

AREA NO 16 HUHUDI (Betoog pages 774 to 814)

1. The state alleged at page 79 of the Further Particulars that since February 1985 the Huhudi Civic Association, GAWU, UDF, COSAS and AZASO organised in Huhudi and intimidation, violence and revolt took place. GAWU was not affiliated to the UDF. The period of the indictment relevant to Huhudi was February to April 1985. By way of amendment, it was alleged that Accused No 20 addressed a meeting of HUYO on 1 July 1984 and incited the people to violence.
  
2. The evidence of acts of violence is the following:
  - 2.1. On 23 February 1985 a hand grenade was thrown by an unknown person at the house of councillor Dikhole who was the chairman of the Huhudi Community Council. There were also attacks on the house of councillor Thiba and a security policeman. Thiba resigned two months later.  
Dikhole Vol 75 page 3948 line 6 - 3949  
line 12
  
  - 2.2. There was also an attempt to set Dikhole's house alight during October 1984.  
Dikhole: Vol 175 p3944 line 24 - p3945  
line 10

2.

Dikhole was unable to say who was responsible for this.

Dikhole Vol 75 p3945 lines 11 - 12

2.3. There is also evidence by councillor Matlhoko that his (Matlhoko's) house and shop were stoned on occasions after meetings of HUCA, HUYO or UDF and that the attacks on his house began during May 1983.

Matlhoko Vol 76 page 4003 and Vol 77 page 4068 to page 4069

2.3.1. Evidently 16 June 1985 was a date upon which councillor Matlhoko's house was attacked, according to him on the second occasion.

Matlhoko Vol 76 page 4010

3. There is no indication as to exactly who was responsible for these attacks. On the state's case, the stoning is apparently the work of youths 16 years and older.

Matlhoko Vol 76 page 4004 lines 15 - 20

4. A number of consequences flow from the State's evidence:

4.1. Only one of the proved incidents, namely, the grenade attack on 28 February 1985 falls within the period relevant to this area. This incident was common cause having been admitted by the defence (Exhibit AAS3 para 13).

4.2. The evidence led by the State in respect of violence in this area prior to February 1985 is not relevant to the charges formulated. Matlhoko's evidence of an attack on his house in May 1983 is particularly significant. It is not only prior to the period specified in the Further Particulars, but it demonstrates the existence of a cause of violence entirely independent of the UDF. Not only is it outside of the specified time, but it occurred before the UDF was in existence on a national basis, and prior to the establishment of a region in the Cape.

5. In addition to the foregoing, there is evidence from State witnesses that this violence was not approved by the officials of the Huhudi Civic Association:

5.1. The chairman of HUCA, Galeng, is said to have disapproved of the stoning saying that he would speak about it to the youngsters who are "stubborn".

Matlhoko: Vol 77 page 4069 line 1 - 8

- 5.2. Matlhoko gives clear evidence that, on 16 June 1985, London, the publicity secretary of the Huhudi Civic Association, was involved in the act of stopping children throwing stones at the house of this councillor.

Matlhoko Vol 76 page 4020

6. It appeared from the evidence of both Dikhole and Matlhoko, that there is strong feeling in Huhudi (including individuals within the Community Council itself) over:

- 6.1. The threat of a forced removal of the community to Pudimo in Bophuthatswana, which would have resulted in the loss of citizenship rights.

Dikhole: Vol 75 p3939 lines 2 - 13

Vol 75 p3951 lines 9 - 31

Vol 75 p3953 lines 12 - 18

- 6.2. The threat of forced removal had politicised the community.

Dikhole: Vol 75 p3953 lines 27 - 29

- 6.3. Initially, the government and the Administration Board were adamant that the

removal would take place.

Dikhole: Vol 75 p3954 lines 1 - 11  
Vol 75 p3954 lines 12 - 17  
Vol 75 p3970 lines 3 - 8

6.4. And, as a result of this attitude, new housing had not been built and there was gross overcrowding of existing houses, and a refusal to permit alternations to be made to existing houses.

Dikhole: Vol 75 p3954 line 24 - p3955 line 6  
Vol 75 p3971 lines 13 - 29

7. The community council was perceived as having (and in fact had) no power to improve conditions and assist the community. It was dependent on the government and the Administration Board.

Dikhole: Vol 75 p3959 lines 15 - 19  
Vol 75 p3960 lines 7 - 15  
Vol 75 p3061 lines 10 - 18

Matlhoko: Vol 77 4042 lines 3 - 8  
Vol 77 p4046 line 10 - p4047 line 7  
Vol 77 p4049 lines 24 - 29  
Vol 77 p4050 lines 20 - 31  
Vol 77 p4055 lines 23 - 27  
Vol 77 p4060 line 28 - p4061 line 5  
Vol 77 p4062 lines 25 - 27

8. It appears that the HUCA was established in the first half of 1983. That it opposed the elections in November 1983 and endeavoured to persuade people not to take part in the election, and that all this was done without any violence or threats of violence.

Dikhole: Vol 75 p3940 line 4 - p3941 line 3

Vol 75 p3961 line 31 - p3962 line 16

9. The division within the community, which escalated during 1984/1985 involved attacks on the property of non-councillors (such as Ghaleng the chairman of HUCA)

Dikhole: Vol 76 p3965 line 17 - p3966 line 20

10. The ANC was apparently active in the region and there had been arrests and a treason trial.

Dikhole: Vol 76 p3988 lines 2 - 17

11. The evidence does not show who the people were who stoned councillors' houses. It suggests at best for the State that there are unruly young people who take it upon themselves to attack councillors, and that they do so without the approval or authority of HUCA.

12. The evidence put up by the defence was intended to establish (and it is submitted did establish) that:

12.1. the Huhudi Civic Association held many

meetings and that no violence was encouraged at any of them;

- 12.2. that no violence was encouraged at the night vigil of the 14 and 15 October and that Albertina Sisulu did not speak at the night vigil of 14 October in Huhudi.
  - 12.3. a possible cause of the violence on 16 June 1985 was the anger created in the community by the fact that councillor Matlhoko was thought to have run into a group of children seriously injuring one of them;
  - 12.4. one Crutse who was part of the Huhudi Civic Association had helped to restore order at the meeting of councillors during February 1985 when some noise resulted from the fact that the chairperson refused to allow a young person to speak at the meeting.
13. In the context of the nature of the dispute between the defence and the state, many of the contradictions relied upon by the state in an effort to discredit the defence witnesses are irrelevant. Broadly speaking, the conflicts which the state seeks to rely upon revolve around whether the association affiliated to

the UDF, whether UDF speakers addressed the launch, whether the delegates who went to a meeting at Kimberley with the councillors were allowed to be present at the gathering or not, whether the UDF had offices in the area or not, and matters of this nature. It is submitted that this is essentially unrelated to the real issues in respect of this area, and particularly the case the State undertook to prove. In any event, this sort of contradiction is likely to arise in a situation where witnesses give evidence so long after the occurrence of events in question.

14. Violence at meetings

14.1. The defence evidence that no violence was preached or suggested at any meeting must be viewed against the following background namely :

14.1.1. There is no state evidence that violence was preached at any of these meetings;

14.1.2. It was never put to any of the defence witnesses by the state that violence was preached at any meeting;

14.1.3. The fact that London and Galeng, on the state evidence as previously set out, did not approve of violent conduct and

14.1.4. No violence is suggested in any of the documents which are relied upon by the state.

14.2. London gives important evidence in this regard:

14.2.1. He sketches a background to the formation of the Huhudi Civic Association which had its beginnings in the formation of an ad hoc committee which was constituted to fight removals by uniting people, negotiating with the authorities and using legal means. No help was received from the UDF nor was there any contact with the UDF before the association came into existence.

London Vol 400 page 23265 line 29 - page 23272  
line 30

This evidence is undisputed.

14.2.2. It is also clear and undisputed that the association sought legal advice in regard to whether or not rent increases were justified. This seems contrary to any revolutionary or violent objective.

London Vol 400 page 23273 line 1 - 23277  
line 12

14.2.3. There was no incitement to violence whether direct or indirect at any committee or mass meeting called by HUCA and attended by the witness.

London Vol 400 page 23283 line 9 - page 23284  
line 16

It is significant that this evidence is not disputed.

14.3. The witness Thebe a retired miner of considerable simplicity and little education, gave evidence to the effect that he attended approximately half of the meetings of the association. He says that no violence was incited at any of them. This evidence too is not disputed.

Thebe Vol 404 page 23566 lines 17 et seq

14.4. According to the undisputed evidence of the witness Mocketse no violence was incited at any of the meetings of HUCA attended by him. Vol 408 page 23771 lines 12 - 19).

15. The meeting of 15 to 16 October 1984

It is clear and undisputed that no violence was preached at the night vigil on 14 October 1984 and the meeting on the next day. It is not disputed that Mrs Albertina Sisulu spoke at the meeting of 15 October. The evidence of what she said there is also undisputed and is to the following effect:

"What she said was that she was there to support and encourage the people of Huhudi on what they did in resisting the removal and which then was successful. Therefore she was there to be happy with the people of Huhudi on this announcement".

Thebe Vol 404 page 23562 line 30 - page 23563 line 6

16. The motor collision of 16 June 1985

16.1. Three witnesses gave evidence concerning this incident. The only eye witness to the collision was the witness Mosiapo. She said

that on the afternoon of 16 June 1985, councillor Motlhoko drove his bakkie through a group of children. She said that one of them fell to the ground. She added that she carried the child from the road with some assistance. She went to summon the ambulance but when she returned the child was no longer there.

Mosiapoa Vol 413 page 24075 - 24077

16.2. It is submitted that Mrs Mosiapoa was a good witness and that her evidence is reliable.

16.3. The witness London said that after the meeting of 16 June 1985 and whilst he was in the company of Mrs Mocketse, they met a group of young people who told them that a child had been injured. The child was put into the motor car. They were then approached by councillor Motlhoko and there was an allegation from some young people that Motlhoko had knocked down a child. There was then some stone throwing. London helped to restore order. London informed Matlhoko that there had been this allegation.

London Vol 400 page 23284 line 17 - page 23288  
line 25

16.4. Mr Mocketse gave evidence to support London. She says that she attended the meeting on 16 June 1985 and left there in the company of London. She says she saw a child injured at an intersection not too far away from the hall. London asked the children what was happening and they were told that the children had been injured. She said that Matlhoko had passed them by and had driven into his yard. He later came back to them. When he later returned to where the witness had London were some children started throwing stones at Matlhoko who retaliated. Matlhoko was accompanied by some people.

Mocketse Vol 407 page 23768 line 28 - 23771  
line 11

16.5. The state has relied on certain contradictions and alleged improbabilities in this version. It would seem that the state contends that this incident never took place. However, there is important support for this evidence in the state's evidence itself.

In the first place it cannot be said that the question of the motor collision was raised as an invention for the purposes of this case.

Indeed, Matlhoko gives evidence to the effect that the police approached him in connection with the events of 16 June within a week of that date.

Matlhoko: Vol 76 page 4021 line 8 onwards

- 16.6. It is also common cause that London did go to the house of the witness on 16 June 1985, and did stop the people from throwing stones at Matlhoko.

Matlhoko Vol 76 page 4023 line 3 onwards

- 16.7. Motlhoko himself was not a good witness. He was decidedly uncomfortable when giving evidence about this collision.

- 16.8. In all the circumstances, the weight of the evidence establishes that there was a collision on 16 June 1985 between a motor vehicle driven by Matlhoko and a child. Certain members of the community were angry as a result of this collision and damage was thereafter done to Matlhoko's house. The real possibility that this anger would, in addition, have resulted in attacks against the property of other councillors cannot be excluded.

16.9. In any event, the 16 June 1985 is one and half months after the period alleged in the indictment and five days after the indictment was served upon the accused.

17. The meeting of February 1985

17.1. Two witnesses gave evidence of this meeting. The witness Thebe gave evidence to the effect that during February 1985 and at a time when it was known to the community that the rent at Pudimo was to be R 5,00 per month, councillors called a meeting to tell the community about certain rent increases. At this meeting Councillor Dikhole refused to allow a member of HUYO to speak as a result of which there was noise and disorder. The evidence is that Crutse intervened to restore order.

Vol 403 page 23563 to page 23564

This evidence was not challenged.

17.2. This undisputed evidence was supported by that of Mrs Mocketse. She says that she attended the meeting during 1985 at which councillors justified the rent increases. A young person

was referred to as a child and prevented from speaking. There was some noise and Krutse helped to restore order.

Vol 408page 23768 line 1 - 27

18. The Threat of Removal as a Possible Cause of Violence

18.1. The State evidence shows that the community council was perceived as not having, and in fact did not have, any power to improve conditions and to assist the community, being wholly dependant on the administration board and the government has already been referred to.

18.2. The residents in Hududi were totally against being dislocated and removed to Pudimo. Originally, the councillors were also against this. Sometime during 1980 (or thereabouts) there was newspaper publicity to the effect that councillors were for removals. Some confusion resulted, and the position appeared to be that some councillors were against removals and others not. In any event, the dissatisfaction with the councils was such that, during 1982, at a meeting called by councillors, it was decided that a delegation should accompany the councillors to a meeting

at Kimberly. The evidence is that a civic association was formed as a direct result of the feeling that councillors were not doing their work properly.

London: Vol 400 p23261 line 30 - p23269  
line 18

Thebe: Vol 404 p23544 line 15 - p23546  
line 11

Moketsi: Vol 407 p23757 line 10 - p23758  
line 11

- 18.3. Councillors were also suspected by the community of encouraging residents to move. They were seen as working hand in hand with and being indistinguishable from the administration board.

Thebe: Vol 404 p23569 line 24 - p23570  
line 11

- 18.4. It is not disputed by the State that the community appointed a delegation to accompany the councillors to Kimberly. This must have been done as a result of some mistrust felt in relation to councillors.

- 18.5. It is submitted that people felt so strongly about removals that, once they began to feel

that councillors supported the removal much anger would result.

18.6. The fact that the ANC had a presence in the area is also significant. The evidence of the former members of the ANC is that they would attempt to capitalise on local grievances and use them to their own advantage. Conditions in Huhudi would have provided an ideal opportunity for ANC cadres operating in the area.

19. By way of amendment to the indictment the State alleged that Accused No 20 addressed a gathering of HUYO and incited the people to violence.

19.1. The State refers to this meeting in the Betoog on p780 sub-para (6) in which it is argued that Lekota, Aubrey Mkoena, Hoffman Galeng and Oupa Monareng politicised the audience with regard to the ANC and Umkhonto we Sizwe as well as actions against the government.

No references to the portions of the speeches relied upon by the State are given nor is any reference made to the evidence given by Lekota in respect of this meeting.

19.2. The meeting is again referred to on p797 of the Betoog in which it is argued that Lekota convinced the people of Huhudi that their heroes in Umkhonto we Sizwe would set them free. Rerefence is made to the evidence of Dikhole which has nothing to do with the meeting in question. Again, no reference is made to the portions of Lekota's speech relied upon.

19.3. Lekota was extensively cross-examined about this meeting. The State has advanced no criticism of this evidence nor any reasons why he should be disbelieved.

Whatever might have been said at this meeting has not in any way been shown to be connected with any act of violence. On the contrary, the undisputed evidence of Molefe and Lekota is that they knew of no act of violence associated with any UDF meeting.

20. In paragraph 1 of the Betoog, the state, ignoring the allegations made by it in the Further Particulars makes the broad statement that the organisations which organised and mobilised the masses and incited them to resistance against the State authority were HUCA, HUYO

and UDF. The reference to the evidence of Matlhoko cited by the State does not bear out this proposition at all. In fact, on the page relied upon by the State, the witness specifically states that he never attended any meetings of these organisations.

21. On pp774 - 789 of the Betoog various submissions are made based on a number of exhibits but without regard either to the admissibility of these documents or to the relevant evidence given by witnesses. In this regard, the following submissions are made:

21.1. None of the exhibits referred to provide any support for the proposition that the UDF was responsible for the violence in the area.

21.2. A number of documents referred to deal with events which are unrelated to the relevant period in respect of this area, e.g. Exhibit W24, UDF News, October 1983.

21.3. The State's interpretation of the documents is not always accurate and is not accepted as such by the defence.

21.4. By way of illustration of the above proposition, it is argued by the State that UDF National, through prominent leaders,

actively participated in the actual politicisation and activation of the masses in Huhudi. As an example, it is stated that Accused No 19 organised and spoke at instruction courses ('opleidingskursusse') in the area. Reference is made to Exhibit AL37. (Betoog p779 para 5(2)). This is not correct.

21.4.1. The exhibit seems to refer to events in February 1984, which falls outside the relevant period.

21.4.2. The exhibit reflects that the workshop could not be conducted because the venue was required for a church service shortly after the scheduled time.

21.4.3. It also reflects that the workshop 'degenerated' into a discussion on the UDF and its campaign including the MSC'.

21.4.4. There is no indication that Molefe was involved in any other workshop apart from this one as suggested by the State.

- 21.5. A number of submissions are made in this section of the Betoog for which no evidence (oral or documentary) is cited in support. For example, on p780 it is stated that Curtis Nkondo addressed the people in Huhudi on a number of occasions. It is stated on p779 that Molefe played a leading role ('leidende rol') in organising for the establishment of the Northern Cape region of the UDF and the holding of mass meetings in Kimberly. Apart from the questionable relevance of such propositions, the absence of reference to the evidence makes it impossible for the defence to deal with such submissions.
- 21.6. On page 799 of the Betoog it is stated that Jomo Khasu pertinently warned Matlhoko that it does not help to serve on the community council because the youth are going to launch stone attacks on a countrywide basis. This was the message from Dr Motlana. It was also said to Motlhoko that if he served on the council there would be no way of preventing him from being attacked with stones.

21.6.1. The passage relied upon for this proposition comes from the evidence in chief of Matlhoko. In cross examination it emerged that the conversation which he purported to relate took place in August 1982.

21.6.2. The attitude of the state, during cross examination was that the conversation took place before the establishment of the Huhudi Civic Association.

Matlhoko Vol 77 p 4065 lines 4 - 11

Presumably to indicate that this was not part of their case.

21.6.3. The incident thus occurred before the UDF had been thought of and is not admissible against the accused. Furthermore it was not canvassed in the cross examination of Dr Motlana.

21.7. On page 801 of the Betoog it is stated that Thebe testified that speakers incited the people to unite and actively participate in action against black local authorities, the

police and the government. The first reference relied upon by the state is to the cross examination of Thebe.

21.7.1. The passage relied upon by the state is an answer to a generalised and unspecific question. The answer given by the witness does not suggest that the "action" contemplated was to be violent or unlawful nor was this suggested to him.

21.7.2. The witness was specifically questioned about the advocacy of violence at the meetings of HUCA attended by him between 1982 and 1985. He stated that he never heard any speaker say that councillors should be killed or their property destroyed or that policemen or their property should be attacked.

Thebe Vol 404 page 23566 line 12 -  
page 23567 line 4

Vol 405 page 23617 lines 29 - 30

21.7.3. The second passage relied upon by the state is from the evidence of Maketse. It does not support the proposition relied upon. The witness states that it was not suggested at the meetings she attended that councillors must be destroyed ("vernietig") or got rid of ("ontslae geraak word"). She also stated that the councillors and the "boere" were not described as the enemies of the people of Huhudi.

22. It is submitted that no inference can be drawn that the UDF or its affiliates were responsible for the violence which took place in Huhudi. The feelings of people towards councillors, the conduct of councillors at meetings, the unhappiness of the people concerning their threatened removal, the fact that some of the residents felt that councillors were responsible for their removal and the ANC presence in the area were all possible causes. Whatever the cause may have been, the State has clearly not discharged the onus of proving the allegations made by it in relation to the cause of violence in this area.

1. The allegation made at page 80 of the Further Particulars is that during 1984 the Leandra Action Committee organised and violence and revolt took place.
2. There is no dispute between the State and defence in regard to the following, namely
  - 2.1. The Leandra Action Committee is not affiliated to the UDF.
  - 2.2. Mr Abel Nkabinde was the chairman of the Leandra Action Committee during the period referred to in the indictment.
  - 2.3. There was violence in Leandra during 1984 as per the admission contained in Exhibit AAS3 page 9 of the annexure.
  - 2.4. There was a meeting called by community councillors in Leandra at the school hall on 28 October 1984.
  - 2.5. Mr Abel Nkabinde tried to stop people from going into the meeting.
  - 2.6. The meeting was disrupted.

Apart from this, the summary of issues 'not in dispute' put forward by the State in paragraph 1 pages 815 - 816 of the Betoog is tendentious and inaccurate.

3. The State evidence does not establish any close connection between the LAC and the UDF.

3.1. Exhibit O2, referred to in paragraph 2.2 (page 812 of the Betoog) refers to a meeting held in Leandra on 31 December 1983. There is no indication that the LAC was involved in this meeting: only, that a working relationship was established with LAC after the meeting. What that relationship was and for how long it endured is not established on the evidence. What is clear is that the LAC participated in the BLA elections held in 1983, and apparently sought to unseat the council in 1984 so that it could contest a new election and gain control of the council.

3.2. It is common cause that the Leandra Action Committee fielded candidates in respect of the Black Local Authority elections held during October 1983 and that the action committee ran no campaign against the Black Local Authorities up to this time.

Mahlangu: Vol 409 p23837 line 1 - p23840 line 7

- 3.3. The letter Exhibit DA203 written by the attorneys of the Leandra Action Committee on its behalf on 23 January 1984 confirms that, by this date, there was no campaign against the Black Local Authorities either. In fact, councillors were present at the meeting of the Leandra Action Committee held during January 1984 according to this letter. The working relationship with the UDF could therefore not have been very close at this time.
- 3.4. The document G2 relied upon by the State confirms the absence of any close working relationship. This secretarial report to the meeting of the national executive committee of 1 July 1984 (the Betoog wrongly places this meeting at 1986), confirms that the UDF had 'a limited presence' in certain areas including Leandra.
- 3.5. Further confirmation of the absence of any close working relationship between the UDF and the Leandra Committee is to be found in the minutes of the regional executive committee of the UDF (Transvaal) held on 1 November 1984 which records a decision that Pat Lepunya was to visit certain places in the Eastern

Transvaal including Leandra 'for a general discussion with people interested in the UDF'. There is no reference to any contact being made to any organisation. In addition, it would appear that the detention of Mr Nkabinde which appears to have occurred on 28 October 1984 is not discussed at all.

Exhibit S14 page 3 last paragraph

3.6. The entry in AM15 shows no more than a request to the UDF for advice after the arrest of Mr Nkabinde in 1984. This is consistent with the limited contact which apparently existed prior to that date, and is not evidence that the LAC was in close contact with the UDF.

3.7. The State also refers to certain news items contained in various publications. The contention that these are not admissible to prove the truth of the facts set out therein is repeated.

In addition the fact that the Million Signature Campaign blitz 'got going' in the Transvaal as per AAC47, that police broke up a

meeting 5 000 residents in Leandra (W32), and that a parents committee had been set up in Leandra before March 1985 (AAC55) does not help to prove any relationship between the Leandra Action Committee and the UDF. The action committee is not mentioned in any of these publications; nor is any connection drawn in W32 and AAC55 publications between such activities and the UDF. It must also be remembered that AAC55 appeared after the specified period of 1984 to which the State is bound in accordance with the indictment.

Betoog: pp818 and 819 paras 4, 5, and 7

- 3.8. Exhibit C99 has not been shown to be a UDF document, nor has it been established who attended the civic workshop or when it was held. There is nothing to show that the organisations discussed under 'introduction' were all represented at the workshop, nor that they were all affiliates of the UDF. No evidence has been given about the workshop. It is not known whether it was a workshop for organisations or individuals, whether the 'introduction' was given by one or more persons or why the specific organisations were chosen as a subject for discussion. It is

pure conjecture that the workshop was organised by the UDF for the organisations referred to in the 'introduction'. The witness Mahlangu had no knowledge of the workshop or of LAC representation there, and his evidence on this issue is not shown to be false. He also said that the LAC did not have sub-committees on transport, education and advice. Thus, whoever spoke about the LAC was clearly ill-informed and in all probability not a member of the committee.

Mahlangu: Vol 409 p23875 line 7 - p23876 line 26

4. In this context, the statement concerning Mr Nkabinde to the effect that the UDF has something to do with the Leandra Action Committee cannot mean much.

IC19: Vol 101 p4967 line 14 et seq

In any event, it will be submitted later that IC19 cannot be believed.

5. Mr Mahlangu who was the assistant secretary of the Leandra Action Committee said in his evidence that the action committee had no contact whatsoever with the UDF. He added that he knew that the UDF was against the council system at the stage when the Leandra Action Committee decided to participate in the elections.

Mahlangu: Vol409 p23849 lines 14 - 30

6. It is submitted, therefore, that the State has not established a relationship between the UDF and the Leandra Action Committee which was of such a nature that the Leandra Action Committee can be regarded as having engaged in any particular activity in furtherance of UDF policy or at the instance of the UDF.
  
7. It is submitted in any event that the evidence of IC19 cannot be believed. The weaknesses in his evidence are detailed below:
  - 7.1. Firstly, the witness contradicted himself about the attitude of the Leandra Action Committee to the council system i.e. whether it rejected the system as a whole or whether it was interested simply in re-elections. It must be borne in mind that, according to Exhibit AAQ44, the action committee specifically wanted re-elections.  
  
He twice said that the attitude of the Leandra Action Committee was that there should be no community council at all.  
  
IC19: Vol 101 p4954 lines 9 - 29 and p4955 lines 22 - 25

His evidence later was that the action committee did call for re-election.

Vol 102 p5029 lines 18 - 30

Finally, he found himself in considerable difficulty and became vague and evasive when Exhibit AAQ44 was put to him

IC19: Vol 102 p5044 line 6 - 5045 line 30

- 7.2. His evidence concerning the purpose for which the meeting of 28 October 1984 was held is contradictory.

He initially said that this meeting had been held to put right the false impression deliberately and consistently created by the Leandra Action Committee in connection with whether the residents were to be moved to KwaNdebele or not. This misrepresentation had apparently gone on for a few months before 28 October 1984. He made it plain that one previous meeting had already been held by the community councillors to clear up the misconceptions dishonestly created by the Leandra Action Committee.

IC19: Vol 101 p4955 line 26 - p4957 line 7 and p4958 line 17 - p4960 line 9

He later says that the meeting of 28 October 1984 was called in the context of the Leandra Action Committee contention concerning the expiry of the term of office of the council and to give some explanation in connection therewith.

IC19: Vol 102 p5043 lines 3 - 11

- 7.3. He further contradicts himself on the question of the context of the meeting at which the people from Black Sash were present.

At one stage in his evidence, he said that the people from the Black Sash were present at a meeting at which the people were consulted about and expressed their consent concerning the removal of some members of the community to a temporary place pending building work.

IC19: Vol 101 p5013 line 4 - p5014 line 8

However, he had already said earlier in his evidence that this meeting took place after the members of the community had already moved to the temporary place, that is to say after the people had been consulted and had consented to the move.

IC19: Vol 101 p4956 line 6 - p4958 line 30

- 7.4. His evidence to the effect that Nkabinde, prevented people from attending the meeting of 28 October 1984 by saying that an 'ongeluk' would befall them if they went into the meeting is unconvincing.

IC19: Vol 101 p4960 line 2 - 4063 line 15

In the first place, it is unlikely that these threats would have been uttered loudly enough for IC19 to have heard at a time when the police were outside. Secondly, there is a contradiction between IC19 and IC20 in this regard. IC20 did not hear what was said. He said that people from the Leandra Action Committee whispered into the ears of those people who came to attend the meeting. The witness was accordingly unable to say exactly what was said to the people to prevent them from entering the hall.

IC20: Vol 103 p5107 lines 26 - 30

Thirdly, if IC19 is to be believed, this unusual and improbable method of uttering a threat is a method repeatedly employed by Nkabinde. According to him a threat in this form was made to him by Nkabinde at a meeting between members of the action committee and

members of the council concerning the re-election issue.

IC19: Vol 101 p4954 line 10 - p4955 line 13

It is worth noting that evidence of this threat had to be painfully extracted from the witness by the examiner in chief. After he had concluded his evidence in connection with this meeting, his evidence is as follows:

'Was dit toe die einde van die gesprek?

Ja, dit was toe die einde van die gesprek.

Was dit heeltemaal die einde of het Mnr Nkabinde ook gese wat sal gebeur as julle nie julle setels ontruim nie?

Hy het eers aan ons gese voor ons uiteen is dat ons 'n ongeluk gaan kry as ons nie padgee nie.

IC19: Vol 101 p4955 lines 14 - 19

He uses the same formulation in connection with the threat even where he is dramatically reporting what must obviously have been said to him about something which is supposed to have happened at a meeting which he did not attend. After he has given an account of this threat made at the meeting between the Leandra Action Committee and councillors, his evidence

reads as follows, namely 'Hy het toe daarna dit aan die gemeenskap gaan oordra dat hierdie honde van die goewerment, as hulle nie padgee nie, gaan hulle 'n ongeluk kry'.

IC19: p4955 lines 19 - 21

- 7.5. IC19 was also an inventive witness. When questioned closely about why he referred to the Leandra Action Committee as enemies, he surprisingly and for the first time under cross-examination introduces the serious allegation that Chief Ampi Mayise had threatened to set him alight if he did not resign as a councillor.

IC19: Vol 102 p5039 lines 10 - 25

It is submitted that this allegation must be false. If the allegation were true, it would certainly have been communicated to the prosecutor and thereafter led in chief particularly since the object of his evidence was to show that the Leandra Action Committee was responsible for the arson attack against his property.

- 7.6. It is submitted that an overall reading of his evidence shows that he was responsive to the

State, but under cross-examination was shown to be an evasive witness who is not clear. He did not answer question directly and was often unnecessarily argumentative.

In all the circumstances, it is submitted that his evidence cannot be relied upon as being true beyond a reasonable doubt.

7.7. The State seems not to rely on IC20 save when he corroborates IC19. In the circumstances no submissions will be made concerning his evidence other than to say that he was clearly an unreliable witness.

8. The witness who gave evidence on behalf of the defence was Mr Mahlangu, the acting secretary of the civic association.

8.1. It is submitted that the only real criticism of his evidence was that he suggested that there were no problems between the Leandra Action Committee and the council at any stage.

8.2. Mr Mahlangu's undisputed evidence, however, is that the action committee took up the attitude that councillors should resign during the second half of 1984. This attitude was not

taken up because the committee did not want the council system at all, but because it was felt by the members of the committee that the term of office of the councillors had expired during October 1984 in accordance with the notice Exhibit AAQ42. The committee did not advocate any action against councillors. The letter AAQ43 from which it is perfectly clear that the Leandra Action Committee desired re-elections was written, members of the action committee attended a joint meeting with councillors and other officials to discuss the matter, an attorney was consulted about the steps which could be taken in future, and the matter was finally dropped on his advice. This course of conduct is inconsistent with any campaign aimed at compelling councillors to resign on the basis of a fundamental objection to the council system.

Mahlangu: Vol 409 p23844 line 1 - p23846 line 9

8.3. His evidence concerning the obstructive conduct of councillors who refused to cooperate with the action committee at a meeting called by the action committee during 1984 is also undisputed.

Mahlangu: Vol 409 p23846 line 27 - p23848 line 11

8.4. He testified that he did not attend the meeting of 28 October 1984 because on that day there was an announcement by loudhailer to the effect that those who talked too much at the meeting would be shot.

Mahlangu: p23848 line 4 - p23849 line 13

That a loudhailer was used that day is supported by the evidence of IC19 to the effect that, on the morning on 28 October 1984 he heard that Nkabinde was threatening to cause trouble at that meeting. He therefore instructed one Morajane to announce by loudhailer in the township that the meeting would continue despite Nkabinde.

IC19: Vol 102 p5049 lines 1 - 11

8.5. It is also clear from his evidence that he got to know that Mr Nkabinde had tried to stop the meeting only after the incident and from Mr Nkabinde himself. According to the witness's information, Mr Nkabinde, had tried to stop the meeting of 18 August 1984 by saying that councillors should stand down because their term of office was over.

Mahlangu: Vol 409 p23889 lines 20 - 30

9. Whilst it is common cause, therefore, that Mr Nkabinde tried to stop the meeting, it is not common cause that Mr Nkabinde disrupted it. The case must be determined, it is submitted, on the basis that Mr Nkabinde tried to stop the meeting by telling people that the term of office of these councillors had expired and that they should therefore not go to the meeting.

10. No reliance can be placed on the hearsay evidence given by Mr Mahlangu under cross-examination concerning Mr Nkabinde's conviction in respect of certain offences. Reference is made to the submission that such evidence is inadmissible during the general argument in respect of the 31 Areas.

Argument in the Court Record: Vol 450 p26561 line 3  
et seq

11. The State's final submission in regard to this area is that the occurrences in this area during the particular period fits in with and forms part of the tactic and conduct of the UDF which, according to the State has already been spelt out.

Betoog: p827 para 5

This submission is incorrect. The desire of the action committee to field candidates in respect of the

elections in 1983, the absence of a campaign against the Black Local Authority elections in 1983, and the pre-occupation of this committee with re-elections during the second half of 1984 are all facts which are common cause and which contradict this submission

12. It is submitted that there is no evidence .  
alternatively insufficient evidence that:

12.1. Members or supporters of the Leandra Action Committee perpetrated acts of violence and/or intimidation; and/or

12.2. Even if these events have been proved to have been the work of individuals associated with LAC, that LAC as such encouraged, promoted, or authorised acts of violence and/or intimidation;

12.3. If the LAC was involved, that it encouraged, promoted, and/or authorised the acts of violence and/or intimidation because of guidance received from activists of the UDF including Accused Nos 19, 20 and 21

13. The evidence of the conflict in Leandra seems to be related to conflict between supporters of rival bodies competing for control of the community council. But

even if this is not so, the allegations made in the indictment concerning the UDF's responsibility for such matters, has not been established.

AREA 20 - CRADOCK (Betoog pages 828 - 869)

1. It is alleged ast page 79 of the Further Particulars that since September 1984 Cradock Civic Association (CRADORA), Cradock Youth Association, UDF, GRAVO and COSAS organised and violence, intimidation and rioting took place.
  
2. The State evidence given tended to be in general terms. Two witnesses, Sgt Botha and Sgt Labuschagne described the atmosphere at funerals. There were apparently ten funerals during 1984 and 1985 which fall into this category.
  
3. According to Labuschagne the way the funerals were conducted was as follows:
  - 3.1. Before the service youth began to run together in the streets to get persons together.
  
  - 3.2. Persons carrying homemade banners ran in front with other youths following.
  
  - 3.3. They ran up one street and down another shouting slogans such as 'Viva ANC', 'Viva Tambo' and 'Viva AK47'.

- 3.4. After the service the family together with the coffin bearers were in front of the procession.
- 3.5. Behind them are youth carrying raised banners bearing the names UDF, CRADORA, COSAS and others.
- 3.6. The rest of the group followed behind the banners singing revolutionary songs and slogans. (Vol 108: page 5368 - 5370)
- 3.7. After the proceedings at the graveside the family were given a chance to leave. Thereafter the banner carrying group which included youth and adults moved through the township again. (Vol 108: page 5368 - 5370)
4. Sgt Hough gives a similar description of the funerals.  
Hough: Vol 107: pages 5345 - 5347
5.
  - 5.1. According to Hough policemen, Development Board officials and teachers were attacked by youth after the funeral.  
Vol 107: page 5438

- 5.2. He was however unable to name any deceased person after whose funeral attacks took place, and could name only one person whose property was damaged as a result of such attacks.  
Vol 107: page 5349; 5350
- 5.3. According to Labuschagne there were incidents of house burning after funerals. He was, however, unable to remember specific funerals or specific dates when this happened, or to give the name of deceased persons whose funerals ended in this way.  
Vol 108: page 5373
6. Labuschagne mentioned the burning of a house of a council member known as Nomavuka but cannot recall when it occurred or what happened before the burning.  
Vol 108: page 5374
7. Hough described an incident in February 1985 when two separate groups of persons were seen by him in the township of Langelihle at separate times. Both groups were singing and shouting but he does not know what. One group, carrying a COSAS banner, threw stones at policemen's houses on their way to a hall. The other group carried a banner called CRADORA. It is not suggested it threw stones.  
Vol 107: page 5326 - 5328

8. Hough also referred to the following:

8.1. The murder of a policeman but gave no information in regard to the circumstances of the murder.

Vol 107: page 5330

8.2. An incident when he saw a group of black persons setting a car alight in the township. There wer 20 or 30 of them, and 5 or 6 wore UDF T-shirts. He could not identify any of them.

Vol 107: page 5330

8.3. An incident on 3 February 1985 when a house and car of a teacher were set alight; and the words UDF were seen painted on the house.

Vol 107: page 5331

9. A number of documents found in Cradock on 24 July 1984, 10 October 1984, and on other occasions were produced in evidence. These were AAY 14 to AAY18, and documents found in the possession of one Victor Puwani on 10 May 1985 (AAZ 6 to 14).

10. From the above facts, the State seeks to draw the inference that the named organisations are responsible for the violence which occurred. On the State's evidence such inference would be purely speculative.

11. The defence has placed before the Court a full account of the developments in Cradock from 1983 until 1985 so that a proper inference can be drawn from a broader range of facts in their context. These will be highlighted.

12. Background to Launch of Civic Organisations

12.1. It is undisputed that children were undisciplined after 1977 and that the introduction of Goniwe into the environment caused a phenomenal change. Mr Goniwe inter alia, stopped disco shows and talked to parents to try and remedy the situation.  
Skweyiya: Vol 410 p23938 line 15 - p23941  
line 27

12.2. At a meeting organised by the witness at the request of Mathew Goniwe, he (Mr Goniwe) said that he was worried about the youth who should be encouraged to attend church and to participate in cultural activities. After this significant statement, it was decided to hold a series of small meetings which were to culminate in the formation of a youth organisation. The UDF was not involved in this effort at all. This appears not to be disputed.

Skweyiya: Vol 410 p23941 line 28 - p23943  
line 25

- 12.3. After drama and cultural groups had been formed and certain activities of these groups had taken place, and during August 1983, there was a meeting at which parents and youth were present. CRADOYA was launched at this meeting. It is not disputed that Mr Goniwe spoke at this meeting about the importance of children being disciplined at home, at school and in life generally, and that he was thereafter elected chairman of the organisation.

Vol 410 p23945 line 18 - p23947 line 8

- 12.4. There is undisputed evidence that on 25 August 1984 a meeting was called to discuss the rent increase. It was agreed that lawyers would be consulted about the problem and that residents would pay R5,00 each for this purpose. Clearly, the approach to the problem was to seek legal redress and not to resort to unlawful methods.

Skweyiya: Vol 410 p23948 line 9 - p23950  
line 28

- 12.5. During September 1983, a letter was written to the Chief Director of the Development Board at Port Elizabeth which was followed by a meeting with the town clerk at which various issues were raised. Nothing was achieved, however. There was then the realisation that some sort of civic association was necessary. It is common cause that Mrs Molly Blackburn (of the Black Sash) was to be consulted about a new constitution. It is significant that the UDF was not to be consulted bearing in mind that the national launch had taken place a month earlier.
- 12.6. It is undisputed that CRADORA was launched against this background on 4 October 1984. The UDF had nothing to do with this.
- Vol 410 23950 line 9 - p23953 line 18
13. The Transfer of Mr Goniwe and the Events of 1984/1985
- 13.1. Much unhappiness and dissatisfaction resulted from the intended transfer of Mr Goniwe which became known at the end of 1983. CRADOYA called a meeting of more than 2 000 people all of whom were very angry. Nevertheless no decision was taken to embark on violence. Rather a delegation went to see a

representative of the Department of Education in order to secure Mr Goniwe's reinstatement. This effort failed. A petition was drawn up in January 1984. Mr Goniwe did not report to his new school and was dismissed.

Vol 410 p23955 line 16 - p23959 line 3

- 13.2. A boycott thereupon started at the Lenglihle High School on 3 February 1984. There was a measure of violence and parents did not send their children to school for some days thereafter. A meeting called by the principal on 6 February 1984 ended with the announcement that the school would be closed.

Skweyiya: Vol 410 p23959 line 24 - p23963 line 27

- 13.3. Some days later there was a letter from the Department of Education saying that schools would be reopened but the pupils refused to go back until Mr Goniwe's reinstatement. On 23 March 1984, all gatherings were prohibited and remained so prohibited at least until the end of June 1984.

Skweyiya: Vol 410 p23967 line 18 - p23968 line 24.

13.4. It is not disputed that there was violence on 25 March 1984 which was the date upon which a scheduled meeting could not take place in consequence of the magistrate's restrictions. Thereafter, two further incidents gave rise to more violence. In the first place, Mr Goniwe was detained on 30 March. Secondly, a child was stabbed by the nephew of the vice-principal during April 1984. There were petrol bomb attacks against community councillors and the principal of the school. In addition, certain funeralgoers were attacked. It is not disputed that the witness and others, being unhappy about this violence, were refused permission by the district commandant and the magistrate to hold meetings in an effort to stop this violence.

Vol 411 p23969 line 19 - p23973 line 17

13.5. Mr Goniwe was released on 15 October 1984 and the witness attended a meeting to celebrate his release. At this meeting, and approximately nine months after the violence had begun, Mr Skweyiya first heard about the formation of a COSAS interim committee which he had read about in the newspaper shortly before the date of this meeting. It is

emphasised that there was no permanent COSAS structure at this stage.

Skweyiya: Vol 411 p23976 line 9 - p23977 line 9 read with 23977 lines 20 - 26

The State omits to mention that the witness read about COSAS shortly before 15 October.

Betoog: p865 para 9

- 13.6. It is also not disputed that all the speakers including the witness made unequivocal appeals for the absence of violence at the funeral of the witness's nephew who had been shot. This funeral was held during February 1985. It is common cause that there was no violence after this funeral.

Skweyiya: Vol 411 p23979 lines 21 - 30

- 13.7. At this time, there was disappointment as a result of contradictory statements by departmental officials concerning Mr Goniwe's position which raised suspicion. An official of the Department of Education and Training said to a delegation in Cape Town that there was a good chance that Mr Goniwe would be reinstated. However, at the same time a telegram had been sent by the Minister's office to say that the issue had been closed.

Vol 411 p23980 line 1 - p23981 line 18

- 13.8. It also appears to be common cause that there was a meeting in the township sometime before April 1985 at which Mr Goniwe said that the children should go back to school. A meeting of parents was held on Easter Monday 1985 during which Mr Goniwe motivated strongly for the children to return to school. As a result of this, a decision was taken that children would return on 15 April 1985.

Vol 411 23981 line 18 - p23990 line 4

- 13.9. There was evidence that councillors were not mentioned at any of the meetings leading to the formation of CRADORA and CRADOYA and that councillors had been attacked and beerhalls damaged from as early as 1980 because they did not keep their promises.

Vol 410 p23953 line 19 et seq

- 13.10. It is quite clear therefore that violence against councillors started before the formation of these organisations.

- 13.11. There was never a policy in the organisation that councillors should resign.

Skewyiya: Vol 411 p24025 lines 7 - 9

13.12. The violence was not limited to councillors and government officials. The house of the vice-chairman of CRADORA was also destroyed.  
Vol 411 p23971 lines 26 - 30

14. The Credibility of Mr Skweyiya

14.1. The State does not suggest that the witness should be disbelieved. However, it makes two minor but invalid criticisms.

Betoog: p865 para 11

14.2. The first of these criticisms is that he jumps to unjustified conclusions about police conduct without any real basis therefor and passes blame onto the police where this is not justified.

The State quotes as an example the incident where the witness had seen children at school being assaulted by the police using sjamboks when they were singing. The witness concedes that he came to this conclusion. It is submitted that, on his evidence, the conclusion is fully justified.

Skweyiya: Vol 412 p24051 line 25 - p24052  
line 8

14.3. There is the suggestion that the witness was not frank with the Court concerning the relationship between the organisations in Cradock and the UDF. It is said that his explanation concerning the report Exhibit AAZ8 which was sent by CRADORA to the UDF, is unsatisfactory. AAZ8 was certainly not sent by CRADORA to the UDF. It is a letter of resignation by Mbulelo Goniwe to the 'Cradock Residents and Youth Associations'. It does not deal with the relationship between the UDF and any organisation in Cradock. Moreover his answers in relation to the document were totally satisfactory. He did not know about the document and no reason has been advanced why he should have known about it.

Skweyiya: Vol 412 p24044 et seq

15. The Involvement of the UDF in this Area

15.1. The State argument is characterised by sweeping statements concerning the alleged role of the UDF in the unrest in the area but without reference to the evidence. In the main, reliance is uncritically placed on documents without regard to their context or their admissibility.

15.2. Some reliance is placed on Exhibit T24 document 2, a report sent after 15 January 1984 to the UDF by one M Goniwe who signs himself as organiser of CRADORA. The document does not say at all that any issues were used by the organisation. There is nothing in the document which points to the organisation itself being violent. It is clear that the document represents the beginning of a relationship between the UDF and organisations in Cradock. What is of some significance is that from this document the school boycott is seen as a measure of last resort:

'The situation is so emotion charged, the youth organisation, CRADOYA, has resolved to call for a school boycott if all attempts to reason with those responsible fail. Presently, a combined effort is being made by CRADORA and CRADOYA to circulate a petition which will be sent to the department'.

Betoog: pp828 and 829 para 1

15.3. The State's interpretation of AJ14 is also incorrect:

15.3.1. There appears to be no oral evidence on this document.

15.

15.3.2. It is undated but admitted to have been found in the UDF offices, Johannesburg on 19 February 1985.

15.3.3. What the document in essence states is that there will continue to be difficulties for so long as the authorities address themselves to the symptoms and not the underlying causes of the problems.

15.3.4. It is not known whether the statement was actually issued and if so, in what form.

15.3.5. It certainly cannot be said that this document encourages the continuation of the boycott.

Betoog: p830 para 2

15.4. Reliance is also placed on the fact that Mr Mathew Goniwe was appointed organiser by the UDF in the Eastern Cape. A submission is made that he organised violence.

15.4.1. There is no evidence at all about Mr Goniwe having organised violence. It is clear from the

undisputed evidence of Mr Skweyiya which has been dealt with, that Mr Goniwe was a God fearing man who was interested in the discipline of children and who had a stabilising effect on the community.

15.4.2. According to AAZ6 upon which the State relies, Mr Goniwe was appointed organiser only on 3 March 1985.

Betoog: 830 para 3

15.5. The State then elevates one address by Mr Oscar Mpetha in Cradock on 20 October 1983 to the proposition that UDF leaders took an active part in the mobilisation and organisation of the people of Cradock. This is undue exaggeration. The evidence of this meeting is based upon a poster advertising it. There is no evidence that Mpetha actually spoke and if he did speak, what he said.

Betoog: p830 para 4

15.6. The contention that the fact that Exhibits AAZ6 to AAZ14 were found at the house of Mr Puwani demonstrates that UDF documents are

regularly distributed to organisations in Cradock is without foundation. Exhibit AAZ8, AAZ10(1), AAZ10(2), AAZ10(3), AAZ10(4), AAZ12, and AAZ14 have nothing whatever to do with the UDF. AAZ10 relates to a Black Sash workshop to be held during June 1985 with a letter of invitation dated 15 May 1985. This falls outside the period of the indictment. It is difficult to understand how this letter was found in the possession of Mr Puwani on 10 May 1985 as alleged by the State.

15.7. All the UDF documents are dated after February 1985. Three of them, i.e. Exhibits AAZ6, AAZ7 and AAZ9 are from the Eastern Cape region of the UDF. AAZ11 and 13 are the only two document which originate from the UDF national office. None of these documents encourage any violence.

15.8. The fact that a copy of each of these documents was found at the home of this person gives rise to no inference in connection with distribution. One does not know how he came by the documents.

15.9. The State's interpretation of document AAZ6 is not justified by the document at all. It is argued that the statement in the secretarial report, 'UDF represents a unity acquired through several years of reconstruction of the national democratic movement' constitutes an acknowledgement of links with the ANC since the ANC is generally regarded as the National Democratic Movement. This submission is patently without any foundation whatsoever.  
Betoog: pp830 - 831 para 5

15.10. On p832 para 6 of the Betoog, the State tries to make something of the presence of Mr Molefe in the vicinity on 19 April 1984, and of certain documents found in his possession.

15.10.1. None of the documents have anything whatever to do with Cradock except for AAZ4. It is not clear by whom Exhibit AAZ4 was written. It seems to be an expression of the way in which the people in Cradock felt at that time and nothing more. The State's interpretation of the document is therefore incorrect.

15.10.2. In any event, Mr Molefe's presence in the area in April 1984 can have nothing whatever to do with the violence which occurred in Cradock (according to the further particulars) since September 1984.

15.10.3. It was certainly never suggested to Molefe that his presence in the vicinity was in any way causally connected with the violence in the area. His explanation of the circumstances of how he was stopped at the roadblock were not disputed by the State.

Molefe: Vol 252 p13485 line 6 - p13486 line ?

16. COSAS

16.1. The State has led no evidence which proves that COSAS organised to bring about violence. Even if it were able to do so, it would still be necessary to show that this was the policy of COSAS, that it was both known and endorsed by the UDF and that this was known to the accused. The State has clearly not been able to establish any such nexus.

16.2. Reliance by the State on Exhibit CA43, CA44, and CA45 in relation to a COSAS conference in June 1985 is misplaced. The fact that there was a branch of COSAS which attended this conference has nothing to do with the matter. In any event, this conference fell outside the period of the indictment. Argument has already been addressed in relation to Exhibit CA45.

Betoog: p833 paras 2 and 2.1 up to 834

16.3. Exhibit AB5 (referred to in Begoog pp834 - 836) has already been extensively dealt with in the argument relating to the UDF and education. (Exhibit AB5 is the same as Exhibit AB19.) Suffice it to say here that the document does not deal in particular with Cradock and does not take the question of whether the UDF is responsible for the violence which occurred in this area during the period September 1984 to April 1985 any further. The State's interpretation of the document is not correct and simply ignores the evidence given by Molefe in respect thereof.

Betoog: pp834 to 836

See: Written submissions on Education para 9.9 pp 21 - 22

16.4. The State relies on various pamphlets found at different times in Cradock. It must be borne in mind that many of the pamphlets were found before September 1984 and therefore have nothing to do with the allegations in the indictment in respect of this area. In addition, none of the pamphlets have any connection with the violence in the area, nor can they be related to the UDF campaign against Black Local Authorities as alleged in para 66 of the indictment. Furthermore, two of the pamphlets relied upon, namely AAY15 and AAY16 are of unknown origin, and one, AAY17 purports to have been published by AZASO which is not alleged to be responsible for the violence in the area.

Betoog: p838 paras 1 to 6

16.5. The reference to COSAS having held mass meetings in Cradock is not borne out by the evidence.

Betoog: Vol 6 p842 para 4

17. The evidence that slogans were found painted near the sportsground does not advance the State case in the absence of evidence as to who was responsible. It is impossible to say whether the slogans were painted by one person or by many different people.

Betoog: p840 para 10

18. The State refers to several other documents which will not be dealt with in detail. Suffice it to say that some of these do not relate to Cradock, others are newspapers or newsletters printed by organisations which were, at some stage media affiliates of the UDF, and yet others throw no light whatever on why the violence in fact occurred in the area. The use of the documents is often inaccurate or misleading and the State's submissions thereon are not accepted as correct. Some of the documents are admissible for limited purposes only while others are not admissible at all. For example:

18.1. Reliance is placed upon certain statements in Exhibit W48, Grassroots, March 1984, (admitted to have been found in possession of one D M Makgoe, Tumahole) for the proposition that co-operation for the realisation of a common objective is never doubted and is pertinently brought home by all interested parties.

(Betoog p833)

18.1.1. The document does not seem to have been referred to in evidence at all.

18.1.2. It is not admissible either at common law or in terms of Section

69(4) of Act 74 of 1982 it not having been proved that D M Makgoe was a member, office bearer, etc of an organisation of which the accused is alleged to be a member, office bearer, etc.

18.2. Exhibit W19, SASPU National, March 1986

(referred to in the Betoog at p837) was found in the possession of one A E Saloojee. There is an E A Saloojee who is admitted to be a member of the TIC. He, however, is one of seven Saloojees on the TIC.

18.2.1. The only witness to whom this document seems to have been put was Dr Motlana. He was not questioned about the passage relied upon by the State in the Betoog.

18.2.2. The document is not admissible either at common law or in terms of Section 69(4) of Act 74 of 1982, even if it is assumed that it was found in possession of the Saloojee who is a member of the TIC.

19. The State argues in its Betoog at p842 para 5 that the outstanding feature in Cradock as well as all the other places where violence broke out in the use by organisations of issues ('knelunte') which the UDF identified for national organisations and mobilisation. The pamphlets establish the use of issues such as black education, removals, housing, low incomes, high rent, oppression by banning of meetings and detention of political activists.

19.1. This submission loses sight of the facts which the State undertook to prove arising out the indictment relation to the UDF's campaign against Black Local Authorities.

19.2. The issues allegedly identified by the UDF were shown to be long standing grievances in the black community which pre-dated the existence of the UDF.

20. Some ten pages of the Betoog, from pp843 - 853 are taken up with submissions concerning black education. A number of documents are referred to without regard to their context, admissibility or the relevant oral evidence in respect thereof. The correctness and accuracy of the State's submissions is not accepted. As far as the UDF's attitude to education is concerned, submissions have already been

made to the Court. In the context of the allegations concerning the violence in Cradock, the State has not shown how the documentation relied upon can be related to the UDF campaign against Black Local Authorities as alleged in para 66 of the indictment.

21. On p854 of the Betoog it is argued that the fact that those involved in violence wore UDF T-shirts establishes how the attackers associated themselves with the UDF and that what they do is done under the umbrella of the UDF.

21.1. This argument ignores the evidence concerning the ANC's use of T-shirts to camouflage its activities. (See para 7.2 of the written submissions on Grahamstown.)

21.2. It also ignores the undisputed evidence of Lekota concerning the availability and sale of UDF T-shirts.

21.3. Finally, there is an inherent improbability that a person engaging in unlawful activities would wear an item of clothing that would easily identify him with a particular organisation.

22. On p858 para 10 of the Betoog, the State submits that Skweyiya made an important concession regarding how far they had succeeded in Cradock in establishing the UDF's policy of People's Power. This was manifested in the establishment of street committees and area committees. In the passage from Skweyiya's evidence referred to, the following emerged:

22.1. There were street committees towards the end of January 1985 but they stopped in March when all gatherings were prohibited.

22.2. The street committees existed to give attention to the problems in those streets.

22.3. The concept originated from the community itself and not from the executive of CRADORA or CRADOYA or Mathew Goniwe.

22.4. Exhibit CA38 (on which the State relies) was put to the witness who stated that it was clear to him that the person who wrote the article did not come from Lingelihle and did not have the precise facts. The document itself makes it clear that the views expressed therein are not the official views of the UDF or any section of the front. This was pointed out by the defence in cross-examination of Skweyiya. It is not referred to by the State in the Betoog.

- 22.5. Problems of concern to the street committees included the damming up of water after the rains and the administration of the bucket toilet system.
23. The State relies on the presence of UDF T-shirts, COSAS T-shirts and one COSAS placard to draw the inference that named organisations are responsible for the violence about which the policemen gave evidence. Such inference is purely speculative.
24. In regard to whether or not CRADOYA and CRADORA were part of the conspiracy it must be taken into account that:
- 24.1. The UDF had nothing to do with the formation of CRADOYA.
- 24.2. The UDF had nothing whatever to do with the formation of CRADORA.
- 24.3. It is clear that these organisations came into existence as a result of local problems.
25. The following facts need to be taken into account in determining whether or not a reasonable inference can be drawn to the effect that the named organisations or UDF or the accused can be held liable for the violence in Cradock, namely

- 25.1. Mr Goniwe's arrival in Cradock resulted in considerable improvement in the discipline of the youth.
- 25.2. Mr Goniwe was particularly concerned about the discipline of the youth.
- 25.3. Mr Goniwe spoke at an initial youth meeting about the need for the youth to go to church and to be involved in cultural activity.
- 25.4. He (Mr Goniwe) spoke about the need for the discipline of youth at the meeting at which he was elected the chairman of CRADOYA.
- 25.5. Mr Goniwe was an extremely popular, local figure. The way he was treated as a school teacher and his subsequent detention would have angered the entire community..
- 25.6. Mr Goniwe after his release from detention called for non-violence at the funeral during February 1985.
- 25.7. Mr Goniwe strongly motivated that children return to school during April 1985.

- 25.8. There was violence against the property of community councillors from as early as three years before the formation of CRADORA and CRADOYA, that is to say from 1980.
- 25.9. Violence broke out in the area during January 1984, that is to say nine months before any COSAS interim committee was known to exist.
- 25.10. The violence was not limited to community councillors and government officials but extended to the property of the vice-chairman of CRADORA and others.
- 25.11. Violence escalated as a result of the stabbing of a child at school by the nephew of the vice-principal of that school.
- 25.12. Violence occurred on the day upon which a meeting was to be held and was not held on account of a magisterial restriction.
- 25.13. CRADORA had no policy that councillors should resign.
- 25.14. CRADORA had no campaign against councillors at all.

25.15. The UDF presence in the area was very limited.

All this is simply ignored by the State.

26. In all the circumstances, the State has failed to establish that the violence was committed at the instance of the UDF, or that it was a result of organising done by the organisations named in the Further Particulars or that the accused can be held responsible therefor.