leadership, the aims and (10) objects of the ANC leadership. Their non-racialism, their attitude to change in South Africa and I realised that I was getting an inside view that was very different from that of some whites who did not have the same opportunity.

And in your work did you meet other people who were closely connected with the African National Congress at the time? -- Yes I had a close friend, Betty du Toit, a trade unionist who indeed I first met during the period of the defiance campaign. I was impressed by her selflessness and her willingness to sacrifice her private life to the cause which (20) she believed in and through her I also met other people who were in that trial. Notably a young youth grouper, Peter Ntite.

COURT: I am sorry could you give me the name again? -- Peter Nthite.

Nthite? -- Yes I think it is N-t-h-i-t-e. Or I-t-i.

MR BIZOS: AS part of your work which you have told us reflects the life and politics of the country did you keep in close touch with the happenings in Soweto and other townships in other parts of the country during the 70's and (30) early/....

early 80's? -- Yes I did.

And did you visit various townships? -- Yes.

In various areas in order to see the conditions for yourself? -- Yes I did, including resettlement areas, Botshubelo, Winterveld.

And as a result of that experience are you able to tell us what role the UDF played from 1983 in the community as a whole? -- Well I had a certain experience of that, both from talking to my friends and acquaintances, black friends and acquaintances and also from hearing UDF leaders speak on (10) several occasions, notably I went to Soshanguve in 1984 and I think that was the first time that I heard Mr Lekota speak. It was at a meeting, a church service to welcome back Father Mangalise Mkhatshwa who had been in detention. I also heard Mr Lekota speak at a gathering of students at the University of the Witwatersrand and I was extremely impressed by his reasonableness, by his total non-racialism, as I had been in Soshanguve and by his total acceptance of the mainly white student audience and his total acceptance that they should be and would be part of a new non-racial democratic South (20) Africa.

Did you attend a meeting of the UDF in the Johannesburg City Hall? -- Yes I did, in connection with the million signature campaign.

Did you meet Mr Lekota there again? -- No. I remember that meeting particularly because of the action of Mr Cassim Saloojee. There was a large police presence outside the hall, trouble threatened, there were scuffles there and the large crowd - it was in the City Hall - began to move towards the doors and I think there would have clearly been a very ugly (30) situation/....

situation. Mr Saloojee defused the whole thing with tact and reasonableness, an impressive control.

On how many occasions at meetings did you meet Mr Lekota? -- I should think three times but I also spoke to him after meetings outside meetings.

Did you get any impression at the meetings at which he spoke as to whether he was a man who favoured or would advocate violence in order to bring about fundamental change in South Africa? -- No I did not, and at the, none of the meetings or gatherings connected with the UDF that I attended did I (10) ever hear any encouragement of violence or any talk or advocacy of violence whatsoever.

Have you heard of praise of Mr Mandela and Mr Tambo at these and other meetings? -- Yes I have.

In your writing and in your collecting these awards that you have spoken to us of have you travelled extensively? -- Yes I have.

Are you able to tell his lordship what sort of reputation these men enjoy beyond the borders of South Africa, both in Africa and on other continents? -- The reputation of Nelson(20) Mandela, Oliver Tambo, the others, the Rivonia trialists and others, is extremely high in the outside world. They are seen as heroes and liberationists, and people who have suffered greatly in the pursuance of justice over many years.

What is the basis of this popularity Miss Gordimer, in your view? -- Well I think the basis of the popularity first of all lies probably in the world's perception of the long injustice in this country and secondly in the fact that there is really no moral authority like sacrifice and here are people ...

COURT: I am sorry I did not follow that last part? -- There(30)

is/....

is no moral authority like sacrifice and here are men who have sacrificed their personal lives, spent long periods in prison, whole lives in prison, others in exile and I think it is perceived that nobody would do this, would give up all this if there were to be an option in honest establishment politics for them to assert their rights, the rights of their people otherwise.

MR BIZOS: The final topic that I want to ask you a question on is this, you were given extracts of his lordship's judgment dealing with the UDF which you have read? -- Yes. (10)

Now I want to ask you not to comment on his lordship's judgment ...

COURT: How many pages were you given? -- The whole.

The whole judgment? -- The whole judgment on the UDF.

MR BIZOS: Yes, we did not bother with the Vaal triangle part. -- No.

COURT: I was about to pity the witness.

MR BIZOS: Nor the annexures. Now your perception in relation to the UDF, was it that it was operating violent conspiracy or was it operating in your perception on bringing (20) about fundamental change in South Africa by peaceful means? -- For me it was certainly a means of exploring ways to bring about peaceful change in South Africa.

In your experience was this stated once or twice or many times? -- Many times. Also in published booklets, pamphlets.

You have spoken about suffering conferring authority on people. Is there any perception in the South African community as far as you know it, as a keen observer, in the overseas community in relation to any suffering of these accused before the court? -- Oh I think there is a very strong perception, (30)

both/....

both abroad and more importantly among the majority of people at home in South Africa - and by majority of course I am speaking of black people.

Thank you my lord, I have no further questions.

COURT: But what does that answer now mean?

MR BIZOS: I am sorry I thought that it was implied. What is that perception in relation to the people before the court? -- The question was was there understanding or was there awareness of suffering, am I right?

Yes. -- Yes. And my answer is yes indeed. (10)

I think that that is ...

COURT: Yes.

CROSS-EXAMINATION BY MR FICK: Miss Gordimer how many UDF documents have you seen before today? -- How many documents have I seen over the last few years?

Since August 1983, UDF documents? -- Oh many.

What sort of documents was it? -- Well documents in which the UDF set out its attitude for instance towards education, the idea of people's education, documents referring to the resettlement areas, referring to the housing crisis. (20)

Have you seen any minutes of the UDF meetings? -- No.

Have you seen the UDF's declaration? -- Yes.

Were you a member or are you a member of any organisation affiliated to the UDF? -- Not precisely because I do not belong to any particular professional group or working group that can be affiliated. I am vice-president of Friends of the National Union of South African Students which is formally affiliated and I am also an executive member of the Congress of South African Writers which until the banning of the UDF worked closely with the cultural desk. (30)

Now/....

Now do you regard Nelson Mandela and Oliver Tambo as your leaders? -- I do.

Notwithstanding the fact that they are violent men? -- I do not agree that they are violent men.

Are you not aware of the fact that the ANC is involved in motor car bombs, the planting of limpet mines, land mines, in South Africa? -- I am aware that there are indeed incidents of violence in South Africa. I am against violence and I regret it very much but I am of the opinion, having lived here for 65 years and having since a young age been very (10) interested in social conditions and political conditions in South Africa, I am well aware of for how very many years black people have indeed abstained from violence. So I can understand that it can occur and I think that we white people are responsible for it, we have not given any option in some cases. COURT: Now apart from responsibility the question was do you agree that the ANC is a violent organisation? -- No.

You do not agree? -- No.

MR FICK: And do you know why Mr Mandela was sentenced, convicted and sentenced, for what acts? -- Yes. (20)

Are you aware of the fact that he was convicted for planning a violent revolution? -- Yes I am aware that that was the judgment, yes.

And are you aware of the fact that he was sentenced for that? -- Yes.

And are you aware of the fact that he refuses to denounce violence? -- Yes.

And are you aware of the fact that that is the reason why he is still in prison? -- Well I am afraid I would contest that, that as not being the only reason. I think that he (30)

has/....

has other reasons for not accepting to leave prison on the conditions that are not acceptable to him and to the majority of the people here.

Like what? -- Well if I am correct one of them is that the government should renounce violence, state violence and that the ANC should be unbanned and that those who are in prison should be let out in order to create, help to create a new dispensation here. I think these are his reasons.

Are you aware of the fact that Nelson Mandela wrote a book on communism, that he is a self confessed communist? (10) -- I have heard about it but I understood that this was disproved, that this was, it was based on a quotation taken out of context.

No but are you aware of the fact that he wrote a book entitled "How to be a Good Communist"? -- As far as I know he did not write that book.

According to you it was stated in many times in booklets of the UDF that the UDF was a non-violent organisation. To which booklets are you referring? -- Well I have got them in my file but I really cannot recall the names of them. But (20) in all public pronouncements that I have seen reported of the UDF it has declared itself a non-violent organisation.

Would you regard Mkhonto we Sizwe, the armed wing of the ANC, as your Mkhonto we Sizwe? -- Well as I say I myself am against violence but I can see that in the circumstances that have been brought about in South Africa, the intransigence of the white establishment towards black aspirations a time had to come when there would be some military wing in a mass movement like the African National Congress.

Ja but please answer the question. Do you regard (30)

Mkhonto/....

Mkhonto we Sizwe as your Mkhonto we Sizwe? -- Well I suppose if I approve of the policies of the ANC then I have to accept without taking part in it myself that this is part of the organisation that I support.

Do you support Mkhonto we Sizwe, is that what you are saying? -- I support the African National Congress.

No that is not the question. The question is do you support Mkhonto we Sizwe? -- But is it not true that you can support some organisation and be in disagreement or stand apart from certain actions. (10)

Please answer the question Miss Gordimer. -- Do I support Mkhonto we Sizwe?

Mkhonto we Sizwe, yes. -- As part of the ANC, yes.

No do you, and do you support Mkhonto we Sizwe? -- Yes as part of the ANC.

No further questions.

RE-EXAMINATION BY MR BIZOS: There are just one or two questions. You were asked whether the ANC was considered by you a violent organisation and you said you did not consider it a violent organisation. Would you mind explaining that to his (20) lordship please? -- I do not consider it a violent organisation because if you look at its long history since 1912 it was only I think in 1961 that it formed a wing, a military wing. So I think that basically it remained a non-violent organisation in the majority of its manifestations and its actions.

And is it in that sense that you have answered the latest questions? -- It is in that sense.

COURT: You will excuse me for remarking Mrs Gordimer that on your premise a man who only fights on Saturdays is not a violent man. (30)

MR BIZOS:/.....

MR BIZOS: As far as the ANC is concerned is the armed struggle the only one of its, of the pillars so to speak on which it strives to bring about change in South Africa? -- Absolutely not. Its history shows that. It has explored and continues to explore all sorts of accommodations, including the fact that prominent businessmen are now talking to the ANC in Lusaka. I hardly think that they would do so if there was no other option to the ANC.

Thank you my lord.

NO FURTHER QUESTIONS.

(10)

C.1565 DISCUSSION ON AVAILABILITY OF WITNESSES.

COURT ADJOURNS UNTIL 6 DECEMBER 1988.