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/MOSE3163-001

15 September 1988

The Hon. Mr Justice K. Van Dijkhorst
Pretoria

By Hand

Dear Judge

We enclose the following sections of written argument which have been completed by counsel :-

1. The defence witnesses who deal with "campaigns". This consists of 88 pages and deals with pages 1005 to 1046 of the "betoog".
2. Answers to the sections of the "betoog" dealing with Thokoza, Katlehong, Duduza, KwaThema and Daveyton. This deals with pages 364 to 419, and pages 871 to 914 of the "betoog".

We will let you have further sections of the argument during the course of the coming week.

Yours faithfully



DAVID DISON
BELL DEWAR & HALL

c.c. Mr W F Krugel

THE DEFENCE WITNESSES WHO DEAL WITH 'CAMPAIGNS' (BETOOG:
PAGES 1005 - 1046)

Introduction

1. The State contends that the defence called certain witnesses 'om UDF en ANC kampanjes toe te lig'. This is not correct. The witnesses were not called to give evidence about 'ANC campaigns' or 'UDF campaigns'. They were called to show that issues which were of concern to the UDF, were longstanding issues within the black community, and that they pre-existed the UDF, and that they pre-existed the ANC publications relied upon by the State for its contention that the UDF took over 'ANC knelpunte'.

2. The State alleges in the indictment that the UDF pursued some seventeen specified campaigns as part of the violent conspiracy to overthrow the State. Thirteen of the campaigns were the subject of resolutions adopted at the launch of the UDF (see Exhibit A1). Two further campaigns, namely the campaigns in respect of the constitution and Black Local Authorities, derive from the UDF Declaration and indeed constitute its reason for being. Two further campaigns, namely in respect of the Freedom Charter and Inkatha have been added to the list.

2.

3. The State did not advance any argument on the seventeen 'campaigns' in the Betoog. Rather, it deals with certain witnesses called by the defence in respect of these 'campaigns' without addressing itself to the substance of their evidence or the allegations pleaded in the indictment.

4.

4.1. The State argues that all the defence witnesses in this regard had one thing in common, namely, that none had special knowledge of either the UDF or the ANC's activities, policies, gatherings or decisions. While this statement is true of some of the witnesses, it is not true in respect of Platzky and Cachalia who did have knowledge of UDF activities. It is also not true of Duncan who gave powerful corroboratory evidence in support of the defence case, that the UDF and its affiliates pursued non-violent methods. It is significant that both Platzky and Cachalia's evidence denying the existence of or their participation in a violent conspiracy was not challenged. On the allegations made by the State, they are within a class of persons alleged to be conspirators. Moreover, it is not

suggested that Duncan's evidence as to her contact with UDF affiliates, and their attitude to non-violence, was not correct.

See, for example: Duncan: Vol 394 p22846 line 26 - p22854 line 18

4.2. The State has fundamentally misunderstood the purpose for which the evidence of these witnesses was led. The evidence was led to demonstrate that most of the seventeen 'issues' relied upon by the State in paragraphs 50 - 66 of the indictment as allegedly constituting ANC and UDF campaigns, to which the UDF devoted time other than the passing of a resolution were longstanding grievances in the black community which predated the existence of the UDF. The evidence was led precisely because the State's case was that these issues were first identified by the ANC and then taken up by the UDF.

5. The State's intentions regarding the 'seventeen campaigns' were made manifestly clear during the initial argument concerning the lack of particularity to the indictment. Very precise questions were put to the prosecution concerning the UDF campaigns. The

following exchange took place:

Hof: Gaan u saak wees dat die ANC besluit het op die kampanje en dat die UDF dit later uitgevoer het?

Mnr Jacobs: Dit is reg.

Hof: Met ander woorde, chronologies dat daar eers 'n , ANC besluit en dat daar dan 'n uitvoering is deur die UDF?

Mnr Jacobs: Dit is reg.

Hof: Wat betref elkeen van die kampanjes?

Mnr Jacobs: Selfs die mobiliseering en organiseering van die massas, sal ons bewees wees dat dit kom van die ANC af, dit was deur hulle gepropageer en UDF het dit voortgesit.

Hof: En gaan u die hof vra om af te lei van die feit dat eers die ANC 'n besluit oor die ding maak en daarna het die UDF dit uitvoer, dat daar 'n sameswering tussen hulle is?

Mnr Jacobs: Ja'.

Record: Vol C pl43 line 21 - pl44 line 3

6. The State did not attempt to prove this allegation. It called five former members of the ANC yet did not lead them on the seventeen campaigns. To the extent that the State can rely on ANC documentation (and it

has already been argued that the ANC publications are not admissible), this documentation only begins in 1982. In any event, the fact that the ANC may express concern in its publications on a particular issue, cannot be elevated into an ANC campaign on that issue. Furthermore, these publications are not generally available in South Africa, there is no evidence at all of distribution in South Africa, nor is there any evidence that they in any way influenced the thinking and action of those involved with the UDF, more particularly the accused.

7. In the light of the pleadings, the State's admission in paragraph 5.3 on page 1016 and paragraph 10.1 on page 1045 of the Betoog (and repeated in the oral argument at Vol 431 page 25222 lines 9 - 24) seems fatally destructive of its case. It is there stated that it has never been disputed by the State that issues ('knel-punte') existed and that there were people and organisations which existed before the establishment of the UDF who took up these issues and organised and mobilised around them. Once this concession is made (and indeed the undisputed evidence on behalf of the defence establishes the correctness of this concession) it is not permissible for the inference to be drawn from the evidence led in this case, that the UDF pursued any of the

seventeen issues at the instance of the ANC.

8. It is common cause that the seventeen issues identified in the indictment were indeed taken up by the UDF but in varying degrees. Some were nationally co-ordinated campaigns whilst others did not get beyond being mere resolutions or expressions of concern. The evidence establishes that:

- 8.1. The 'seventeen issues' were pursued independently by the UDF and not in conspiracy with the ANC;
- 8.2. The issues constituted genuine matters of concern to the UDF and its affiliates;
- 8.3. These issues were, in the main, long standing grievances within black communities;
- 8.4. The issues pre-dated the UDF, in some cases by many years;
- 8.5. Many of the issues had been pursued by affiliates before they joined the UDF, and also by organisations which never affiliated to the UDF, including organisations at ideological loggerheads with the UDF;

8.6. None of the issues pursued by the UDF were in any way shown to be connected with violence.

9. The evidence on the evolution of the resolutions is entirely destructive of the State's conspiracy thesis. Molefe explains the process in the following way:

'The conference started with a keynote address by Rev Chikane. After he presented his address, certain points were isolated from his talk. The conference was asked to discuss those points. There were other matters which were not mentioned in his address. Those matters which were isolated from the address of Rev Chikane were debated and the conference formulated resolutions out of those, but there were other matters which just emerged spontaneously from the floor, from affiliates and from regions. Some regions presenting their own resolutions on specific matters which they felt merited attention from the conference, the UDF as such. We have then the situation where those points which were presented to the conference formed the subject of the

resolutions. Individuals, delegates from the floor suggested that in respect of this point I think we must formulate a resolution in this connection, in this way and so on. That is how it went. It was a fairly long process but I think it gives an idea, a clear idea of what happened. ... In the course of the debates of resolutions affiliates came with those problems that they felt were affecting them directly and they proposed that the conference takes a resolution on that. Just to illustrate this point. On the issue of conscription, for instance, that matter was proposed by a delegate from NUSAS and she gave a long motivation why it was necessary for the issue of conscription to be addressed. Similarly, with regard to the issue on Namibia, the matter arose from the side of the church, a church organisation, which is concerned with a grouping of bishops which had gone to Namibia previously and had written a report about the situation there, what was happening in Namibia. Similarly with the resolution on women, that... came from the women's organisations themselves.

Molefe: Vol 251 p13413 line 7 - p13414 line 12

Molefe was able to recall that the resolution on Ciskei came from delegates from the Border region who motivated for the resolution. The resolution on cost of living came from the women's organisations. Removals and group areas were strongly motivated by people from the Western Cape and Natal.

Molefe: Vol 251 p13414 line 29 - p13415 line 14

10. Lekota's evidence was to the same effect. He was asked by the Court whether the resolutions were taken at the conference and later read out to the public meeting. He answered as follows:

'No, that was not the position. They were adopted in the conference. That is the session that began at 10h00 until about 17h00. That was the conference section and it was closed off and then immediately afterwards the rally, the public rally began. These resolutions were not read to that rally, that public rally. What was read out, however, at the end of the proceedings was the declaration'.

Lekota: Vol 283 15524 lines 5 - 12

Lekota also did not regard the resolutions as representing the conduct of a campaign by the UDF:

'That is simply not so. It will be seen I

think if one looks at these resolutions, some of them were issues that were at that point in time of public interest and therefore issues which people were thinking about. Some of them were issues which affected our communities and broadly the Front expressed its position or its views on that, but they were not campaigns at all. There were not intended to be campaigns in any way'.

Lekota: Vol 283 p15524 lines 21 - 28

11. Although with the march of time attempts would be made to look at how best to implement the resolutions, at the time of their passing they 'were accepted to express an attitude, the attitude of the organisations gathered there in respect of the issues on which resolutions were adopted'.

Molefe: Vol 262 p14075 line 28 - p14076 line 23

See also: Vol 305 p17520 lines 11 - 30

12. There were four nationally co-ordinated campaigns conducted by the UDF, namely, campaigns against the new constitution, the Black Local Authority elections, the Coloured Management Committee elections and the Million Signature Campaign.

Molefe: Vol 250 p13362(f) line 8 - p13362(h) line 5

11.

Vol 257 p13809 line 18 - 13810 line 15

Vol 261 p14015 line 29 - p14017 line 24

The latter two campaigns are not specifically pleaded as campaigns identified by the ANC and pursued by the UDF. It is therefore not necessary to devote any attention to them.

13.

13.1. We have already dealt in oral argument with the fact that the campaign against the constitution was taken up by the UDF on its own initiative and not at the instance of the ANC.

13.2. The constitutional proposals constituted the basis for the formation of the UDF. 'It was the foundation stone of the UDF. The very reason for the existence of the UDF'.

Molefe: Vol 267 p14469 line 24 - 14470 line 5

13.3. The basis of opposition to the constitutional proposals was essentially the following:

13.3.1. The constitution was imposed by the Nationalist Party and excluded blacks from

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participation in central
government;

13.3.2. The constitution retained
apartheid and preserved white
superiority;

13.3.3. The constitution was drafted
without consulting the black
majority;

13.3.4. Coloured and Indian participants
in the tri-cameral parliament
have no power to effect
meaningful change.

13.4. Molefe put the matter thus:

'At that stage the nation was facing a
crucial issue of constitutional
proposals. Those of us who had read
about the constitutional proposals and
how that new constitution was intended
to operate, believed that it was going
to have very serious implications for
our society. These implications have

manifested themselves amongst others in divisions. It was dividing the oppressed people as a starting point. The Indian, coloureds and African people had always been struggling together to persuade the government to end apartheid. This new constitution was now saying that we are accepting the coloured and Indian communities as part of the white government structure in this country, but the black African people are not to be part of that. We really saw the new constitution having the implication, the likelihood, not even the likelihood, laying the basis for a situation in which Africans would be alienated completely from other communities. It was also dividing those communities themselves because it was clear from the outset that the new constitution was not welcomed by organisations, individuals who mattered in those communities, as well as organisations. It was clear therefore that the Indian communities were going to be divided also, but it

was further deepening the racial polarisation that was already existing in the country. It meant that the black people were simply being told that you will remain there and you will never become part of this new constitution. ...I believed at the time and I believed this is the view of many of the black people that I have spoken to that the only constitution that could meet the needs of all the people of this country and create the kind of conditions that would given an end to the polarisation and hostilities which exist in the country, was a constitution based on universal franchise. A constitution in which all the people of the country will participate as equals, in which all the people of country will have a vote and elect a single government that does not discriminate against the people upon the basis of colour, ethnicity or race'.

Molefe: Vol 248 p13177 line 24 - 23179 line 2

See also Molefe: Vol 248 p13201 line 23 - 13204
line 28

Lekota: Vol 283 p15489 line 2 - 15492 line 8

The constitutional proposals engendered opposition from many sources including the Progressive Federal Party, the CP, the HNP, homeland leaders, church leaders, trade union leaders and many other organisations which were independent of the UDF.

Lekota: Vol 283 p15492 line 20 - 15493 line 2

13.4.1. In The Rand Daily Mail of 23 October 1982 it is reported that Chief Buthelezi described the constitutional plan as a 'recipe for violence'. The article goes on to quote Buthelezi as follows:

'Anyone who has anything between his two ears would know that this plan is nothing more than a recipe for violence. I have a duty to warn the people of South Africa as to where the present government is leading them with its half-baked plans, Chief Buthelezi said in a statement to the Rand Daily Mail. I speak for millions of black people who are voiceless and I will continue

doing so as long as there is life
in me'.

Exhibit DA41

Distribution 109 270 (Exhibit AAS16)

13.4.2. In the Sowetan of 13 June 1983 Chief Buthelezi is reported as having described the constitutional changes as: ' recipe for violence'.

Exhibit DA35

Distribution 94 392 (Exhibit AAS16)

13.4.3. In The Star of 16 May 1983 there is a report of a mass meeting addressed by Chief Buthelezi in which he is quoted as saying, inter alia:

'Any black man who even thinks of co-operating in this treacherous political development will have opted out of the black struggle for liberation, said Chief Buthelezi. ..."Four-letter words proliferated at the meeting with Chief Buthelezi referring to the planned tri-cameral parliament as a 'bucket full of s--- which the whites expect us, the black

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people to help them carry." 'The Zulu leaders said those coloureds and Indians who were with the government in its reform moves were helping it sweep the floor'.

Exhibit DA36

Distribution 172 415 (Exhibit AAS16)

13.4.4. Following the referendum for whites, the Rand Daily Mail carried a report on 4 November 1983 to the following effect:

'Chief Gatsha Buthelezi, the Chief Minister of KwaZulu suggested yesterday that it might be possible for his Inkatha organisation to form a "marriage of convenience" with the banned African National Congress and the Pan Africanist Congress in the wake of the referendum result. Chief Buthelezi was one of a number of black leaders to react with anger to the referendum

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results announced yesterday. ... He said he was appealing to ANC president, Mr Oliver Tambo and to Mr John Pokhele, the leader of the PAC. "They must know that what has been done presents us as Africans with a new ball game, whether we join the violent strategy of the PAC and the ANC or the non-violent strategy of Inkatha" he said'.

Exhibit DA62

Distribution 118 741 (Exhibit AAS 16)

13.4.5. The Rand Daily Mail of 14 July 1983 carries a report of the signing of Declaration of Intent by six homeland leaders including President Matanzima (as he then was). The declaration committed the six leaders to work for the 'reunification of those whom apartheid divides' and for a

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'greater South Africa based on non-racialism and democracy'. The report states that the six leaders committed themselves to marshalling all their resources to reject the 'destiny prescribed for us by the white minority' and to dismantling 'its oppressive institutions'. The declaration states further, 'in recognition of the diverse political and constitutional positions in which we have been placed by the policies of fragmentation we shall transform them into weapons for our liberation and use them in the interests of our common objectives'.

Exhibit DA90

Distribution 118 741 (Exhibit AAS16)

13.4.6. A report in the Rand Daily Mail of 29 September 1983 states the following:

'Blacks should establish their own federal

parliament in defiance of South Africa's attempts at constitutional reform, the President of Transkei, Chief Kaizer Matanzima said yesterday. President Matanzima, speaking at his palace, told journalists that blacks should take no interest in the referendum. He said it was intended to test the degree of oppression exercised by the whites and their puppets - Asians and coloureds. ... The black people of South Africa should not be under any illusion. They have never been citizens of South Africa and the best category for their classification is that they have always been regarded as the child races of the white people'.

Exhibit DA91ADistribution 118 741 (Exhibit AAS 16)

13.5. The anger engendered by the constitutional proposals is hardly surprising. They did not begin to address the real problems in South Africa. The UDF clearly articulated its rejection of these proposals as did many other individuals and organisations. The alternative proposed by the UDF was the National Convention. The attitude of the UDF to the calling of a National Convention has been dealt with in oral argument.

13.6. When the constitutional proposals were announced in 1982, Dangor testified that there was division in the Labour Party. 'Some of us remained on in the hope that we could persuade the Labour Party at that point in time not to participate'. Dangor's own rejection of the constitutional proposals was articulated as follows:

'In the Labour Party Constitution the right of an individual was seen as paramount. Acceptance of the new constitution was political or group

privilege and not individual rights and I saw a conflict between the rights of the individuals and according of group privilege to certain groups and the exclusion of the vast majority of the people from a constitutional arrangement as being unjust'.

Dangor: Vol 372 p21510 line 9 - p21511
line 5

13.7. Chief Buthelezi addressed the Eshowe Conference at which the decision was taken by the Labour Party to participate in the tri-cameral parliament. His speech is reproduced in Exhibit DA123. He stated, inter alia:

'Connivance in schemes such as the government's constitutional proposals by our coloured and Indian brothers and sisters, can so easily drive so many Africans into the hands of those who have opted for violence. That is the extent of your responsibility today'.

He also stated in the course of his speech:

'There is in my mind no question whatsoever that 1983 could be the year of glory for the Indian and coloured community of South Africa if you reject the government's proposals aimed at confederal system. It will be a year of glory not because you will make party political gains. It will be a year of glory if you reject these proposals because rejection of them will stave off a deteriorating political situation in which there can only be the evolution of a people against people violence on a large scale'.

Dangor: Vol 372 p21514 lines 8 - 23

Exhibit DA123

13.8. Significantly, the 1977 constitutional proposals were rejected by the Labour Party for almost identical reasons articulated by the UDF and others for rejecting the 1983 proposals:

"A special meeting of NEC was convened on 10 September 1977 where

the governments constitutional proposals were totally rejected on the following grounds :

- a. The plans sought to entrench apartheid in the constitution by preserving ethnic divisions, white baasskap and nationalist domination.
- b. The plan gave dictatorial powers to the state president
- c. The plan was a subterfuge for using "coloureds" and "indians" as tools to entrench exclusive nationalist rule by effectively excluding opposition political parties.
- d. There would be no sharing of power and the white parliament would remain the supreme body in South Africa.
- e. The white parliament would have

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powers of veto

- f. The council of cabinets would not have legislative powers
- g. Plans sought to "create an alliance" between "whites", "coloured" and "Indians" against the African section of the black population.
- h. The composition of the body responsible for devising the plan did not in any respect accord with the democratic principle that all South Africans must have an effective say in designing a new constitution for South Africa."

Exhibit DA 121 page 7

13.9. The Black Sash was also opposed to the constitutional proposals advanced in 1977. The minutes of the 1979 National Conference reflect the adoption of a resolution to the effect that the Black Sash "finds the proposed new constitution totally

unacceptable because it excludes three quarters of the population of South Africa, namely 16 million Africans. It therefore solves none of the problems with which the country is faced, hinders the process of shaping an alternative future, and can only lead to escalating conflict, violence and suffering. In the interests of peace and justice, the Black Sash rejects the proposed new constitution ...we will use our resources to expose and resist as energetically as possible, the balkanisation of the country, the division of its black people into relatively powerless ethnic units and a co-optation of minority groups such as Indians and so called Coloured into the white power structure and we will continue to cooperate with all people of good will in the struggle for human rights and liberties for all South Africans."

Duncan Vol 392 page 22677 line 27 - 22678 line 25

Exhibit DA 135 pages 10 - 11

13.10. In anticipation of the referendum for whites in 1983 the Black Sash published a booklet entitled "You and the new

constitution". It was not prepared in any way with regard to the formation of the UDF". The booklet describes the constitution as "a recipe for conflict in this country" and states further:

"the constitution for any country must be one which will last. A constitution must not be unilaterally devised. A constitution must be generally acceptable to all citizens if there is to be peace. This constitution is totally unacceptable to the vast majority of the people of this country. Black leaders of all political persuasions have unequivocally rejected it. This constitution cannot possibly work, it can only lead to an escalating conflict.

It states further that:

"Vote no, so that the government is forced to leave things as they are until such time as all the people of our country can come together in a national convention to design a constitution based on the will of

all the people. That is the only way to reduce the escalating conflict in South Africa and to move towards the establishment of a just and peaceful society; choose negotiation and peaceful change. Vote no to the new constitution.

It further describes the new constitution as "a giant stride towards dictatorship and inevitable disaster."

Thousands of copies of this publication were distributed.

Duncan Vol 392 page 22679 line 18 - 22682 line 9

13.11. Statements in the publication like "recipe for conflict" and "there will be no peace" and "violent conflict is inevitable" were certainly not regarded as any kind of incitement to violence. "They were intended to be a warning and subsequent events have proven that they were fairly prophetic."

Duncan Vol 392 page 22682 lines 10 - 15

14. The UDF's strategy in respect of the constitutional proposals was to advocate a boycott of the elections. This, it is submitted, is a pre-eminently non-violent tactic and there is no evidence whatsoever to suggest that the UDF pursued this campaign in a violent manner. The allegation in the indictment that a propaganda campaign was conducted in which coloured and Indian political leaders and members of the coloured and Indian community were intimidated not to participate in the elections and that such people would be answerable in the people's court ('volkshof') is patently without substance. In a document prepared for guidance to those monitoring polling stations, specific information was provided to enable those involved to remain within the law and to avoid unlawful acts.

Molefe: Vol 273 p14855 line 6 - p14856 line 14

Lekota: Vol 287 p15740 lines 9 - 12

Exhibit DA28

15. The State contends that the campaign against the constitutional proposals included a propaganda campaign in which it was advocated that a government based on the Freedom Charter be formed. This is also without substance.

15.1. At the outset it should be emphasised that the Freedom Charter is a perfectly lawful

charter of rights and demands. The advocacy and propagation of those rights and demands is also perfectly lawful.

R v Adams (1956 Treason Trial)

Mokoena v Minister of Law and Order 1986(4) SA 42 (W)

15.2. Molefe explained the UDF policy to the Freedom Charter as follows:

'The attitude of the UDF to the Freedom Charter was that although the Freedom Charter was a significant document that embodied the broad aspirations of South Africans, it could not as a Front adopt the Freedom Charter. The reason being that the UDF sought to unite a broad range of organisations, many of which had nothing to do with the Freedom Charter or were opposed to the Freedom Charter and the UDF felt therefore that if it was to adopt the Freedom Charter, that might have had the effect of making it difficult for it to win more organisations into its ranks and also possibly leading to those

organisations which had already affiliated to the UDF disaffiliating. So, it (chose) therefore not to commit itself to the Freedom Charter'.

Molefe: Vol 251 p13415 line 26 - 13416 line 10

Molefe: Vol 265 p14285 line 17 - 14286 line 24

Molefe: Vol 257 p13838 line 14 - 13839 line 26
and p13841 lines 17 - 28

Lekota: Vol 288 p15939 line 28 - 15940 line 2

Lekota: Vol 288 p15985 line 6 - 15987 line 14

Lekota: Vol 288 p15996 line 24 - 15998 line 7

15.3. Molefe stated that he had made the UDF position public several times.

Molefe: Vol 251 p13416 lines 1 - 12

15.4. It was put to Molefe that 'it was never suggested on public meetings that the UDF - to the public at large, that the UDF is not subscribing to the Freedom Charter, but always the message is conveyed, the impression is conveyed that the UDF is also supporting the government under the Freedom Charter'. Molefe answered as follows:

'I think counsel has forgotten my evidence-in-chief. I personally

have said that many, many times in public meetings and I know many other people have said so in many, many meetings. In a meeting where I addressed over 1 000 people in PE I said so and I think the press... possibly... was handed in as an exhibit to indicate that. I have said and I have said it many times in public meetings.

Molefe: Vol 268 p14508 line 30 - 14509 line 12

It was then put to Molefe that this was not said that any of the public meetings of which there was a transcript before the court. The cross-examiner was patently wrong. The UDF position on the Freedom Charter was made clear in the keynote address at the national launch by Rev Chikane.

See: Exhibit A1 p37

Exhibit DA18

15.5. The UDF did not hold any workshop on the Freedom Charter.

Molefe: Vol 251 p13416 lines 13 - 15

Lekota: Vol 284 p15627 lines 1 - 12

Lekota: Vol 288 p15996 lines 16 - 23

15.6. The Freedom Charter was not exclusive to the ANC. It was drawn up at the Congress of the People in 1955 and was adopted, inter alia, by the Transvaal Indian Congress, the South African Indian Congress, the South African Coloured Peoples Organisations, the South African Congress of Trade Unions and the Congress of Democrats.

Molefe: Vol 258 p13863 line 12 - 13864 line 3

Lekota: Vol 284 p15626 lines 23 - 30

Lekota: Vol 288 p15994 lines 8 - 10

Mokoena v Minister of Law and Order 1986(4) SA 42 (W)

15.7. Lekota was asked whether the UDF regarded the Freedom Charter as a 'transitional document'. He stated that the UDF had never dictated whether the Freedom Charter is transitional or not. The only decision taken about the Freedom Charter was that it should not be adopted because the UDF did not want to alienate sections of its affiliates.

Lekota: Vol 288 p15995 lines 7 - 15

The question and the unchallenged answer are significant. The evidence of the ANC witnesses was that the ANC regards the Freedom Charter as a transitional document.

IC 23 Vol 130 page 6462 line 10 - 6463 line 10

IC 24 Vol 147 page 7329 line 21- 7330 line 1

IC 24 Vol 147 page 7407 line 11 - 7408

15.8. It was put to Lekota that the UDF had adopted the Freedom Charter since his arrest.

Lekota: Vol 288 pl5940 lines 3 - 28

This in itself is destructive of the allegations in the indictment. It shows clearly that during the relevant period of the indictment, the Freedom Charter did not form part of UDF policy.

15.9. The evidence establishes clearly that the UDF conducted no campaign around the Freedom Charter, that its interest in the Freedom Charter extended only to the fact that affiliates of the UDF supported the Freedom Charter and that its interest in the Freedom Charter was in no way connected with or associated with violence.

16. The objections to the Black Local Authorities predated the formation of the UDF.

16.1. The Annual General Meeting of the Soweto Civic Association held in December 1982 decided to reject the Black Local Authorities. The reasons for so doing were articulated by Molefe:

'I think I need to start from this position that the conference of the Soweto Civic Association took place after various government officials had made public statements that the Black Local Authorities were to be linked to the so-called national states, the homelands. Now, the objection therefore of the SCA was that the Black Local Authority was presented as a substitute for a meaningful vote to the black people in this country. It was a substitute for a meaningful vote in the central government of the country. The second objection was that the most vexing question of financial sources to support to enable to local authority to run the affairs of the people in the

townships in Soweto effectively, was not addressed by the Act. It was clear at that stage that that Act expected that the residents would have to raise the money to finance the development of the township. So, the objection was that the Act did not provide the basis for financial support for that local authority. The other objection was that, if my recollection is correct, it was really seen by the residents to be as powerless as the community council had been in the sense that the excessive ministerial control... which had existed at the time of the community councils was not changed in respect of the BLA. Everything that they had to do... any major decision that had to be taken had to be sanctioned by the Minister and the view was that in the context of our situation it was really difficult to have a minister who is elected by a white constituency who is accountable to the white constituency, whose exercise of

powers is in the interest of that community, that constituency that elected him, which in this case was a white one, it was difficult for him to meet the interests of the black people because they are contrasting at this stage with those of the whites in terms of the policy that existed. Therefore it was believed that that kind of a local authority elected which had this powerful minister who it was stated clearly in the Act also, that he would have the power to dissolve the council if it did not satisfy him or dismiss councillors. It was very clear to us then that the local authority set up in terms of the BLA would find it difficult to be accountable to those people who were electing it, because their existence is dependent upon the extent to which they satisfy the minister in their day to day activities and satisfying the minister means effectively implementing the policies of apartheid as formulated

by the government in parliament.
So, it was on those bases really
that we saw it as a powerless body
that would not be able to be
accountable to the people of Soweto.

Molefe: Vol 247 p13146 line 4 - 13147 line 20

See also Molefe: Vol 248 13179 line 11 - 13181
line 24

Molefe: Vol 251 p13430 line 10 - 13434 line 16

16.2. Molefe made it clear that they were were
not opposed to the principle of local
government:

'We are not opposed to the principle
of local government, but we do not
want to be made to participate in
the structures that would turn us
into the enemies of our own people,
because people look at us and they
say "you are responsible for our
hardships", because those structures
are expected to implement the
policies of the government, policies
that are made by people who are
elected by the white electorate,
policies which are an expression of
the perception and the aspirations

and interests of the white community. Now, we have a difficulty. We would prefer if a local government of that nature is introduced that cannot address the problems of the people, it had better be implemented by the government itself. Let the government send its own officials to do that. They did not use those things to cause division within the black community by giving people structures that are unworkable, structures... that will make them lose respect from their own people. Everyone of the majority of the people who went into those councils, even if they might have gone there as popular people, respected by their communities, by the time they leave those things, they leave them as discredited individuals who are isolated. The community (no) longer wants to accept them. This has been the case with or without the UDF.

Molefe: Vol 255 pl3683 lines 5 - 27

16.3. Opposition to the Black Local Authorities came from groups which had nothing to do with the UDF. These included AZAPO, the National Forum Committee, the Western Cape Action League, APDUSA and Inkatha.

Molefe: Vol 256 p13791 line 26 - 13792 line 8

16.4. Even before the formation of the UDF opposition had come from the Soweto Civic Association, the Mohlakeng Civic Association and the Anti-Community Council Committee and the Disorderly Bills Action Committee (DBAS).

Molefe: Vol 257 p13805 line 22 - 13806 line 25

16.5. Other groups to oppose the Tri-cameral Parliament and Black Local Authorities included the South African Catholic Bishops Conference, the South African Council of Churches and the Federation of South African Trade Unions as well as 'prominent personalities in the community'.

Molefe: Vol 247 13150 line 14 - 13151 line 15

See also Molefe: Vol 268 p14473 line 10 - 14474

line 1

16.6. With regards to the new dispensation, Dr Motlana commented :

"We were convinced that any dispensation that sought to address the problems on the ground, the grassroots problem of resettlement, of local authorities, as contained in the black local authorities act, but that excluded, excluded entirely the question of representation at the next tier of government, which was the provinces or in the ultimate in the central government were doomed to failure. In other words the question, the fundamental question of South Africa is the question of the franchise and unless that is addressed any attempts to circumvent that is doomed to failure."

Motlana Vol 417 page 24429 lines 12 - 26

16.7. The Black Sash "totally condemned the black local authorities act and the system it introduced'. It "supported the decision of communities who decided to boycott those elections" but did not feel itself in a

position to actually encourage other groups also to boycott.

Duncan saw no merit in participating in the local authorities "because of the provisions made in the legislation, which made them dependent upon raising the money they needed to carry out their obligations in terms of the law from the people over who they ruled or over whom they were in charge. And it made it totally unacceptable to the Black Sash that such a structure should be put in place. We believed it to be unjust and incapable of improvement."

Duncan Vol 392 page 22707 lines 2 - 30

16.8. The Black Sash campaigned against the Koornhof Bills. For that purpose they prepared a booklet on the implications of, inter alia, the orderly movement and settlement of black persons bill which was published in September 1982. The Black Sash was not the only organisation agitating against the introduction of these bills. The "churches spoke out very strongly against it. Trade unions addressed their employers and the employers organisations

about it. The Urban Foundation did a great deal of work on it and I believe was instrumental ...in persuading the minister that the Bill should be withdrawn. The opposition to the Bill was widespread through the country. As soon as the implications were understood it became a matter of great public concern. "

Duncan Vol 392 page 22666 line 10 - 22668 line 7

Exhibit DA 130

16.9. In a paper prepared by Duncan dated 12 July 1982 she stated :

"This bill is terrifying in its implications for people who have to live within the homelands. It can only serve to increase the dire poverty already existing in those areas. It greatly increases the efficiency and rigidity of influx control. Far from leading to any kind of control over the urbanisation process, it slams the door shut in the face of landless rural people who have to come to town to seek survival. the legislation is totally unacceptable

and will remain so whatever changes are made by the commission before it is brought before parliament again. It once more illustrates the impossibility of having any kind of just legislation to control the free movement of persons in South Africa."

Duncan Vol 392 page 22668 line 8 - 22669 line 5

Exhibit DA 131

16.10. In another paper written by Duncan, which was specifically intended for the churches she stated:

'We are to be the policemen. We will turn people out because we do not wish to incur the penalty. Once they have lost their shelter, they would be forced out of town. What is the church going to say about this? Can the church do anything other than to say to christians that we will be compelled to disobey the law if it becomes law? If we are going to say this, we must say it now, loudly and unequivocally, both publically and to those in authority. South Africa

is not an overpopulated country. We have land and resources enough for all the people who live here. Rapid urbanisation does present enormous problems but given freedom we could work creatively to resolve those problems. The estimated number of squatters in homeland areas near the metropolis is already 2 million people. Our Lord was crucified outside the walls of the city. Are we now to go on taking an active part in his crucifixion?'

Duncan Vol 392 page 22669 line 15 - 22670 line 11
Exhibits DA 132

17. The campaigns against the constitution and the Black Local Authorities account for most of the activities of the UDF for the greater part of the period of the indictment. As far as the other 'campaigns' allegedly pursued by the UDF are concerned, the evidence establishes that none was pursued on a national basis and that in most cases, activities were limited, in some cases not extending beyond statements or resolutions expressing concern. None of them is shown to have been pursued by violent means. Most of them are shown to have been pursued

by other organisations active in anti-apartheid politics inside of South Africa.

18. Apart from the evidence of the defence witnesses who dealt directly with this issue, the documentation produced by the State as part of its case shows that similar issues were taken up by 'black consciousness' organisations. This confirms the evidence of Accused No 19 that these were issues considered important by the black community. We refer here to references from the 'B' series of documents. The reference are intended to be illustrative only and do not purport to be exhaustive.

18.1. Removals and Group Areas

- B2: p40 Resolution 7
- B13: p3 last paragraph 'The terror campaign conducted against the so-called squatters'
- B15: 'Change?' p1 para 4
- B17: 'The Vocabulary of Imperialism' p2 last para
Resolutions para 5
- B18: 'The Law and the Struggle' pp2 - 3
'Presidential Address' p3 para 1
- B26: p1 para 2

18.2. Housing

B2: p40 Resolution 7

B16" p1 'Our Rights ' - 'State provision
of adequate and decent housing for
all

18.3. Labour

B2: p39 Resolution 4

B12: 'Policy document of AZASM' p2 para 8
- headed 'Trade Unions'

B17: Presidential Address p1 last para -
p2 first para

Document headed '7 March 1982 by
the General Secretary P Camay
passim

18.4. General Sales Tax and the Escalation in the
Cost of Living

B17: Presidential Address - para 3

18.5. Black Education

B11: p3 last paras (1 - 4) ff

B13: p2 para 2 ff

B14: passim

B18: 'The Law and the Struggle pp 4 - 5,
Presidential Address p8 para 2

B25: p2 para 3

- 18.6. Ciskei
- B17: 'Composite Executive Report' p1 para
 7
- B18: 'Presidential Address' p2 paras
 2 - 3
-
- 18.7. SADF
- B2: p11 Column 3
 p40 Resolution 8
- B3: p1 last para - p2 second para
- B18: 'Presidential Address' p1 last para
 - p2 first para
- B19: p7 para 3
-
- 18.8. Namibia
- B2: p39 Resolution 2
- B7: p1 Resolution 5
- B19: p2 para 3
-
- 18.9. Homelands
- B12: 'Policy documents of AZASM' p1
 para 2
- B15: p2 '8 Years Later' para 4 headed
 'Unitra'
- B18: 'On Policy' para 3 - headed
 'Bantustans'

18.10. Women

B16: p1 'Our Principles' include 'anti
sexism'

'Our Pledges - abolition of laws
which discriminate on grounds of sex

B20: Equal Rights irrespective of sex

18.11. Imperialism:

B7: p1 Resolution 2

B11: p2 para 5

B17: Paper entitled 'The Vocabulary of
Imperialism' by Z Cindi - passim

B18: Paper entitled 'Reaching the People
p3 para 3

B21 AZAPO's Policy on Local, National
and International Relations' -
preamble

18.12. Detentions

B2: p28 para 2 and 3

B17: 'Composite Executive Report' p1
para 6

'The Implication of the Rabie
Commission Report' p4 para 6 ff

18.13. Repression

B2: pp17 - 18

B17: Document headed 'Resolutions' para 4

B26: p3 under heading 'Institutionalised
Violence

18.14. Inkatha

B15: 'Change?' p1 last para and p3 last
para

B22: passim

18.15. Constitutional Proposals

B2: p12 Columns 2 - 4 and p16 Column 1
pp21 - 23

B3: p2 para 3 - p3 para 2

B15: 'Change?' para 3

B18: Paper entitled 'The Law and the
Struggle' pp5 - 10

Presidential Address p1 para 2

B26: p1 last para under heading 'Reform'

18.16. Black Local Authorities

B2: pp18 - 20
pp 40 - 41 Resolution 9

B18: Paper entitled 'The Law and the
Struggle' pp3 - 4 and 9

B19: p2 para 1; pp5 - 6, 8

B21: Document headed 'Viva AZAPO' para 6

19. Certain criticisms have been levelled at the witnesses called by the defence with regard to these campaigns. They are all seemingly criticised for their lack of special knowledge of the UDF or ANC's activities, policies, gatherings, or decisions. As stated above, they were not called for their expertise in this regard. Platzky and Cachalia, however, did have a degree of association with the UDF.

20.

20.1. Platzky's involvement with the UDF encompassed the following:

20.1.1. She attended the launch rally of the UDF in Mitchell's Plain in 1983.

Platzky: Vol 352 p20098 lines 1 - 11

20.1.2. She was a member of the UDF Anti-Forced Removals Committee, an organisation which comprised mostly UDF affiliates and which met regularly, almost weekly in Cape Town. She became a member of this committee after August 1984 and remained a member for five or six months. The main work of this committee concerned

publicising the issue of the threatened removal to Khayelitsha and they also organised a conference, 'because we believed that the committee was working slightly in isolation and that the other affiliates should know what was happening of the removals scene in the Western Cape'. Exhibit X1 is the programme for the conference'.

Platzky: Vol 352 p20110 line 6 - 20112
line 4

She did not regard the conference as successful. It was not well attended. Although about 100 people were expected perhaps half that number were there all the time. 'My feeling was that they did not take it seriously enough'.

Platzky: Vol 352 p20113 lines 17 - 26

20.1.3. She was invited by the NEC of the UDF to address it on the

question of forced removals. The meeting took place in Lenasia, Johannesburg and is reflected in Exhibit E1. She travelled by car through the night from Cape Town and in fact only addressed the NEC for fifteen minutes although she was told originally that she would be given about an hour. She was asked to give a short history of removals and a sketch of what was happening in different parts of the country as far as removals were concerned and how the authorities got people to move and what the response or the resistance of the community was. In the time available to her she gave a brief overview of the relevant legislation, the various categories of removals, gave current examples of these different categories and mentioned that these communities would like assistance from outside. 'There was not much

time to discuss what could be done really'. She went on to state:

'Well I think I probably issued more words of warning than anything else, because in my experience you cannot just go into a rural community and sort of say to people what is the problem and here is the solution. So I cautioned involvement, saying that you have to respect the local people's customs and their traditions and rural politics is a lot more complicated in my experience than even township politics where you cannot simply say that because a man is employed in some official capacity that therefore he is... not on the people's side and... that because somebody is not employed in that kind of capacity that they should not be trusted. It is very complicated and I was trying to get across a

feeling that if the UDF is going to become involved they must please be very careful as to how they approach these communities and to respect the hard-won small victories that could not perhaps be compared with the scale of Soweto rent issues or anything like that. So it is question of local people's response must be respected'.

Platzky: Vol 352 p20099 line2 - p20101
line 9

20.1.4. Platzky was taken in detail through the minutes of the meeting reflected in Exhibit E1 and asked to explain each entry in relation to the talk which she gave. She was also asked to comment upon the manner in which the exhibit has been reflected in the indictment. In each case, she was able to relate the minute to what she said and refuted the interpretation placed upon the minute in the indictment.

Platzky: Vol 352 p20101 line 10 - 20108
line 30

20.1.5. In cross-examination she stated that she was only present at the meeting for the duration of the speech. It was put to her that she could therefore not tell the Court what discussions took place after her speech. She stated:

'At the end of the time when I delivered my speech whoever was in the chair... asked if there were any questions and if there was any discussion and there were one or two questions of clarification and then I was thanked and... as I walked out I heard that they were going onto the next item on the agenda'.

Platzky: Vol 352 p20125 lines 20 - 27

20.1.6. She stated further that, 'what is minuted is a reflection of what I said and that was it as far as I

was concerned'. When asked if it was possible for the UDF to have formed a plan to organise and politicise the people in regard to forced removals after she had left the meeting, she stated that, 'it was possible but I am quite sure that they would have asked me for my opinion, seeing they knew very little about forced removals and that they had asked me to come all the way from Cape Town to give... information'.

Platzky: Vol 352 p20125 line 28 - 20126
line 17

20.1.7. Despite this explanation the State, in its Betoog seeks to discredit Platzky's explanation of the minutes. It regards her explanations as unacceptable ('onaanvaarbaar'). There is clearly no basis whatsoever for the rejection of her explanations. She was present at the meeting, she delivered the speech in question and she was

able to explain clearly how the minutes reflected what she had said. She was an impressive and honest witness whose evidence is reliable in all respects.

- 20.2. Platzky became a member of the Gardens area committee of the UDF in Cape Town at the end of 1984. This was an informal structure consisting of about 100 members whose activities were mainly of an educational nature comprising public meetings, petitions, the handing out of pamphlets, the putting up of posters, raising money for the UDF Western Cape region and other fundraising events.

Platzky: Vol 352 p20114 lines 4 - 27

- 20.3. She personally attended one general council meeting of the UDF, Western Cape.

Platzky: Vol 352 p20114 lines 28 - 29

Although she attended only one general council meeting, the area committee received report backs of discussions at the council:

'There were in fact almost

seemingly endless reports of what had happened and... items on our agenda for mandates from the local committee to be taken to the regional, to be taken to the sub-regional to be taken to the regional to be taken to the general council. And so we often discussed and rediscussed issues for many hours'.

Platzky: Vol 352 p20115 lines 21 - 30

- 20.4. Platzky stated that throughout her involvement in the UDF there was never any suggestion of a conspiracy involving the UDF and its affiliates to secure the overthrow of the State through violence. 'No, again quite the contrary. It was emphasised that the UDF was a peaceful organisation and would use peaceful means to bring about change'. There was never any discussion about furthering the object of the ANC or the SACP'.

Platzky: Vol 352 20116 lines 1 - 13

This evidence was not disputed by the State in cross-examination. Once again this

provides strong corroboration of the denials by Accused Nos 19, 20 and 21 of the allegation that the UDF sought to promote a violent revolution in South Africa.

- 20.5. The one general council meeting attended by Platzky was concerned with the visit by Senator Kennedy to Cape Town. The feeling of the meeting, after many hours of debate, was that the Western Cape Region was too divided on the issue and that other arrangements to host Kennedy's visit to the Western Cape should be made. When asked whether this accorded with the approach of the UDF head office on the subject, she stated 'I think they rather expected us to host him. In fact I think that was the case but a decision was taken locally not to do that'.

Platzky: Vol 352 p20114 line 27 - 22115
line 20

The was not disputed in cross-examination.

21.

- 21.1. The State, in its Betoog, submits that Cachalia either has a serious lack of knowledge of the objectives and methods of

UDF, FEDSAW or FEDTRAW or has not been openhearted with the Court. In any event, the State argues that her evidence should not be relied upon in considering the question whether UDF, FEDSAW or FEDTRAW were part of a conspiracy to violently overthrow the government.

Betoog: Vol 7 p1015

She is also criticised on the basis that her knowledge concerning FEDSAW is vague.

Betoog: Vol 7 p1014

21.2. The State, however, has not addressed itself to the real purpose for which this evidence was led and which was made manifestly clear by defence counsel. In introducing the witness, defence counsel pointed out to the Court that the witness is named on page 19 of the Further and Better Particulars as a co-conspirator.

Cachalia: Vol 369 p21268 lines 27 - 30

21.3. During the course of cross-examination the Court suggested that the witness had been 'set up as an expert of the UDF'. This was immediately corrected by the defence

counsel who explained that she was called to testify by reason of the fact that she was alleged to be a co-conspirator and was not called in order to give expert evidence on the UDF. Defence counsel went on to state:

'The witness was not called in order to give expert evidence on the UDF. I do not know on what possible basis expert evidence would be admissible or how one would lead that sort of evidence. I did not lead her on whether she read the UDF documents or anything else. The only question that I asked her is that you are alleged to be a co-conspirator. What was your understanding of it? And what I would have thought that the issue that the prosecutor is debating with the witness is whether or not she is a co-conspirator. I think that he has gone a long way with the greatest respect by suggesting to the witness that she does not know very much about it. He may

have to revise his further particulars to the indictment about his allegation of this witness being a co-conspirator, but that was the purpose for which the witness was called, not as an expert on the UDF'.

Cachalia: Vol 370 p21368 line 29 - p21370
line 2

21.4. At the outset of her evidence in chief she stated that she 'was definitely not part of any conspiracy to overthrow the government violently'.

Cachalia: Vol 369 p21269 line 28 - p21270
line 5

This evidence was not contested by the State.

21.5. She testified that she was a member of the Lenasia Women's Group which was affiliated to the UDF.

Cachalia: Vol 369 p21270 lines 8 - 11

21.6. The group was formed in about May or June 1983.

Cachalia: Vol 369 p21271 lines 23 - 28

21.7. She left the organisation late in 1983 and did not attend meetings thereafter.

Cachalia: Vol 370 p21333 lines 17 - 28

21.8. The organisation was represented at the launch of the UDF (but not by the witness).

Cachalia: Vol 369 p21274 lines 8 - 10

21.9. After affiliating to the UDF, the organisation remained independent.

Cachalia: Vol 369 p21275 line 30 - p21276 line 2

The organisation never received any specific instructions from the UDF to do anything.

Cachalia: Vol 369 p21277 lines 2 - 9

21.10. The organisation never sent delegates to UDF general council meetings nor did they formally receive reports or minutes from the UDF. They did, however, receive UDF circulars and publications.

Cachalia: Vol 369 21276 lines 3 - 11

- 21.11. The organisation participated in the Million Signature Campaign.
Cachalia: Vol 369 p21277 lines 10 - 15
- 21.12. The group strived for the establishment of a non-racial and democratic South Africa and to that end mobilised women 'in a complete non-violent way'.
Cachalia: Vol 370 p21335 lines 16 - 25
- 21.13. She described the issues that the group was involved in as follows:
'We looked at creche facilities and the lack of creche facilities in the area. We looked at problems around women's health problems, the fact that there was no hospital in Lenasia at the time. If women felt ill, how they could get to a doctor. It was those sort of issues that we were looking at. We even drew up a questionnaire which detailed these sort of questions and we went to women on a door-to-door basis asking them what their problems were'.

Cachalia: Vol 370 p21337 lines 16 - 24

- 21.14. Whilst she was a member of the Lenasia Group the issue of the constitution was not taken up.

Cachalia: Vol 370 p21337 lines 25 - 27

While conducting the survey which was concerned with childcare facilities, recreational facilities and women's problems as far as the lack of medical facilities in the area were concerned, food prices, the increase in General Sales Tax, the new constitutional plans and conscription was not discussed.

Cachalia: Vol 370 p21341 lines 16 - 22

- 21.15. About a month after the launch of the UDF Cachalia was involved in the formation of the Fordsburg Women's Group. This group was active in agitating against participation in the tri-cameral elections and also took part in the Million Signature Campaign. It affiliated to FEDTRAW after its launch in approximately January 1985.

Cachalia: Vol 369 p21277 line 29 - p21278 line 23

21.16. The Fordsburg Women's Group was linked to the UDF by virtue of the fact that the group was affiliated to FEDTRAW and FEDTRAW was affiliated to the UDF.

Cachalia: Vol 370 p21235 line 28 - p21346
line 5

21.17. Although the witness was not in South Africa between September 1984 and March 1985 she stated that the Fordsburg Women's Group took up the issue of the new constitutional proposals and the issue of conscription but not the issue of General Sales Tax.

Cachalia: Vol 370 p21341 lines 23 - 29

21.18. In pursuing their activities, the Fordsburg Women's Group visited people on a door-to-door basis to discuss the tri-cameral parliament with them. 'We would state our point of view and we would then explain to people what we felt about the elections and we would hope that we would have some sort of discussion with people and that they were then free to make up their minds whether they should go ahead and vote or not'. They also held teaparties and would

get members of the community to bake cakes and would then call a small little group meeting to discuss the tri-cameral parliament 'and why we felt that people should not vote in that'. They also arranged 'a peaceful demonstration for women to stand singly with placards in front of them saying that they did not support the tri-cameral parliament'. They were very concerned that this should be done in a lawful manner and to that end had a document which set out the rights of demonstrators. Whilst taking part in these activities there was definitely no discussion or suggestion in the group that women were to be organised to take part in a violent struggle.

Cachalia: Vol 369 p21279 line 18 - p21281 line 12

- 21.19. None of the evidence concerning the Lenasia Women's Group and the Fordsburg Women's Group was disputed in cross-examination. Rather, the cross-examination was designed to show the witness's lack of knowledge of the methods and objectives of the UDF, FEDSAW and FEDTRAW. The evidence

established that she only attended one UDF meeting and that was the one-year rally. She only attended two FEDTRAW report back meetings between April 1985 and June 1985. She attended the FEDSAW interim co-ordinating committee meeting on 21 July 1984 and a meeting which she thought had been organised by FEDSAW to commemorate the 30th Anniversary of the historic march to the Union Buildings which she thought was held in April 1984 in Mamelodi.

Cachalia: Vol 370 p21327 line 27 - p21329 line 17

21.20. She understood the main purpose of the UDF 'to be to bring together a range of organisations to oppose the tri-cameral elections in a peaceful and in a non-violent way'.

Cachalia: Vol 369 p21275 lines 1 - 12 and lines 19 - 22

21.21. The witness's inside knowledge of the UDF, FEDSAW and FEDTRAW was clearly limited. However, she was specifically cited as a co-conspirator and her denial of adherence to the conspiracy was not challenged. This

is so despite the fact that the matter was clearly brought to the attention of the Court and cross-examiner during the course of cross-examination. Her position must surely be similar to many other members of affiliated organisations. The reason for the affiliation by the Lenasia Women's Group to the UDF was stated as follows:

'Basically that we believed in a non-racial and democratic South Africa, one parliament for all the people in South Africa, not a parliament that was based on different race groups. Also we very definitely oppose the fact that African people were excluded from the tri-cameral dispensation'.

Cachalia: Vol 369 21274 lines 19 - 27

22. The State has attacked the credibility of Duncan in a number of respects. She is said to have been particularly vague concerning the gatherings of the UDF and its affiliates which she attended. (Betoog page 1017 para 5.4)

It is submitted that this criticism is not justified.

22.1. She is able to give a circumstantial account of the meetings on which she was questioned. There is always some detail which enables her to remember the occasion. Thus, with the regard to the meeting at the Selbourne Hall she remembered 'that meeting particularly because of the disciplined way in which the crowd left the hall at the urging of the leaders of that meeting'.

Duncan: Vol 393 p22772 lines 23 - 28

22.2. She also stated that she could 'remember clearly one in Cape Town where I shared the platform with Dr 'a' Boesak'.

Duncan: Vol 393 p22773 lines 12 - 13

22.3. With regard to meetings of UDF affiliates she stated that she 'attended a great many meetings with UDF affiliates. There were so many that it would be very difficult for me to give you any kind of comprehensive list. Because I particularly remember the ones in other parts of the country because of the necessity for travelling there...'

Duncan: Vol 393 p22775 lines 1 - 6

22.4. It is correct that she was unable to remember the dates of the UDF meetings and the other speakers who spoke. However, this is not surprising. She is obviously a busy person who attends many meetings, and she was testifying on events which happened several years ago and had no special reason to remember and to record what transpired. In this regard, the comments of the Court relating to the evidence led to support the admissibility of videos is particularly apposite:

'The State, on the other hand, advances this evidence, inter alia, to prove the contents of the speeches, which, as is not surprising, the witnesses who were present at the meetings, have totally forgotten'.

Judgment: p4905 lines 2 - 5

22.5. When, however, she was able to consult her diaries overnight she offered to submit her notes and 'list many places where I spoke to or conducted workshops with UDF affiliates at none of which there were ever any suggestion that violence was an

appropriate or indeed desirable way of bringing about change. Uniformly those groups were concerned with organised, disciplined non-violent action'

Duncan: Vol 394 p22847 lines 1 - 8

22.6. The State argues that Duncan is noticeably subjective in her answers concerning acts of violence by the ANC. It is stated that she tried to show the Court that she, a person who is interested in politics, did not know if ANC bomb attacks are initiated in South Africa. (Betoog page 1017 para 5.5)

22.6.1. The context in which this issue arose was the question in which she was asked whether the ANC only attacks 'the government people in this country or do they also attack soft targets'. She answered that 'there have been terrorist attacks on soft targets. I have no knowledge of whether these attacks were ordered by the ANC or not'.

Dunan: Vol 393 p22794 lines 23 - 28

22.7. The State did not pursue this line of cross-examination and left this answer unchallenged. If it had been suggested to her that this was an untruthful answer she may have been able to give an explanation. For instance, in travelling outside of South Africa she may have read public statements by the ANC on its attitude to 'soft targets' which are not available within South Africa; or there may have been other reasons for her answer. As she was not given an opportunity to deal with the criticism now advanced, such criticism cannot form the basis of any adverse credibility finding

22.8. The question itself was vague and imprecise. She was not asked about any specific attack on soft targets but was asked about soft targets generally and then was given what seems to be a hypothetical example of 'petrol bombs in a Pretoria street'.

22.9. It is not open to the State to suggest now that unspecified attacks on soft targets over an unspecified period of time were

carried out with the authority of the ANC, particularly when no evidence of such attacks has been led. Yet, it is only an acceptance of this proposition, that enables the State to cast doubt on Duncan's answer. In the circumstances, it is submitted that this answer can in no way be used to attack the credibility of the witness.

22.10. The State argues that Duncan's knowledge of UDF affiliates whom she spoke to, is either totally unreliable or the defence case that there were no affiliates in Tumahole is false. (Betoog page 1018 para 5.9)

22.10.1. The context in which the cross-examination occurs concerns questioning about meetings addressed by Duncan at which affiliates were present. After referring to groups in Cape Town, the following exchange takes place:

Duncan: I do not know definitely about the others. Tumahole at Parys was definitely the civic

association and the youth
organisation.

Mr Jacobs: And affiliated? -

Hm?

And affiliated? - And
affiliated, yes.'

Duncan: Vol 394 p22850 lines 12 - 16

From this answer, the State
wishes to infer one of two
propositions, namely, either
that Duncan's knowledge is
totally unreliable or the
defence case that there were no
affiliates in Tumahole is
false. The conclusions are
logically fallacious.

22.10.2. In the first instance, the
evidence is ambiguous. The
answer concerning Tumahole is
preceded by the statement that
Duncan did not 'know definitely
about the others'. Although
the evidence is not clear, it
seems as if her answer
concerning affiliates in Parys

must be understood as being governed by her statement that she did 'not know definitely about the others'. In any event, the suggestion of unreliability on her part was not put to her.

22.10.3. In the second place, even if one assumes that she stated definitely that the 'civic association' and 'youth organisation' were affiliates of the UDF, and that she was mistaken in this regard, this cannot be elevated into the statement that her knowledge concerning the affiliates whom she addressed is totally unreliable ('totaal onbetroubaar'). It also does not mean that the defence case that there were no affiliates in Tumahole is false.

23. The State argues that Duncan's evidence that the affiliates in Cradock discussed how the police should

not be isolated but dealt with in a friendly manner is totally in conflict with what actually happened in Cradock as well as the evidence concerning the speeches of UDF leaders made there. (Betoog page 1018 para 5.10). No references are made to the evidence in support of this proposition, and the correctness of the proposition is not accepted. But in any event, even if correct, it would not discredit Duncan

23.1. Duncan was testifying about a meeting which she attended in Cradock. It was not suggested to her that her account of the meeting was false nor did the State lead any evidence to the contrary. There appears to be no basis, therefore, for suggesting that her evidence in this regard is unreliable.

23.2. Even if the actual events in Cradock had run counter to the sentiments expressed at this meeting, it does not follow what such sentiments were not expressed.

23.3. The State does not specify in what respects Duncan's evidence conflicts with the speeches of UDF leaders in Cradock nor does it specify which UDF leaders are referred

to. It is accordingly an unhelpful submission which does not advance its case.

24. It is submitted that Duncan was an impressive, honest and reliable witness. Even if the criticisms levelled at her by the State had any validity, they do not in any way detract from the central issues upon which she was called to testify.

25. Certain criticisms were also levelled at Dr Hartshorne. He is seemingly criticised on the basis that he had only seen one or two COSAS documents and apart from the UDF resolution on education which he studied before he testified, he was obviously not familiar with other UDF and COSAS policy documents. Furthermore, although he had heard of SOYCO, AZASO, SAYCO, SCA and students/parents committees, he had not studied their documents. (Betoog page 1022 paras 7.3 and 7.4).

25.1. To the extent that this is regarded as a criticism of Hartshorne, it is misdirected. He was not called as an expert on any particular organisation but was called because of his vast expertise in the field of education. His credentials as an academic are beyond dispute.

26. It is argued by the State that Hartshorne's interpretation of 'people's education' and the goals of the NECC do not hold water in the light of what the chairman of the NECC, Sisulu, himself says. Hartshorne had not seen the whole speech of Sisulu but only certain extracts and it is argued that if one looks at the speech as a whole, Hartshorne's opinion on this leg is lacking. The State then argues that Sisulu delivered the keynote address and that it is totally unacceptable that if he made the speech it would be contrary to the objectives of the NECC. It is stated further that the speech was handed out to those present at the conference, such as Dr Motlana, and that nobody at the conference objected to the speech or later repudiated it. If this had happened the defence would certainly have placed such information before the Court and either Dr Hartshorne or Dr Motlana would have been aware of it if it had happened. (Betoog p1023 para 7.9).

26.1. At the outset it should be emphasised that the existence of the NECC is a matter entirely extraneous and irrelevant to the issues in this trial. The coming into existence of the NECC and its predecessor, the SPCC took place long after the indictment was served and all the accused had been in custody.

26.2. The objectives of the NECC form no part of the indictment and accordingly, no evidence was led by the State in this regard. Dr Hartshorne was not present at the conference and Dr Motlana was not present when the keynote address was given.

26.3. The argument that Dr Hartshorne's interpretation of the meaning of 'people's education' does not hold water in the light of what Sisulu himself says is based upon the unproven assumption that Sisulu's speech is representative of NECC policy. Just as the keynote address by Chief Buthelezi at the Eshowe Conference in 1983 did not represent Labour Party Policy, so too, it cannot be assumed that Sisulu's keynote address represents NECC policy or is any way definitive of the concept of 'people's education'. It is therefore not permissible to suggest that Dr Hartshorne's interpretation of 'people's education' is wrong.

27. It is argued that Hartshorne's interpretation of the NECC resolutions, namely, that they are primarily concerned with education is clearly wrong if it is

borne in mind that resolutions on May Day, political prisoners, sanctions and Angola were also taken.

(Betoog p1025 para 7.12)

27.1. Hartshorne's answers in this regard must be understood in their proper perspective. He readily conceded in answer to questions from the Court that several of the resolutions were of a political character. He was then asked whether he would call the conference 'an educational consultative conference'. He answered:

'I have to go back again to the context. It may seem strange to us. Many of us are able to think of education in a vacuum but I think it is quite clear if you look at the total context in which a body like the NECC has to operate that these aspects of education and the political, social, economic context that surround education, bring people to look at education in that total picture, that total situation. And so you have the basic education resolutions and so on here as you see surrounded by what are quite clearly and what one

has to accept, are quite clearly political areas'.

Hartshorne: Vol 415 p24318 line 26 - 24319 line 21

- 27.2. Given the full context of his answer, there is no basis for the State's suggestion that his interpretation is clearly incorrect. There is similarly, no basis for the State's submission that the political nature of the resolutions taken at a conference held nearly a year after the relevant period of the indictment, confirms the State's argument that education is but one aspect which is misused in the process of mobilising the masses for the freedom struggle.
28. The State argues that Hartshorne's prejudices appear clearly out of the type of answers given by him when he is asked, for example, what is meant by the phrase 'alternative people's education programmes' in the resolution taken at the NECC conference. It is argued that he then attempts to evade ('omseil') the question in all sorts of ways by giving irrelevant examples. When, for example, he is asked whether it is against the rules for a teacher to replace the syllabus with subjects of his own choice, Hartshorne

decided not to answer the question but to show that it was not against the rules to offer additional subjects. It is only when it was pointed out to him that he had not answered the question that he conceded that it was against the rules to replace a syllabus. (Betoog paga 1025 para 7.13).

28.1. It is submitted that there is no foundation whatsoever for the suggestion that the answers in relation to this particular subject show Dr Hartshorne's prejudices. When he is first asked about the clause in the relevant resolution concerning the implementation of 'alternate people's education programmes' he stated that this 'could mean a whole range of programmes designed to help students in one way or another. I think the distinctive thing about them would be that on the whole they would be outside of the normal school system'.

Hartshorne: Vol 415 p24323 lines 9 - 16

28.2. It is then put to him that what is meant in the resolution was not programmes to supplement the education programme but to substitute the programmes of the Department. He answered as follows:

'In practice there have been both kinds of alternative programmes, both programmes that in a sense supplement, add to, do things which are not done in the school and there are cases of a programme being set up which is a substitute for what is going on in the schools'.

Hartshorne: Vol 415 p24323 lines 17 - 24

28.3. When asked by the Court whether programmes which are not part of the normal school programme would be in contravention of the rules, he stated, 'that would be difficult to answer because I think in some cases a lot of the alternate programmes have been run as what one might call under ordinary school circumstances extra-mural programmes'.

Hartshorne: Vol 415 p24324 lines 12 - 16

28.4. Then followed some discussion as to the precise scope of the rule requiring certain matters to be contained in a particular syllabus. Hartshorne explained that 'a syllabus is also regarded in education as a minimum requirement and I do not think

anyone would have any problems with a teacher who not only did what was the minimum that was required, but taught additional material. And I do not think there are any rules about that. What he is expected to do as a kind of bottom line is to make sure that he has covered the syllabus that is laid down'.

Hartshorne: Vol 415 p24325 lines 9 - 16

28.5. It was then suggested by the Court that 'we are dealing with substitution, doctor. Now if there is substitution is that against the rules? Or is it allowed?' In answer to this question Hartshorne stated that it was probably against the rules.

Hartshorne: Vol 415 p24325 lines 19 - 30

28.6. In fact, the suggestion by the Court (that we are dealing with substitution) may well have contributed to a measure of misunderstanding. The resolution under discussion contained the phrase 'to implement alternate people's education programmes immediately', it did not say to substitute the existing syllabus with people's education programmes. In the

circumstances, there is no basis for the suggestion that Hartshorne was being evasive or, more importantly, that his answers suggest prejudice on his part.

29. The State argues that more than half the resolutions at the NECC conference had nothing to do with education and it can therefore be argued that the NECC was not established primarily to deal with the education question but is just another UDF initiated body set up in order to mobilise the masses in the freedom struggle and together with the masses, a few naive idealists like Dr Hartshorne. (Betoog page 1027 para 7.20)

29.1. Apart from the fact that it is not alleged and has not been shown that the NECC was set up by the UDF, and the objectives of the NECC have nothing whatsoever to do with the issues in the present case, the description of Dr Hartshorne as a naive idealist is a disparaging and wholly unwarranted comment.

29.2. It is submitted that Dr Hartshorne was a witness of obvious integrity, expertise and honesty and that his evidence was reliable.

30. Prof Douwes-Dekker is criticised on the basis that he has no expert knowledge of the UDF or its affiliates. His evidence is therefore of no value to the Court. (Betoog page 1044 para 8.3). Again, the State has misunderstood the purpose for which the evidence was called. Apart from his lack of knowledge of the UDF and its affiliates, no reason has been advanced by the State to reject his evidence. It is submitted, in the circumstances, that Douwes-Dekker was a good witness with obvious expertise in his field and that his evidence was both reliable and acceptable.

31. The defence witnesses canvassed in this section of the Betoog, dealt with important issues such as the constitution, the Black Local Authorities, removals, housing, labour, black education, homelands, women, political prisoners, detentions and repression. They show that all of these issues pre-existed the UDF, pre-existed the ANC publications relied on by the State, and were of importance to the black community. Their evidence provides strong corroboration for the evidence of Accused Nos 19 and 20, is destructive of the State thesis on the 'campaigns', and undermines a significant portion of the State case against the accused.