

AREA NO 17 - TUMAHOLE (Betoog pages 533 to 562)

1. It is alleged that:

1.1. Since January 1984, the Tumahole Civic Association, the Tumahole Students Association, the Tumahole Youth Organisation, UDF and COSAS organised and intimidation, violence and revolt took place.

1.2. Mr Lekota, Accused No 20:

1.2.1. Provided training concerning the manufacture and use of petrol bombs to members of the public, and/or the Tumahole Students Organisation, and/or the Tumahole Youth Congress during the period July to September 1984.

1.2.2. Provided the abovenamed persons with instruction in the manufacture and use of banners and placards for use during demonstrations and revolt.

1.2.3. Addressed a mass meeting as guest speaker at Tumahole during January 1985 and proposed that the name of the Tumahole Students Organisation

should be changed to the Tumahole Youth Congress and encouraged the audience to take up the rent question, and to fight the councillors and destroy their possessions during 1985.

- 1.3. During July 1984, Mr Molefe, (Accused No 19), Accused No 20 and Bishop Desmond Tutu spoke to a Tumahole councillor in Johannesburg and informed him that if he was prepared to resign as councillors, his property would not be damaged any further.
- 1.4. After the councillor had resigned he (the councillor) telephoned Bishop Tutu who arranged for three pressmen to approach the councillor concerned in order to obtain a press statement concerning his resignation.
- 1.5. On 10 July 1984, Mr Molefe, Accused No 19 was stopped at a roadblock in the vicinity of Parys and found to have been in possession of certain documents.
- 1.6. On 15 July 1984 Mr Lekota, Accused No 20 was stopped at a roadblock at Tumahole and found in possession of certain documents.

2. The evidence led by the State was to the following effect:

3. Witness IC10 who gave evidence about Accused No 20 stated that this evidence was a fabrication. At page 3931 of the Record the judge stated:

'My point is this. This witness says that what she told me yesterday about Accused No 20 is a total fabrication. So, as far as I am concerned, I draw a line through that evidence. I take no cognisance of it at all. Can I go further than that?'

4. IC17 gave evidence that in 1984 the community council decided on tariff increases of R10,00, effective from 1 July 1984.

Witness IC17 Vol 97: page 4706 lines 3 - 19

5. Before July 1984 and at the request of the Thumahole Students Organisation (TSO), the Thumahole Civic Association (TCA), the UDF and Pro-Humanism, a meeting was held concerning the proposed increases.

IC17: Vol 97: page 4708 lines 5 -26

The mention of the presence of the UDF was an afterthought mentioned by the witness on the second day of giving evidence.

I C17 : Vol 97 page 4712 lines 19 - 29

6. At that stage, the tariff was R26,00 and the proposed increase would have taken it to R36,00. He stated that at that time anonymous pamphlets had been distributed in which it was stated that the people should not pay rental unless it was reduced to R18,00.

IC17: Vol 97: page 4707 lines 4 - 15

Under cross-examination he conceded that there had been no pamphlets before the meeting of July 1984 nor had there been any discussion of the 'R18,00' before that time.

IC17: Vol 97: page 4741 lines 7 - 21

Furthermore, the proposal of only paying R18,00 was first made in 1985. He conceded that his evidence in chief was wrong.

IC17: Vol 97: page 4744 lines 3 - 18

7. At the meeting, the UDF and the TSO was represented by one Skosana. It appears that Skosana represented only the TSO. Apart from the demand that the rental be reduced to R18,00 (which was later admitted to be a mistake), the witness was specifically asked if there were any demands in respect of the councillors themselves. The witness stated that there had been no demands in respect of the councillors. There was, however, an allegation that the councillors did not represent the people.

IC17: Vol 97: page 4713 lines 1 - 10

8. On 15 July 1984 the house and businesses of the witness were burnt down. When approaching his house that day he had noticed a large group of adults and youths (4714 lines 25 - 28). He had received a warning from the police that day that his house might be in danger (page 4715 lines 17 - 20). He twice conceded that the use of teargas by the police had made the people wild. (p4755 line 15 - p4756 line 2)
9. As a result of having seen a comment on events in Thumahole in the newspaper made by Bishop Tutu and by Lekota, he contacted Tutu and a meeting was subsequently held between him, Tutu, Accused Nos 19 and 20. This incident is dealt with separately.
10. The witness agreed that there had been increases in tariffs over the years. In general particular improvements would be promised as justification for these increases. He agreed however that promises had been broken.

IC17: Vol 97: page 4724 lines 26 - 29

page 4730 lines 25 - 27

11. The witness stated that initially the event in Thumahole had concerned politics but now others had

jumped onto the bandwagon: ex-prisoners, loafers, people with jealousy, etc. (page 4762 lines 3 - 20). Objections to the council system had, in the witnesses' view, come from the outside (page 4767 lines 15 - 22).

12. The witness testified that a meeting had taken place on 9 September 1984 between businessmen and community representatives, including members of the UDF. It was agreed that violence was not a way of resolving disputes.

IC17: Vol 97: page 4789 line 22 - 4790 line 6

13. Witness IC18 also testified on events in Thumahole. She was elected as a councillor and her evidence traversed some of the areas covered by Witness IC17. There are certain material discrepancies in the evidence of these two witnesses.

14. She testified that at the beginning of 1984 the TSO was organising against the council system. In May or June 1984 the TSO wrote to the council requesting a joint meeting. The meeting took place in the community hall and the question of the rental was discussed.

IC18: Vol 99: page 4863 line 12 - 4864 line 26

This was obviously the same meeting deposed to by IC17.

15. The witness stated that the TSO held the councillors responsible for the increase in rental and questioned the council's acceptance of the increase because it had previously happened that increases had been unlawful. At a later stage they had demanded that the rental be R18,50 and also at a later stage they had demanded the resignation of the councillors. (The witnesses' evidence concerning a demand of rental in the vicinity of R18,00 coming at a later stage is consistent with IC17's evidence that he had been mistaken in initially stating that this demand had presented at the joint meeting.)

IC18: Vol 99: page 4865 lines 8 - 29

16. At a second meeting after July 1984 the resignation of the councillors was demanded but nothing was said at the gathering as to what would happen if they did not resign. The witness stated that she had heard from other people - this evidence is hearsay - that it was being said that if they did not resign their property would be burnt and they would be killed. Thereafter the property of one IC17 was attacked.

IC18: Vol 99: page 4867 lines 8 - 28

17. The witness testified that there had been four attacks on her house:

17.1. On 24 March 1985 the witnesses' home was petrol bombed and the following day stoned. The fire was extinguished. With regard to the stoning the next day, she was able to identify three people in the crowd: Ace Magashule, Vuyo Dabi and Skosanana, the latter two she knew to be associated with the TSO and she thought that Magashule was also so associated. She had seen these three at the very back of the children who were throwing the stones.

IC18: Vol 99: page 4868 line 2 - 4869 line 27

Under cross-examination she stated that three people whom she identified 'were present while this was happening at the back'. She did not see any of them throwing stones nor was she able to identify anybody that was actually throwing stones.

IC18: Vol 99: page 4878 line 29 - 4879 line 5

17.2. On 7 May 1985 and after a meeting of the Garment Union her house was again stoned. She

was not at home at the time of the attack.

IC18: Vol 99: page 4871 lines 4 - 17

- 17.3. On 14 July 1985 the house was attacked by stones. At this stage she was no longer a councillor, having resigned on 26 March 1985 (page 4873 line 8). She went outside and asked them to stop and asked them what she had done wrong. They apparently apologised and then left. Later that evening her husband brought to her home Ace Magashule, Mosepedi and Thabane, the latter two being linked with the Thumahole Civic Association. She asked them what they wanted now that she had resigned. She stated that they had replied that they truly did not know what the children wanted because they had told the children that she should again be accepted into the community because she had resigned. Magashule and Mosepedi both spoke. They said that they would see to the repair of the broken windows and they in fact did so.

IC18: Vol 99: page 4872 line 4 - 4873 line

29

Under cross-examination she agreed that Mosepedi's attitude was that the civic

association and the youth organisation were not responsible for the attacks on her house but it was the responsibility of the very young and irresponsible people in the community. She also agreed that the youth organisation could not control these young people. In addition she recalled that he had said that the civic association and youth organisation were against the council system and not against individuals. She recalled Magashule saying that if the authorities that had prohibited public meetings had given them an opportunity to have public meetings, they would have made this policy very very clear to the community as a whole. Finally, Magashule said that as a school teacher, he had access to young people at school and invited the witness to come to the school to talk to the children. The witness was taken from classroom to classroom and spoke to the children.

IC18: Vol 99: page 4889 line 24 - 4890 line 31

- 17.4. On 21 July there was a further attack on the witnesses' house. The witness identified a young girl by the name of Minosi and a boy by

the name of Sifolaro Magashule. In answer to a question from the prosecution she stated that she did know if they were linked to any organisations.

IC18: Vol 99: page 4873 line 30 - 4874 line 30

18. With regard to the first joint meeting, referred to above, the witness stated that it was quite apparent that the young people knew exactly what they were talking about (page 4881 lines 13 - 16) and that it had been alleged by them that things had not been done which had been promised (4881 lines 22 - 31). She recalled that they had said that the proposed increase was not valid and that people would be advised that because the proposed increase was not valid they should pay the old rent. (page 4884 lines 5 - 11)
19. The witness R Letsoenyo, a member of the Thumahole Community Council testified on much the same areas as IC18. He referred to the joint meeting between the council and delegates from TSO which he put in June 1984. TSO was represented by Skosana, Tom Letsoenyo (the witnesses' nephew) and Gibson. He was asked whether there were any other organisations present and he mentioned Pro-Humanism. The presence of TSO and Pro-Humanism is in line with the evidence of IC18.

The witness does not suggest that Skosana represented the UDF.

Letsoenyo: Vol 104: page 5151 lines 3 - 17

20. The witness agreed that the civic association had been formed in October 1984. Neither it nor the UDF had been represented at the meeting in June 1984.

Letsoenyo: Vol 104: page 5163 lines 11 - 28

21. The witness stated that on the morning of 15 July 1984 he had seen a large crowd in Thumahole which later stoned police vehicles. The next day the witness saw that the businesses of IC17 had been burnt out and damage had been done to the house of IC18 (5155 lines 11 - 19). This evidence was given after the events and the witness did not testify as to who was responsible.

22. The witnesses' evidence concerning the joint meetings between the council and TSO is in accord with that of IC18.

23. The witness stated that through his daughter he had received threats that if he did not resign his vehicle or his house would be burnt. These threats allegedly emanated from Skosana and Molokwana (page 5156 line 31 - 5157 line 9). This evidence was clearly hearsay.

The threats were reported to the police and only Skosana was tried and found not guilty (page 5180 lines 26 - 28). After the threats a boycott of the witness's business was instituted and he resigned from the council in November 1984.

24. The witness testified about a meeting on 10 September 1984 in which thousands of people had congregated outside the Administration Board office to settle the question of the rent increase. In particular, the delegation was to ensure that the R10,00 increase should not come into force. The witness recalled that the demand then was that the rental should be R26,25 and even at this stage there was no talk of R18,00. The R18,00 talk came after this meeting of 10 September. The witness agreed that this very large number of people outside the hall left peacefully.
Letsoenyo: Vol 104: page 5178 lines 10 - 30

25. The witness was specifically asked if the TSO was affiliated to any organisation. He did not know.
Letsoenyo: Vol 104: page 5158 lines 7 - 8

26. As far as local dissatisfaction was concerned the witness stated the following:
26.1. He agreed that from 1981 to 1984 there was serious unemployment among the educated youth (page 5160 lines 3 - 6)

26.2. There had been unkept promises by the community council (page 5265 lines 3 - 5)

27. Letsoenyo's daughter also testified largely about the alleged threats made by Skosana and Molokwana against her father. The witness stated initially that she was aware of mass meetings held by the TSO in Thumahole but had never attended such meetings because she was afraid to go since children of councillors were warned not to go.

S Letsoenyo: Vol 104: page 5183 line 30 - 5184 line 7

Late in her evidence she stated that she had never heard of the TSO (page 5184 lines 11 - 21 and 5200 lines 24 - 31). She was unable to explain the inconsistency (page 5201 lines 2 - 15)

28. She testified that in 1984 Skosana had told her to warn her father that if he did not resign his house or car would be set alight. Molokwana was in the presence of Skosana when this was said but Molokwana had said nothing. The Court asked her whether these people were serious or whether they were just joking. She answered that they did not look like people who were angry. They had simply spoken. Actually they had spoken and laughed. The witness, however, took the threats seriously.

S Letsoenyo: Vol 104: page 5185 lines 15 - 30

29. The witness stated that Skosana and Molokwana were connected with the UDF. She was unable to say in what capacity. The reason for saying that they were connected with the UDF was because they were wearing UDF T-shirts.

S Letsoenyo: Vol 104: page 5184 lines 11 - 17

All that the witness knew of the UDF was that Skosana and Molokwana had been wearing UDF T-shirts on the day that they came to the house.

S Letsoenyo: Vol 105: page 5201 lines 23 - 25

30. The witness Mgawu, Councillor Letsoenyo's son-in-law also testified about an apparent threat on Letsoenyo's property emanating from Skosana and Molokwana during a discussion in the shebeen. He stated that Skosana and Molokwana were linked to the TSO (Vol 105 page 5229 line 15 page 5330 line 10). He did not regard the threat as serious but thought it a threat and understood that they meant it to be conveyed.

Mgawu: Vol 105 page 5232 lines 16 - 5233 line 1

31. Witness IC21 was the fourth councillor to testify on events Thumahole. His evidence with regard to the joint meeting of the council and TSO and Pro-Humanism

is consistent with that of IC18 and Letsoenyo.

Skosana represented TSO

IC21: Vol 106: page 5251 line 24 - 5253 line 3

It was not put to this witness by the prosecution that UDF had been represented at that meeting.

32. In about October or November 1984 the witness resigned from the council. The reason for his resignation was that school children (unidentified) had thrown stones at his home. He elaborates on this by saying that they did not actually throw stones at his home directly. What happened was that when they walked past they would just throw a stone against the structure.

IC21: Vol 106: page 5254 lines 10 - 21

33. Approximately two weeks before his resignation he had been visited by a group of people wearing balaclavas, dark glasses and UDF T-shirts who told him to resign.

IC21: Vol 106: page 5254 line 22 - 5255 line 17

With regard to this incident, the following emerged in cross-examination:

- 33.1. The witness was unable to identify any of the individuals (page 5277 lines 23 - 25)

- 33.2. He was not sure how many were wearing UDF T-shirts but there was more than one (page 5280 lines 12 - 19)
- 33.3. There had been no threat made to him by the people in balaclavas (page 5281 lines 16 - 19)
- 33.4. In any event, he was already on his way to resigning (5280 lines 3 - 6).
- 33.5. The evening on which this occurred was hot (page 5281 lines 20 - 21)
34. The witness himself was opposed to the increase in rental, his reasons being that there was unemployment in Parys and the economic position of the community in 1984 was bad.
IC21: Vol 106: page 5257 lines 14 - 19
35. The witness had confided in people like Ace Magashule
IC21: Vol 106: page 5256 lines 19 - 23
36. The position of the witness on the council became increasingly uncomfortable and his views were blocked.(Vol 106 page 5264 line 29 - page 5266 line 20). He had wanted to resign but was advised against it by the superintendent.(vol 106 page 5273 lines 17 - 19)

37. Capt Vorster testified that on Sunday 15 July 1984 he received an order to go to Thumahole. The situation there was very tense. The roads were obstructed with stones and with wrecks of cars. There were burning tyres in the streets. There were blacks who sporadically threw stones at police vehicles. Use had to be made of teargas, sjamboks and rubber bullets. This unrest continued for four days. Amongst the youths there were people wearing COSAS and UDF T-shirts.

Vorster: Vol 100: page 4982 line 24 - 4983 line 7

38. The witness was cross-examined about the number of COSAS and UDF T-shirts that he had seen. With regard to the UDF T-shirt he eventually stated that there was not a great ('geweldig') group of people who wore them. He was unable to be specific. The same held true for the COSAS T-shirts.

Vorster: Vol 100: page 5901 lines 19 - 29

39. No evidence was led as to the cause of the unrest. Significantly, none of the four councillors who testified gave evidence of this four-day spate of unrest save insofar as there were isolated attacks upon the premises of councillors.

40. W/O Jenkins testified about events in Thumahole on 15 July 1984 as well as the apprehension of Lekota at a roadblock that evening. With regard to the events of 15 July he stated that he encountered a large group of black youths at approximately 09h00. They were warned to disperse within 30 minutes and did so peacefully.
Jenkins: Vol 103: page 5130 line 22 - 5132 line 4

41. Late that day various bands of youths attacked police vehicles and various shops and erected obstructions in the road. IC17's butchery and shop were attacked as well as five other shops.
Jenkins: Vol 103: page 5132 lines 10 - 27

No evidence was led from this witness concerning the four-day spate of violence deposed to by Vorster. Furthermore, no evidence was led as to who was responsible for the attacks on the shops or any of the underlying causes.

42. The witness stated that that night roadblocks were set up at the entrance of Thumahole and Accused No 20 was stopped there together with CCAWUSA organiser. The documents particularised in the Further Particulars were found in his possession. Accused No 20 explained that he had come to visit Vuzile Dabi who is known to be a member of TSO. Enquiries by the police showed

that Dabi was not at this home that night. An inventory was compiled of the documents found in his possession. It was recorded that it was not part of the State case that Lekota was at Thumahole during the course of the day. (page 5149 lines 26 - 27)

43. The effect of the evidence addressed by the State amounted to the following

43.1. The most serious allegation against Lekota concerning the manufacture and use of petrol bombs was proved to be a malicious fabrication. When this emerged in evidence the Court stated that it would 'draw a line through that evidence' and rhetorically asked 'Can I go further than that?'. It is respectfully submitted that this episode (together with many other unsatisfactory aspects of the police investigations already referred to in oral argument) must raise serious questions about the quality of the evidence led by the State.

43.2. The fundamental allegation of affiliation by the TCA, TSO and TYO to the UDF was not proved. The failure to prove this allegation makes the events in this area irrelevant as no nexus with the UDF is established.

43.3. There was no evidence concerning the allegation that Lekota spoke at a mass meeting in January 1985. This was not even put to Lekota in his lengthy cross-examination.

43.4. Three of the four attacks on the home of IC8 fall outside the period relevant to this area.

43.5. The evidence of this witness is destructive of rather than supportive of a conspiracy involving a UDF affiliate. As far as the attacks on her house are concerned she was unable to identify individuals responsible and her evidence concerning the TSO and TCA indicates clearly that individuals in that organisation were not responsible for the violence and had in fact attempted to prevent such attacks. Moreover:

43.5.1. When asked in chief which organisations were organising against the community council system at the beginning of 1984 the witness mentioned both the Thumahole Students Organisation as well an organisation known as Pro-Humanism (page 4863 lines 12 - 22)

- 43.5.2. At the time of the first joint meeting, there was no civic association in the community (page 4884 lines 24 - 26)
- 43.5.3. At the first joint meeting there was only the TSO and Pro-Humanism. The witness stated specifically that Pro-Humanism was 'there about this question of rent'. (page 4884 line 27 - 4885 line 6)
- 43.5.4. The witness stated that at the time of the first meeting she did not know about the UDF and that the UDF was not mentioned at all. Skosana represented the TSO. (page 4885 lines 19 - 31)
- 43.6. With regard to the alleged threats against Letsoeny by Skosana and Molokwana, even if these were intended to be serious, once it is not shown that TSO was an affiliate, the evidence is irrelevant. Furthermore, there is nothing to suggest that such threats formed part of the policy of the TSO or that the individuals concerned were acting with the mandate of their organisation.

43.7. No evidence was led concerning the cause of the disturbances on 15 July or who was responsible.

43.8. The attack on IC17's property takes the State case no further because he was adamant that he was unable to say which organisation or person was responsible for the attack.

IC17: Vol 97 p4753 lines 10 - 17

p4754 lines 18 - 21

p4756 lines 21 - 25

p4763 lines 24 - 26

44. The State evidence on its own established a number of possible independent causes of unrest in the area:

44.1. The increase in rental in the face of promised improvements which did not materialise.

44.2. The involvement of 'outsiders' and ex-prisoners, loafers and people with jealousy.

44.3. The problem of unemployment.

44.4. Anger at the use of teargas by police in dispersing the march on 15 July.

45. The defence led the evidence of five witnesses. Three of these were elderly ladies namely Mrs Chabaku, Mrs Cholota and Mrs Mokhobo who testified concerning the march. One Thekiso testified in connection with when the Tumahole Civic Association came into existence and in connection with the events of 10 September 1984, while Mrs Smith, the daughter of IC17 testified principally in regard to the circumstances of the meeting held at Khotso House during July 1984 at which Accused Nos 19 and 20, Bishop Tutu, IC17 and others were present. Accused Nos 19 and 20 also gave evidence about their involvement in Tumahole, the UDF attitude to violence there, and the Tutu meeting.

46. Before the evidence is dealt with in detail, it must be emphasised that it is not disputed that, at a meeting held at Khotso House on 19 July 1984, Accused No 20 made it publicly clear that the houses and property of councillors should not be destroyed and that residents should limit their action to a boycott of councillors' businesses. This is evidenced by the newspaper report Exhibit DA43.

Molefe9: Vol 249 pl3233 line 1 et seq and

Lekota: Vol 285 pl5641 lines 18 - 23

Exhibit DA43

Distribution: 177028 (Exhibit AAS16)

It is submitted that all other evidence in relation to the alleged involvement of the UDF in the violence which occurred at Tumahole (or anywhere else for that matter) must be viewed against this background. With regard to Tumahole specifically, the UDF's position on the violence was made manifestly clear.

47. In addition to Lekota's statement, Bishop Tutu also made a public statement calling for calm in the area and commending the police for not using firearms.

Exhibit DA100

Distribution: 177028 (Exhibit AAS16)

48. The Tutu Meeting

This evidence has to some extent been dealt with in oral argument when dealing with the position of Accused Nos 19 and 20. It is more fully dealt with in this section:

- 48.1. It is submitted that the most important aspect of the evidence of IC17 concerned the meeting which he attended at the office of Bishop Desmond Tutu. The witness testified that as a result of having seen a comment in a newspaper made by Bishop Tutu and by Accused No 20, he contacted Tutu and a meeting was subsequently held between him, Tutu, Accused No 19 and Accused No 20 on the morning of Thursday 19

July 1984. He said that his daughter, a Mrs Smith was also present. Accused No 20 is alleged to have said that the councillors were busy making people angry because they worked with the system and that the UDF is an organisation which is opposed to the government because of its policy of apartheid, the general sales tax, and the high rental in the townships. He is also alleged to have said that the inhabitants of Tumahole were busy with a peaceful demonstration and that the police had intervened making people angry.

IC17: Vol 97 p4716 line 29 - 4718 line 5

48.2. Bishop Tutu said that he had no power to stop the violence for so long as people remained councillors and that the condition was that the witness must resign and he would phone the press.

48.3. Lekota is also said to have stated that he worked together with the leaders of Parys and that there had been contact between the UDF and one Mosepedi ('groot man') of the UDF that very morning.

IC17: Vol 97 p4718 line 16 - 6419 line 5

48.4. IC17 also said that he subsequently resigned, and phoned Bishop Tutu who said to him he would phone the leaders ('leiers) and tell them to stop persecuting him (IC17) and that Lekota, who was going to Bloemfontein the next day would call at Tumahole and also talk to them. This phone call was made on Friday 20 July 1984. The press was subsequently sent.

IC17: Vol 97 p4719 lines 17 - 23

48.5. The implication of this evidence is that Bishop Tutu as well as Accused Nos 19 and 20 accepted that they had indicated to IC17 that they had the power to stop the violence and that they would stop it only if IC17 resigned as a councillor.

48.6. This is firmly contradicted by Accused Nos 19 and 20 as well as by the daughter of IC17 Mrs Smith. There are minor inconsistencies between the evidence of Mrs Smith on the one hand that of Accused Nos 19 and 20 on the other. However, it will be submitted that these are of no significance.

48.7. Accused No 19 testified that he was called to Bishop Tutu's office by Accused No 20 on the day in question and that they were already talking at the stage when he arrived there. Accused No 20 was saying that it was not the style of the UDF to attack individuals and denied that the UDF was responsible for the violence in Tumahole. (IC17 himself stated that he was not accusing the UDF of responsibility p4756 lines 21 - 25.) Thereafter, IC17 said that he was going to resign as a councillor but only after he had received compensation. He said that he was very angry with the people of Tumahole because no appreciation had been shown for the substantial community service which he had rendered. He also said that he had spent a great deal of time building up his businesses which had been destroyed by the ungrateful people. It was IC17 who raised the question of a press statement to which Bishop Tutu responded that he could make a press statement but that he did not know whether this would help. Accused No 19 also said that nothing was mentioned concerning contact with the leadership of Tumahole by the UDF.

48.8. Accused No 19 also testified that he received a telephone call from IC17 during which IC17 indicated that he had resigned and asked Accused No 19 whether he would inform the press accordingly. Accused No 19 said that he (IC17) should contact the press and gave him certain telephone numbers.

Molefe: V ol 252 p13482 line 13

48.9. Accused No 20 in his evidence, confirmed Accused No 19's version of this meeting. He said that, before Accused No 19 arrived there, Bishop Tutu indicated that IC17 had alleged that the UDF was responsible for the violence which had taken place in Tumahole. It was in this context that Accused No 20 made his denial. He also said that he had indicated that there had been a peaceful protest in Tumahole (as he had understood the situation from the information he had received), and that the police action against these people had given rise to violence. He emphasised that he had no personal knowledge of what had happened at Tumahole.

Lekota: Vol 286 p15734 et seq

48.10. Mrs Smith testified that she went to Parys as a result of a telephone call received from home and was stopped at a roadblock just outside Tumahole. There, a policeman informed her that Accused No 20 who had also been stopped at the roadblock at the time and who was from the UDF had caused the trouble in Parys.

Smith: Vol 343 p19576 line 20 - 19578 line 10

48.11. She also testified that she took part in discussions with her mother and father that evening. During the course of that discussion, both the witness and her mother advised IC17 to resign from the council but he was reluctant chiefly on account of the fact that he was concerned about whether he would receive compensation in respect of the damage to his property.

Smith: Vol 343 p19579 lines 13 - 26 and p19580 lines 22 - 28

48.12. She also testified that she suggested to her father (IC17) that they should visit Bishop Tutu as a result of having read DA115 which is an article in the Sowetan newspaper of 18 July 1984 in which Bishop Tutu appeals for calm.

She gives the reasons why she made this suggestion that they should visit Bishop Tutu.
Smith: Vol 343 p19580 line 29 - 19583 line 9

48.13. She confirms the version of the accused to the effect that Lekota arrived first and denied UDF involvement in the violence, that Molefe also associated himself with the denial, that the suggestion that IC17 should resign as a councillor did not come from Tutu, Molefe or Lekota. She was however not so clear about the fact that the suggestion had come from IC17 himself, saying that the suggestion had come from the family. It is submitted that this difference is of no moment.

Smith: Vol 343 p19583 line 9 - 19586 line 17

48.14. It is submitted that the evidence of IC17 who was the only State witness in regard to these events falls to be rejected and that the evidence of the defence witnesses accurately reflects what happened:

48.14.1. IC17 was not a good witness. His evidence was contradictory in itself, in conflict with the evidence of other witnesses, and improbable in certain respects.

48.14.2. The evidence of the defence witnesses was good, probable, and not materially contradictory.

48.14.3. The State did not materially dispute the evidence of the defence in regard to this meeting.

The criticisms of IC17's evidence are set forth below:

48.15. With regard to a meeting held before July 1984 between representatives of the council and certain organisations, the witness first said that this meeting had been held at the request of certain organisations and that the meeting was attended by four organisations. He remembered three of them, namely the TSO, the TCA and Pro-Humanism and said that he could not remember the fourth organisation at that stage.

IC17: Vol 97 p4708 lines 5 - 26

48.16. It was only on the next day that he recalled that the organisation whose name he had forgotten was that of the UDF. He added that the UDF was represented by Skosana who had

also been a representative of the TSO. It is submitted that it is inconceivable that IC17 would have forgotten that the UDF was also represented at the meeting in the light of the fact that he had thereafter had contact with the UDF precisely because he thought that the UDF (Lekota and Tutu) had knowledge of the attack on his property. It is submitted that the identification of the UDF, coming as it did after the adjournment, was clearly an after thought

48.17. There is a small criticism that he, at one stage says that the Tumahole Civic Association attended this meeting but later says that it was the Parys Civic Association.

Compare the evidence of IC17 Vol 97 p4708 lines 25 - 26 and 4712 line 23

48.18. Moreover, the evidence that the UDF was present at this meeting does not accord with the evidence of other State witnesses. The evidence of IC18 is to the effect that the meeting was requested by TSO and refers to the presence and contentions of the TSO at the meeting itself. The UDF is not mentioned at all.

IC18: Vol 99 p4864 lines 8 - 29

48.19. The witness Letsoenyo also did not mention the UDF but indicated that the TSO and Prohumanism were present at this particular meeting.

Letsoenyo: Vol 104 p5151 lines 3 - 17

48.20. The evidence of IC21 is to the same effect.

IC21: Vol 106 p5251 line 24 - 5253 line 3

48.21. The witness further contradicted himself about whether or not Mabena attended the meeting between the town council representatives and the representatives of organisations. He first said that Mabena was and then said that Mabena was not there denying that he had originally indicated that Mabena had been present.

IC17: Vol 97 p4708 lines 21 - 24 compared with p4734 line 3

48.22. The witness also contradicted himself about when he first heard about the question of the R18,00 rent increase. He first said that he saw these pamphlets during the period June-July 1984 at the stage when the rent increases were announced but later conceded that he had heard about them for the first time during 1985.

IC17: Vol 97 compare p4704 lines 4 - 15 with p4744 lines 4 - 8

48.23. All the other State witnesses who speak about this matter make it quite plain that they heard about the R18,00 much later.

48.24. The State in its Betoog at p545 argues that the truth of IC17's evidence is confirmed by the fact that he testified to facts which he could only have obtained from Bishop Tutu in a telephone conversation after he (IC17) had resigned. Some four facts are itemised by the State as falling into this category, none of which, it is submitted support the State's thesis.

48.24.1. The first two facts relied upon by the State relate to the circumstances in which and by whom IC17 was told that Lekota was going to be in Bloemfontein and Tumahole. In his evidence-in-chief, IC17 said that in the course of the telephone call which he made to Bishop Tutu after he had resigned as a councillor (and therefore, after the meeting which had been held at

Khotso House), Bishop Tutu told him that Lekota was going to be in Bloemfontein and that he would call at Tumahole and talk to people there.

IC17 Vol 97 p4719 line 18 - 22

48.24.2. This evidence was obviously intended to show that Lekota had contacts in Tumahole and that he was in some way able to influence events there.

48.24.3. Somewhat surprisingly the witness later says that Bishop Tutu told him no such thing. He also denied that he had given evidence in chief to the effect that the Bishop had told him this.

IC17: p4805 lines 1 - 5

48.24.4. This denial came immediately after he had said that it was in fact Lekota who had told him on the day of the meeting at Khotso House that he (Lekota) was going to be in Bloemfontein.

48.24.5. The State submits that IC17 could only have got the information concerning Lekota's trip to Bloemfontein from the telephone call to Bishop Tutu. However no account is taken of the fact that this information could well have emanated from Lekota (as the witness himself says).

48.24.6. The State goes further and says that the information that Lekota had actually gone to Tumahole and spoken to the people from organisations there also fell into that category of information which could have been obtained from Bishop Tutu alone. However, there is no evidence that Lekota went to Tumahole after 20 July 1984 which was the date of this phone call. Accordingly, this leg of the argument is also without foundation.

48.24.7. The argument that IC17's version concerning the telephone call is supported by the fact that

journalists from four newspapers visited a little town such as Tumahole is also unsound. Molefe testified that he received a phone call from IC17 saying that he had resigned and asking the UDF to issue a statement. Molefe stated that it was not a UDF matter and made available to IC17 the phone numbers of various newspapers which he could contact and talk to. Molefe thought that he gave the numbers of City Press, The Sowetan and The Star. He stated that there might have been others.

Molefe: Vol 252 p13491 line 20 - p13492 line 3

48.25. There are, furthermore, a number of improbabilities in IC17's evidence.

The witness cannot be speaking the truth when he says that before this meeting at Khotso House, it did not even occur to him that one of the ways of safeguarding himself was for him to resign particularly because he was aware, on his version, of the call for the resignation of councillors.

IC17: Vol 99 p4772 lines 11 - 20

The untruthfulness is proved by his daughter's evidence.

- 48.26. Furthermore, his evidence that he was not disillusioned about what had happened to him until after he had seen Bishop Tutu is improbable in the extreme.

IC17: Vol 97 p4775 lines 8 - 16

- 48.27. Finally, his evidence concerning the meeting of 9 September 1984 and what happened there together with his participation in the events of 10 Septemebr 1984 is unconvincing. Specific reference is made to the fact that he distances himself from these events to the extent where he says that he was not even aware that the rent increases had been suspended on 10 September 1984. It is common cause that an announcement was made to the effect that the rent increases had been suspended. It is inconceivable that the witness did not know about this.

IC17: Vol 97 p4703 1 ines 7 - 8

- 48.28. A further criticism of this witness is that he was not, on his own showing, honest with the newspapers concerning the exact reasons for

his resignation.

IC17: Vol 97 p4765 lines 1 - 12

48.29. The impression is created by this witness that the UDF was in some way responsible for what had happened to him. At the very least, this was the use made of his evidence by the State. Thus, it was put to Molefe in cross-examination that the reason why IC17 went to Bishop Tutu was because he was a patron of the UDF and 'as a result of what he... IC17 had read in the newspapers about councillors must resign, and that is the policy of the UDF' (Molefe Vol 272 p14786 lines 26 - 29). This impression was distinctly misleading and it is significant that the State did not produce the cutting seen by IC17. That was left to the defence, through IC17's daughter, Mrs Smith.

48.30. It is submitted that Accused Nos 19 and 20 were credible witnesses and that no reason exists to reject their evidence in regard to what happened at Tumahole. Regard must also be had to the fact that it was never put to Accused No 19 or to Accused No 20 that they were not speaking the truth concerning the Tutu meeting.

Furthermore, the State did not try to establish that the presence of Accused No 19 in the vicinity of Tumahole on 10 July 1984 and that of Accused No 20 in the same area on 15 July 1984 had any sinister motive or had anything whatsoever to do with the happenings in the area.

48.31. Mrs Smith was a good witness. She did not contradict herself and created a good impression. She had no reason to lie against her father and in favour of people from the UDF whom she did not know.

It is clear that she had been subpoenaed by the State to give evidence and had made a statement in connection with these events.

Smith: p19586 line 18 onwards

No inconsistency between the statement made by her to the State and the evidence which she gave was put. It is accordingly reasonable to assume that her evidence was materially consistent with the statement made by her.

She was a frank witness. She was not bothered by whether her evidence was consistent with that of the defence or not.

There was no suggestion made that Smith would have had any reason to lie. The discrepancies relied upon by the State in the Betoog are, it is submitted, immaterial to the central parts in issue.

48.32. In all the circumstances, the evidence establishes that Accused Nos 19 and 20 were not responsible for nor did they have any control over the violence which occurred in Tumahole. The UDF had nothing whatsoever to do with it.

48.33. The State argues that the very fact that Bishop Tutu and Accused No 19 made a comment in the press in connection with the events of Tumahole and the fact that Bishop Tutu decided to arrange the meeting between the officials of the UDF on the one hand and IC17 and his family on the other, demonstrates that the UDF played a co-ordinating role and had control over the events in Tumahole. The State also submits that this evidence was not disputed.

Betoog: p540 para 1.1 and p541 para 3

48.33.1. This is fallacious argument. Apart from the fact that it was strenuously disputed, it ignores the fact that in DA43, Accused No 20 called upon the people of Tumahole not to cause any damage to the property of councillors. This is quite inconsistent with Accused No 20 having organised this violence in the first place. Similarly, the statement by Bishop Tutu is one where he calls for talk and praises the police for their restraint.

48.33.2. The State has incorrectly read the evidence when it asserts that Accused No 19 had commented on the events in Tumahole. Were this an isolated reference to Accused No 19, it could be attributed to a mere error. However, on p554 para 3 of the Betoog the same assertion is again made. This time it is argued that it is absolutely unthinkable that IC17 would have mentioned

Lekota's name because according to the newspaper reports it was Accused No 19 who commented on the events. This interpretation is wrong. IC17 stated in his evidence in chief that he had seen comments in the press by Lekota (Accused No 20).

IC17: Vol 97 p4717 lines 5 - 9

48.33.3. An underlying assumption which pervades the State's argument is that the UDF controlled the organisations in Tumahole, particularly the Tumahole Students Organisation, and that the TSO was responsible for the unrest in the area. There is no basis for either assumption.

49. It is argued by the State that knowledge by Accused Nos 19 and 20 of a peaceful march which was dispersed by the police at Tumahole on 15 July 1984 tends to prove continuous contact for one reason or another with the organisations which organised violence in Tumahole.

49.1. This is fallacious. (Betoog p546) It is quite clear that Accused No 20 visited

Tumahole on the evening of the 15th and that his knowledge of events there was purely hearsay.

Lekota: Vol 286 p15735 line 28 - p15736 line 6
p15737 lines 22 - 29

49.2. It is quite incorrect, therefore, for the State to submit (as it does on p542 sub-para (ii) of the Betoog) that the UDF was well informed about events in Tumahole.

50. The State argues that the version put up by Accused Nos 19 and 20 borders on the laughable. This is a surprising submission since their version was never disputed in cross-examination. The State says it is laughable that the witness was so shocked about what had happened to him that he wanted to step out of public life. It is submitted that there is nothing inherently improbable in the propositions advanced in the cross-examination of IC17, particularly having regard to the fact that the direct evidence, not referred to by the State, supports the version put to the witness.

Betoog: pp546 - 547

51. The March

- 51.1. There are differences in the evidence of Jenkins and that of the three defence witnesses concerning the march on 15 July 1986.
- 51.2. The evidence of W/O Jenkins was to the effect that there had been a march at 9 o'clock in the morning consisting of 500 youths who were later joined by others finally consisting of 2 000 people at the time of its dispersal by the police. He said that there was later a number of youths who grouped in the vicinity of the beerhall and that this beerhall was not within sight of the point at which the first march was dispersed. He places this as having happened an hour to an hour and a half after the first march had been dispersed. It is this group of youths who threw stones at the police and which had to be dispersed by the use of teargas. He says that violence broke out later.

Jenkins: Vol 103 p5130 line 22 - 5132 line 28 read with Vol 104 p5147 line 6 et seq

It is of some importance that, on Jenkins' version, the police used teargas at the

beerhall an hour to an hour and a half after the march of 2 000 was dispersed.

51.3. The three State witnesses who testified on the march cannot be classified as youngsters. They were all elderly ladies.

51.4. They all say that they knew nothing about the possibility of a march beforehand and that each of them joined the group of people while they were marching past their respective homes in the belief that the group was proceeding to the offices of the council in order to raise the question of the increased rent. All of them also say that there were youth leading the march carrying banners which neither suggested violence nor mentioned any organisation. They knew nothing about the march beforehand and joined it spontaneously.

Chabaku: Vol 343 p19616 line 4 - 19618 line 4

Cholota: Vol 344 p19641 line 10 - 19644 line 26

Mokhobo: Vol 344 p19666 line 20 - 19668 line 12

51.5. All of them testified to the effect that, at some stage, and when the march consisted of a large number of people, the police gave them some time to disperse. They say that while they were in the process of dispersing and

before this period had expired, the police fired teargas at the crowd. There was no provocation which led to the firing of teargas.

Chabaku: Vol 344 p19622 line 1 - 19623 line 10

Cholota: Vol 344 p19645 line 24 - 19646 line 10

Mokhobo: Vol 344 p19668 line 13 - 19669 line 22

51.6. It was not put to any of these witnesses that the march had been planned by the TSO or that it had been organised very much in advance or that they were bent on any violence or that the police did not use teargas. There was an attempt to suggest that the police may well have used teargas because some youths were throwing stones. However, there seems to be no basis for this suggestion because the dispersal of this group did not take place in the vicinity of the beerhall where, on the State case, some stone throwing youths were dispersed by the police.

51.7. The evidence that no violence was intended by the marchers nor was any violence committed despite the fact that the marchers passed by the vicinity of councillors' houses was not disputed.

Chabaku: Vol 344 p19620 line 24 - 19621 line 12

Cholota: Vol 344 p19644 line 27 - 19645 line 4

51.8. The evidence therefore suggests that the police dispersed a large crowd which included elderly women by the use of teargas without provocation and before the time given to the marchers to disperse had expired. It is inevitable that people would have been angry as a result of this unprovoked police conduct. This could have been one of the causes of the violence. What is clear, however is that the violence was not organised in advance.

51.9. It therefore cannot be said that the march gave rise to the violence. In the first place there was nothing violent about the march itself. It is more plausible that the violence occurred as a result of people being angered in consequence of unprovoked attacks by the police.

The witness Thekiso testifies to the fact that while he was at the bus stop and about to board a bus on his way to work on 15 July 1984, the police appeared on the scene, and

without any reason, fired teargas at the crowd. The bus drove away and the witness had to find alternative transport. This happened in the vicinity of the beerhall.

Thekiso: Vol 347 p19807 line 8 - 19809 line 2

This evidence was not seriously disputed under cross-examination.

Thekiso: Vol 347 p19823 line 9 - p19824 line 24

51.10. The State in its Betoog has made a number of submissions concerning this march. Thus, it is argued at p539 para 5 that in this so-called peaceful march the police were attacked with stones. There is no evidence to justify this submission.

51.11. On p542, para 6 of the Betoog it is argued that Accused No 20 used the occasion of the meeting between himself, IC17 and Bishop Tutu to make propaganda, which is often done by him to protect the mobsters ('oproeriges') and to place false blame on the police. The allegation is repeated on p543 where the Defence ('Verdedeging') and the UDF is accused of making false propaganda against the State.

51.11.1. It is surprising that State should make allegations of a serious nature having regard only to the evidence led by the State and then not correctly reflecting that evidence. IC17 conceded that it was the police's use of teargas to disperse the crowd which made them wild.

IC17: p4755 line 24 - p4756 line 2

51.11.2. It is quite unjustified to accuse Lekota of using the occasion to make false propaganda from the police when it is clear from his undisputed evidence that his knowledge of the events at Tumahole was not based on what he had witnessed by on what he had heard from others. He was merely repeating what he had heard.

Lekota: Vol 286 p15735 line 28 - p15736 line 6
p15737 lines 22 - 29

51.11.3. If by the reference to the 'Verdediging' the State intended to level an accusation against counsel for the defence, it is submitted

that such is a serious allegation for which there is no justification and which, in any event, does little to advance the State case.

52. Acts of Violence and Threats of Violence

52.1. No evidence was led regarding the causes of the various acts of violence testified to by IC18.

It is submitted that there is nothing which connected TSO, the UDF or any of the accused to these attacks. Three of the four attacks on the home of IC18 fall outside the period relevant to this area.

52.1.1. The State in its Betoog at pp557 - 558 argues that Magashule and Mosepedi made an important admission that they told the children to cease their attacks against the home of IC18 now that she had resigned from the council. It is further argued that a second important concession made by these leaders from the organisations was their undertaking to make good the damage to IC18's house. From this, the State

concludes that this incident is consonant with the UDF's policy of alienating people from government structures and to bring them into the freedom struggle.

52.1.2. The State has misrepresented the evidence in this regard by referring only to the evidence-in-chief of IC18. Under cross-examination, she conceded that Mosepedi's attitude was that the civic association and the youth organisation were not responsible for the attacks on her house but 'it was the responsibility of the very young and irresponsible people in the community'. (See para 17.3 above)

52.1.3. The evidence taken as a whole, therefore, negatives involvement on the part of the TSO and is destructive of the State's submission.

52.2. Finally, there is the evidence of Letsoeny, his daughter, and his son-in-law to the effect

that one Skosana and Molokwana threatened that unless Letsoenyo resigned, damage would be done to his property. Letsoenyo's evidence in this regard was clearly hearsay and need not be dealt with.

- 52.3. It is submitted that the evidence of Salamina Letsoenyo was unsatisfactory in a number of material respects. She was unable to explain certain inconsistencies. She initially said that she was aware of mass meetings held by the TSO but that she did not attend such meetings on account of having been told that she should not attend because she was a daughter of a councillor. She later said that she had never heard of the TSO. She was unable to explain this inconsistency.

S Letsoenyo: Vol 104 p5184 lines 11 - 21 and 5200 lines 24 - 31; see also p5201 lines 2 - 15

- 52.4. She could not explain the inconsistency in her evidence in regard to whether or not she reported the threat which had been made to her husband and reported to her by her husband. She at first said that she had told her father about this. After notes of her evidence in a

previous case were read to her, she changed her position and said that she did not tell her father about the threat which had been communicated to her husband by Skosana and Molokoane at the shebeen. She was unable to explain this inconsistency.

S Letsoenyo: Vol 104 p5195 line 31 - 5196
line 3

52.5. The witness thereafter said that it is true that she did not make any report to her father about this first threat. She cannot explain why she lied earlier and said that she did make such a report.

52.6. The witness's attempt to explain the inconsistency between the notes of her evidence in the previous case and her evidence in this case in regard to whether or not both Skosana and Molokoane spoke is most unsatisfactory and shows an inventive mind. Her evidence was that she said to the magistrate that Skosana spoke and that Molokoane confirmed what Skosana had said by shaking his head.

S Letsoenyo: Vol 104 p5198 line 6 - 5199
line 3

52.7. However, the most important criticism of her evidence is that it is highly improbable. She says in the first place that when this information was conveyed to her, Skosana and Molokwana did not look angry but laughed. It is surprising how people could laugh when making such a serious threat. Nevertheless, and despite the fact that they laughed, she says she took the threat seriously. However, if she took the threat seriously, one would have expected her to report to her father immediately. This is particularly to be expected since her evidence was to the effect that they told her that damage would be done to her father's property before the witness returned from Sebokeng (she was about to leave for Sebokeng when the threat was made). However, she does not see her father and warn him about this until a few days later. This throws considerable doubt on the veracity of her evidence in this regard.

52.8. Even if her evidence were to be accepted, there is nothing to suggest that those who came to see her were authorised by the Tumahole Students Organisation to say what they did. There is no other evidence that the TSO was violent.

52.9. Letsoenyo's son-in-law, Mgawu, also gives evidence about this. He does not dispute that he said to the magistrate that he regarded what had been said to him in the shebeen as a mere joke. He says in fact that he told his wife that he did not take these people seriously.

Mgawu: Vol 105 p5245 lines 8 - 12

52.10. However, his wife says that he told her that he did regard the matter as serious.

S Letsoenyo: Vol 104 p5195 lines 17 - 20

52.11. Regard must also be had to the fact that this conversation occurred in a shebeen. As a result of this, there will be some doubt as to the sobriety of the conveyor and the recipient of the information.

52.12. It is again submitted that even if this evidence were to be accepted, there is nothing to suggest that these two people spoke on behalf of the Tumahole Students Organisation or, any organisation for that matter. In any event, the State has not advanced any submissions in regard to this incident and it is therefore assumed that no reliance is placed thereon.

53. Several of the submissions made by the State in its Betoog are either misstated or inaccurate and the defence does not accept the correctness thereof. Certain misleading and inaccurate submissions have already been dealt with and others are dealt with below.

53.1. On p533 of the Betoog it is stated that Sheena Duncan alleged that the 'civic association' and 'youth organisation' of Tumahole were affiliates, presumably of the UDF. An examination of the evidence in its proper context reveals that the witness was not sure whether or not they were affiliated. This has been dealt with in the section of the written argument in which the credibility of Duncan is dealt with. In any event, the undisputed evidence of Molefe and Lekota was that that the UDF had no affiliates in Tumahole, more specifically, that TSO and TCA were not affiliated.

Molefe: Vol 272 pl4788 lines 6 - 17

Lekota: Vol 286 pl5739 line 24 - pl5740 line 5

The witness Thekiso also gave evidence about the fact that the Tumahole Civic Association was formed only during 1985 and that it had not been affiliated to the UDF.

Thekiso: Vol 347 p19815 line 30 - 19820 line 11

There is no reason to reject this evidence.

In addition, this witness gave evidence about happenings of 10 September 1984 which shows conclusively that there were meaningful negotiations with councillors and the board. This evidence was not seriously disputed.

Thekiso: Vol 347 p19809 line 2 - 19810 line 23

53.2. In para 2 on p545 of the Betoog it is alleged that the organisations (presumably TSO, TCA, Pro-Humanism and UDF) held mass meetings in the area in order to politicise the masses and win them over towards their point of view to become involve in active united action against the authorities. The State further argues that this evidence was not disputed.

Reference to the evidence of IC17 and IC18 are given to support this proposition. The passages cited do not reflect the proposition relied upon by the State. In fact, IC17 was specifically asked whether he himself attended the meetings of these organisations. He answered in the negative.

IC17: Vol 97 p4707 lines 4 - 5

IC18 was asked how these organisations set about their work. He stated that they called gatherings and when asked whether these were small gatherings or mass meetings he stated that he did not know.

IC18: Vol 99 p4864 lines 6 - 9

53.3. On p558 it is argued that the defence never disputed that unrest broke out in Tumahole. The fact that the UDF and organisations in Tumahole organised and mobilised the people to unite and to go over to violence at least against the councillors and the system of Black Local Authorities was never rebutted by any direct evidence and it is noteworthy that none of the leaders of the organisations were called to give their version to the Court.

53.3.1. Not surprisingly, no references to the evidence was cited for this proposition. In fact, there is no evidence that the UDF organised and mobilised the masses in Tumahole to unite in order to go over to violence. The evidence on the UDF's attitude towards unrest in the area points to precisely the opposite conclusion.

53.3.2. It has also not been shown that the TSO or any other organisation was behind the violence.

53.3.3. As for the argument that the leaders of the organisations were not called to give their version, the State has obviously lost sight of the fact that it bears the onus to prove beyond a reasonable doubt the allegations in the indictment and that accused No's 19 and 20 gave evidence on this issue denying the allegations made. It was not even able to establish that there were affiliates from the UDF operating in the area let alone that the UDF was responsible for the damage.

54. It is accordingly submitted that it has been established that people were dissatisfied about the grievances that were experienced in the area. The police acted unreasonably and without provocation in dispersing the march. In addition, and on the same day, the police fired teargas at another group of people for no apparent reason. These two incidents could well be the cause of the violence which

admittedly began in Tumahole on 15 July 1984. Other possible causes of the violence have been mentioned in paragraph 43 above. Whatever the cause of the violence the State has not established that the UDF and particularly the accused were in any way responsible therefor.

1. It is alleged that, since September 1984, the Grahamstown Civic Association, COSAS, NUSAS and SAAWU organised and intimidated and violence and revolt took place.

2. The evidence given relates to three isolated acts of violence, one against a policeman who attended a scene of an accident, one against a policeman at a school, and certain acts of violence which occurred after a funeral.

3. The evidence in relation to the attack on the policeman who attended the scene of an accident is that of W/O van der Berg and is to the following effect:
 - 3.1. On 30 September 1984, the warrant officer was in uniform and busy taking particulars at M Street, Tandje near Grahamstown.
Vol 119 p5958 lines 22 - 28

 - 3.2. While there, he was approached by a group of about 150 young people led by three men who wore black trousers and white T-shirts with the word COSAS written across the T-shirt in black. They were singing songs and had their

fists in the air. When they were about 50 metres away from him, they began throwing stones at him whereupon the warrant officer left.

Vol 119 p5958 line 29 - p5959 line 7

- 3.3. The warrant officer said that before the stones were being thrown, those dressed in COSAS T-shirts ran in front of the crowd and, from time to time, encouraged people along the side of the road to join the group.

Vol 119 p5959 lines 30 - p5960 line 16

- 3.4. Sometime later the warrant officer was instructed to mind a roadblock at which he saw that cars coming from the direction of the black residential area had been seriously damaged and that a white female student and a little baby had been seriously injured to the extent where they needed to be taken to hospital.

Vol 119 p5959 lines 7 - 25

No evidence was led regarding the cause of this incident, the identities of those responsible, or how it could be related to the UDF campaign against Black Local Authorities as alleged in para 66 of the indictment.

4. The evidence that policemen were attacked at schools on 3 October 1984 was given by Capt Nel and was that

4.1. At approximately 10h30 on Monday 3 October 1984, the captain was on observation duty at the Ntsika Junior Secondary School in the township Joza in the district of Grahamstown.

Vol 107 p5283 lines 14 - 16

4.2. He saw that 300 students had gathered in the schoolyard with sticks, shouting slogans and singing songs. The slogans included the following: 'Viva Mandela', 'Viva ANC', 'Viva UDF', 'Viva COSAS', and 'voetsak Botha'.

Vol 107 p5283 line 19 - p5284 line 3

4.3. Nel could not say why they had gathered except that he concluded from the facts that they were armed that they intended to cause trouble.

Vol 107 p5284 lines 4 - 8

4.4. After about an hour (at approximately 11h30), the group left the school and got into some sort of formation in the street, continued to sing songs, and began throwing stones at the police.

Vol 107 p5284 lines 12 - 20

- 4.5. At that stage, he received information that a splinter group, armed, was on its way to a neighbouring township (approximately 400 metres away). He left the school, and caused the dispersal of this group of which some people were arrested.

Vol 107 p5284 line 23 - p5285 line 11

- 4.6. He returned to the school where stones were thrown at the police as a result of which sjamboks and teargas were used to disperse the crowd.

Vol 107 p5285 lines 17 - 21

- 4.7. At the stage when he returned to the school, the captain noticed that the scholars were carrying a placard or banner with COSAS written on it in large writing with the words 'Police go away we do not need you'.

- 4.8. There was no evidence as to what precipitated this incident. The captain himself said that this was an isolated incident as far as he was concerned.

Vol 107 p5285 lines 26 - 30

4.9. It was put to the captain that the police had used teargas against the pupils before the incident concerned happened. The captain said that he had come to the school sometime after certain officers had already been on duty. It follows that he was not in a position to say whether there had been such conduct or not. He did say however that when he had given evidence in the case connected with this incident, such an allegation had been made.
Vol 107 p5287 line 27 - p5288 line 21

No evidence was called in regard to this matter from the policemen who had been there before Nel came onto the scene.

4.10. The witness said that he had heard that COSAS had made statements to the effect that their organisation does not associate itself with violence in the Eastern Cape.
Vol 107 p5288 line 30 - p5289 line 9

5. The evidence about the violence after the funeral held on 9 November 1984 was given by Major Bosch.

5.1. On 9 November 1984, the witness was on observation duty at a cemetery in the township of Tantyi, watching part of the funeral

procession in the funeral of a youth named Patrick Ndyogolo through binoculars.

Vol 107 p5290 lines 12 - 25

- 5.2. He saw about six banners saying either 'UDF', 'COSAS Unite', the banners being handmade and in front of the funeral procession of about 3 000 people.

Vol 107 p5290 line 26 - p5291 line 7

- 5.3. The procession was not quiet but shouted slogans such as 'Viva Mandela', 'Viva UDF', and 'Viva COSAS'. They stamped their feet on the ground, had clenched fists in the air, and sang songs. Of the crowd of 3 000, approximately 200 - 300 wore UDF or COSAS T-shirts.

Vol 107 p5291 lines 8 - 24

- 5.4. After the funeral was over, the people walked quietly and peacefully for a distance of about 250 paces (until the houses began) and then spontaneously began to run, screaming and shouting. He does not indicate why this happened.

Vol 107 p5293 lines 16 - 31

5.5. When the crowd was going away from the funeral, approximately 100 people, the majority of whom wore UDF or COSAS T-shirts, broke away from the crowd and ran in the direction of Raglan Road with most of the crowd following.

Vol 107 p5293 line 11 - p5294 line 6

5.6. The witness immediately afterwards set up a roadblock at which he saw that the windscreen of a Mercedes truck coming from the direction in which the crowd had gone had been damaged.

Vol 107 p5292 lines 18 - 25

5.7. On the day in question, a beerhall and a Methodist Church were burnt to the ground, while stones were thrown at a number of vehicles travelling along Raglan Road.

Vol 107 p5294 lines 7 - 12

5.8. In para 3.2 (Betoog page 575 et seq) the State criticises the evidence of Ndwebisa concerning this funeral. It is correct that in various respects, his evidence conflicts with what was put in the course of cross-examination by defence counsel. The difficulties experienced in obtaining instructions at the time of

cross-examination of State witnesses has already been adverted to. There is nothing to suggest that the cross-examination was based on information obtained from Ndwebisa. It is submitted that the differences in the present case do not affect the credibility of Ndwebisa and that he did not change his evidence in relation to any of them. It is correct also that in some respects the evidence of Ndwebisa concerning this funeral is vague. As dealt with also in para 15 below, this does not mean that the evidence is dishonest.

Thus, in regard to his difficulty in describing an AZAPO banner, it must be borne in mind that the event occurred some three and a half years before Ndwebisa was called to testify about it. There is nothing to suggest that he saw an AZAPO banner on more than one occasion. He was not there for the purpose of recording such detail and his inability should not be found to be sufficient ground for disbelieving his evidence that there was such a banner.

In similar vein, the submission by the State

that Ndwebisa's evidence about AZAPO having become the dominant party at this funeral is inter alia, 'leuenagtig', should not be accepted. His evidence that the deceased had been a member of AZAPO was not disputed.

Vol 407 p23703 lines 26 - 27

Also not disputed was the content of the speech that he himself made on that occasion, which was to the effect that he was trying to settle the dispute between AZAPO and COSAS about who was who, and who was in fact to be officially the organisation which is in charge of the funeral. The witness was concerned that they should stop arguing and causing confusion and trying to settle disputes at this funeral. In his view, all they had to do was just to see to it that the funeral was run with dignity and that the funeral was completed.

Vol 407 p23704 lines 20 -30

It is clear that the prime concern of the witness was that the funeral should be conducted in a proper and dignified fashion and that the intricacies of the dispute between the organisations present and the

details relating thereto were not uppermost in his mind.

Also not disputed, was the evidence given that there was no speaker from COSAS at that funeral nor one from the UDF.

Vol 407 p23705 lines 9 - 11

It is common cause that violence broke out after this funeral. The suggestion made in the course of cross-examination of Major Bosch that this had been precipitated by the firing of teargas by the police, was not pursued through the evidence of this witness. He was deliberately led that he himself had at no stage seen teargas being fired by the police.

Vol 407 p23705 lines 17 - 19

It is submitted that no inference can be drawn from the fact that violence occurred that any particular organisation was responsible or that any decision at organisational level had been taken and, in particular, that there was any connection with the UDF campaign against Black Local Authorities.

6. Evidence of organisations 'which were active' and

documents found was given by Capt Meistre.

6.1. He was aware of the existence of the following organisations in Grahamstown which are affiliated to the UDF namely NUSAS, BSM, GRACA, COSAS, SAWU and the Grahamstown Committee of Democrats. No substance is given to the notion of 'active' and no inference can be drawn from this evidence.

6.2. He then handed in or identified documents which came into his possession during the period 1984/85, namely, Exhibits AD20, W33, AM39, AM40, AAY1 - 12.

6.3. The evidence concerning the receipt of these documents does not establish that they were in fact distributed in Grahamstown or anywhere else or whether they are originals of fakes. They were merely received by Meistre from his informers.

Meistre: Vol 107 p5311 lines 3 - 30

No conclusions can be drawn from them. This limitation is not referred to in the Betoog.

7. The evidence for the State did not begin to address

itself to the case it undertook to prove in terms of para 66 of the indictment. (See Defence Argument, Vol 450 pp26546 - 26577, especially at 26553 line 23 - p26555 line 13.) In particular:

7.1. There is no evidence as to precisely what precipitated the three events relied upon by the State. Neither the individuals responsible for the isolated acts of violence, nor their affiliations have been proved.

7.2. The extent of any organisational link relates to the wearing of T-shirts. This is wholly insufficient to draw any inference that COSAS, for example, was responsible for the violence, merely because individuals wearing COSAS T-shirts were at the scene of violence or indeed engaged in acts of violence. The State's case is that the ANC has a stock of such T-shirts in its camps and that they are worn by cadres to enable them to mingle with the community and to camouflage ANC activities.

See: IC6 Vol 6 p307 line 19 - p308 line 10

IC6 Vol 10 p491 line 3 - p492 line 29

IC7 Vol 10 p527 lines 11 - 17

IC7 Vol 10 p537 lines 6 - 8

7.3. The incidents relied upon have not been shown

to be related in any way to the UDF campaign against the Black Local Authorities.

8. The defence has led evidence to show that neither COSAS nor GRACA espoused violence. This is consistent with the State evidence already mentioned to the effect that a police officer knew of statements made by COSAS to the effect that they were not associated with the violence in the Eastern Cape.

9. It is not disputed by the State that the statement appearing in 'Grocott's Mail' Exhibit DA191 was issued by GRACA. It is to the effect that the organisation as a matter of policy is opposed to violence of any kind because 'we think that violence begets violence'.
Ndwebisa: Vol 407 p23702 line 5 - p23703 line 4

10. Exhibit DA192 is a press statement identified as having been seen by Ndwebisa, in which COSAS dissociates itself from violence.
Ndwebisa: Vol 406 p23705 line 20 - p23706 line 10

11. Further, there is the evidence of Miller which is undisputed, to the effect that he attended a meeting at Rhodes University which was called by the SRC. The meeting was held during the first week of October 1984.

Miller: Vol 423 p24787 line 3 - 24788 line 20

12. He says that a COSAS representative spoke there, referring to the inequalities in education and the need for SRC's. According to Miller violence was strongly and unequivocally condemned by this speaker.

Miller: Vol 423 p24788 line 21 - p24789 line 30

The speaker from the Black Students Movement also spoke about the lack of opportunity and condemned the violence.

Miller: Vol 423 p24789 lines 14 - 26

This evidence was not disputed.

13. The State contends that the evidence of Miller takes the matter nowhere, on the basis that the organisations could not be expected to have said anything else at a public meeting. The implication is that conspiracies are hatched privately. It is submitted that the evidence is of great weight and no organisation intent upon fomenting mass violence would specifically discourage violence at a meeting at which members of the public were present and tell them as a matter of public record that the organisation is opposed to violence.

Betoog: p571 para 1.2.2.4

14. It is accordingly submitted that the inference that

the violence in the area was caused by the activities of these organisations is not the only inference which can reasonably be drawn from all the circumstances. Accordingly, the UDF and the accused cannot be held responsible for what happened here.

15. GRACA

15.1. Evidence concerning GRACA was furnished by the president, Mr Ndwebisa. He is an elderly person who has been criticised by the State as being 'evasive and vague'.

Betoog: p567, para 1.2.1.1

It is correct that this witness was sometimes vague and unclear in his evidence. It is submitted however that this was a function of forgetfulness and not of any desire to be 'evasive' or to conceal matters from the Court. It is submitted that this witness was a respectable figure, who has held a position as a laboratory technician at Rhodes University for 32 years, and that it was apparent inter alia from his demeanour that it is inconceivable that he was party to a conspiracy of violence.

15.2. Although there was a measure of uncertainty as

to the precise number of meetings which led to the formation of GRACA, this is of no consequence. The witness was not at all the preliminary meetings. He nevertheless gives a clear account of why GRACA was formed. This is basically from the dissatisfaction of the community of Grahamstown about the rent and the scarcity of houses and other problems that were experienced in the lives of the community.

Vol 406 p23694 lines 18 - 22

The UDF had nothing to do with the formation of GRACA.

Vol 406 p23695 lines 16 - 17

The witness is perfectly frank about the attitude of GRACA to the community council in Grahamstown and states in his evidence in chief that these bodies were being called 'dummy bodies' and 'puppets'. References of that sort have been made in Grahamstown from the time of the Advisory Board, through the UBC up to the community councils. There was nothing new about them. It was a result of the failure of the community council to do things for the community.

Vol 406 p23695 line 18 - p23696 line 2

- 15.3. GRACA called for a boycott in the course of the elections. In doing so it was not carrying out any campaign of the UDF and, at that time in Grahamstown, there was no UDF presence.

Vol 406 p23696 line 16 - p23697 line 1

It is submitted that the evidence as a whole shows that GRACA was formed as a result of the problems experienced by the community.

Although it had in its original platform opposition to the community council, it is overstating it to say that GRACA was formed in order to compel the councillors to resign, which is the manner set out in the Betoog, page 567 para 1.2.1.2 - it is submitted that the evidence referred to in that paragraph does not bear out the submission.

- 15.4. The witness testified that GRACA would approach the authorities in order to discuss issues that needed to be raised.

Vol 406 p23699 lines 16 - 19

In cross-examination he agreed that it was

GRACA policy that they would have nothing to do with the council system and other authorities.

Vol 407 p23717 lines 16 - 19

This 'concession' is referred to in Betoog page 567 para 1.2.1.3. In fact, the evidence as a whole shows quite clearly that this 'concession' was not intended to refer to all official bodies. In re-examination, the witness identified a series of documents setting out correspondence between GRACA and a number of official bodies over a period of time. These documents are reflected as Exhibits DA193 - 200. See also Vol 407 page 23749 line 5 - p23753 line 16

It is submitted that scrutiny of these documents reflects an organisation that was authentic, concerned with localised issues and was completely forthright in its communication with the authorities. There is nothing in these documents to support the suggestion that GRACA was at the spearhead in Grahamstown of the implementation of a UDF conspiracy of violence centred around a campaign against Black Local Authorities. Some consideration

of these documents is warranted here:

DA193:

This is a letter addressed to the Town Clerk of the Town Council and states that a copy was posted to the Chief Director for 'perusal and consideration'.

The letter firstly complains about a series of cancellations of GRACA's bookings for community halls by the Town Council.

It sets out in very direct and frank terms GRACA's belief that the council is acting in an undemocratic fashion and outside the powers that it has. In para (x) on page 2 GRACA informs the Town Council as follows: 'GRACA suspects your council is serving no interests of the government; no interests of the community; no interest of the East Cape Development Board; no interests of the Rhini Town Council; but the interests of one or two Rhini town councillors'.

In the concluding paragraph the following is recorded: 'The people of Grahamstown stayed away from the polling booths expressly because

they do not only reject the council incumbents, but they reject and abhor the council system itself. In fact, the people go a step further than that: they reject and detest apartheid, a grand system which has given rise to these councils'.

It is submitted that this kind of forthrightness and candour leans if anywhere in the direction of political ingenuousness. It can by no stretch of the imagination be squared with the programme of an organisation which is concerned with a secret agenda, viz the implementation of a conspiratorial object in Grahamstown, being to promote mass violence. No conspirator would declare itself in such frank and open terms to the very body which is, on the State's thesis, the very butt of its conspiratorial enterprise.

DA194

This again is a letter to the Town Clerk of the Rhini Town Council, dated 14 June 1984, and is a follow-up to the previous exhibit. It again concerns access to community halls and purports to set out the legal position and concludes by threatening an application to the

Supreme Court to seek a mandamus.

DA195

This, too, is a letter to the Rhini Town Council, dated 3 September 1984, which deals again with refusal of access to community halls.

The concluding sentence of the penultimate paragraph reads: 'Further, we demand for humane and urgent answers to all our petitions and letters which you received ever since GRACA was formed - THE SOONER, THE BETTER'.

The last paragraph reads: 'Lastly, we ask your council to review and reconsider its powers it has delegated to Mr Loots who is hated and rejected by our community because of his treatment of the black people of Grahamstown which feed him and his family. We believe that this Mr Loots is grossly abusing the duties and powers delegated to him by your council and that he has no respect for human dignity'.

The letter therefore is another instance of an

appeal to the council to take remedial action in certain respects.

DA196

This is a letter to the Township Manager of the East Cape Administration Board, dated 9 November 1983, being shortly after the formation of GRACA. It addresses the problems of housing in the Grahamstown townships. The letter sets out particulars of the shortage of housing and the extreme overcrowding and compounding social problems which have resulted. It incorporates the following paragraph: 'Town amenities and other services are either poor or non-existent! Rents and service charges are increasing every year, making life more difficult for the residents despite the high rate of unemployment and poor incomes, inter alia. Therefore, the heavy rentals, service charges and high selling prices are no solution to the great shortage of housing in Grahamstown. The ECAB must seek other means to build, provide and maintain houses in the townships. But the money must not come from the residents. No! Definitely not. And further, rents and service charges must only be at amounts all people can afford;

people who want to buy houses must only be charged affordable prices. People must be consulted about any matter affecting the life and welfare of their community'.

It is submitted that this paragraph alone is a clear endorsement of Ndwebisa's evidence of the true concerns that gave rise to the formation of GRACA and its desire to represent the true problems of the Grahamstown people to the authorities.

DA197

This is a letter to the Township Manager of ECAB, dated 15 November 1983. It deals with the problem of evictions in the townships. It brings the following to the attention of the Administration Board: 'Further, we are also taking notice of the behaviour and attitudes of some of your constables against the tenants in the black townships. We strongly ask these black constables to refrain from such behaviour and attitudes!'

Implicit in this again is an appeal to the authorities to take remedial action about a problem affecting the community.

DA198

This is a letter to the Manager of the East Cape Administration Board, dated 29 December 1983, which again deals with the subject of housing in the Grahamstown black townships. It encloses copies of letters sent to the Township Manager and records, 'to which there has been up to now no reply'. It then asks the manager to consider those letters as well as some further information set out in this letter.

As referred to in this exhibit, and confirmed in the evidence of Ndwebisa at page 23752 lines 24 - 30, petitions were prepared by GRACA for submission to the East Cape Administration Board on the question of rent.

DA199

This is a letter addressed to the Minister, Ministry of Co-operation and Development, dated 18 April 1984, and dealing with the problem of housing in the black townships. Its concluding paragraph reads as follows: 'Please, sir, kindly consider the case of the Grahamstown black people which is aggravating everyday, with all your necessary sense of perspective, judgment, sympathy and humanity.'

Hoping to hear from you very soon in our attempts for the better future of the community'.

DA200

This is a letter to the Rhini Town Council dated 21 June 1984 and dealing with the subject of a GRACA delegation to meet with the town council authorities.

- 15.5. Ndwebisa confirms that GRACA became affiliated to the UDF; in his recollection this was between May and June 1984. The affiliation brought about no change in the policy of GRACA.

Vol 407p23701 lines 4 - 14

- 15.6. It is correct that Ndwebisa considered GRACA to be part of the 'national liberation struggle' with the aim of ending 'apartheid', as submitted in Betoog para 1.2.1.6 page 568. However, it is equally clear a national political objective was in no way the primary object of GRACA, but that the issue of 'apartheid' inevitably came into the picture in relation to local problems. Exhibit W79 (Grahamstown Voice of October 1984) carries an

interview with this witness, which he has confirmed. This interview appears at page 3.

To the question 'Why was GRACA formed?', the following reply is given: 'People in Grahamstown face many problems like high rents, bad housing conditions, poor transport and overcrowded classrooms. GRACA was formed to take up these issues'.

The question of 'apartheid' came into the interview in this context: '... I have said that GRACA is a community school. A great deal of progress has been made in this respect. Through our public meetings, house to house visit and Ilizwi we have made the people aware that it is Apartheid that is the cause of high rents and lack of houses. The community councils, the Ciskei and Transkei bantustans are all part of the apartheid problem. It divides people where we are trying to unite them'.

- 15.7. The submission by the State (Betoog page 568 para 1.2.1.9) that Ndwebisa conceded that GRACA saw itself as the alternative to the council system is neither precise nor

contextualised. The witness did no more than to confirm a passage referring to 'alternative' which forms part of an interview given by him and contained on page 3 of Exhibit W79. The passage reads as follows: 'GRACA voices the demands of the people. We demand rents that the people can afford. We demand better houses and improved transport. We provide an alternative to dummy bodies like the community council. GRACA, like all other community organisations, is a community school. It tries to educate people and to solve problems where this is possible'.

This is not a statement that GRACA 'sees itself as the alternative to the council system', which suggests that in the future GRACA will take over as the local authority. What the interview records is the statement that 'we provide...', which is a statement of present day fact. The context of it makes clear that what is provided is an alternative forum through which people's demands can be voiced and through which education of the community can be channelled. The evidence, as already canvassed above, makes clear further that GRACA saw the process of voicing demands

as necessarily incorporating the council and other authorities.

Insofar as the State may be trying to submit that GRACA saw itself as the alternative in the sense that it would take over the local administration of the Grahamstown townships, it fails to have regard to a preceeding question and answer in the cross-examination: 'Is dit so dat julle in GRACA het julle self gesien as die alternatief tot hierdie Rhini Raad, is dit reg? -- Nee, ons sou nie oorgeneem het as die autoriteite nie'.
Vol 407 p23719 lines 25 - 27

- 15.8. The submission made in the Betoog, page 569, para 1.2.1.10 is best dealt with by means of reference to the original passage on the basis of which it makes its present submissions. This passage is part of an interview given by the witness Ndwebisa and reads: 'We worked closely with the UDF around the Million Signature Campaign. We give the UDF our full support because GRACA and the UDF have a common enemy - all organisations like the Apartheid parliaments, the dummy town councils and the bantustans like the Ciskei, GRACA and

the UDF have a common purpose to organise people to struggle for a non-racial, united, democratic South Africa'.

The first important observation is that this passage refers to 'Apartheid parliaments', being in the plural and a clear reference to the tri-cameral system. The passage does not identify 'die parlement' as the enemy, as is set out in the State's submission. It is clear that the parliamentary system itself is not identified as an enemy. It is equally clear that the State in general is not identified as the enemy. What is clear is that it is the institution of apartheid that is really identified as the enemy.

There is no suggestion in this passage that violence forms any part of the 'struggle for a non-racial, united, democratic South Africa'. There is also no suggestion that action is to be taken against individuals like community councillors as part of the struggle. It is significant that in the course of cross-examination of this witness generally and, in particular, in relation to this passage, the State did not suggest to him

that the struggle was to be violent or that he was making reference to a struggle to overthrow the State by violence or that it was a struggle undertaken as part of a conspiracy with the UDF and/or ANC and/or any other body.

A third significant aspect of this passage is that, aside from the rhetorical and non-specific statement that GRACA and the UDF have a common struggle, it records the actual, practical involvement - which is that GRACA worked closely with the UDF around the Million Signature Campaign. This was confirmed in the evidence of Ndwebisa, who declared further that GRACA did not carry out any other campaigns of the UDF.

Vol 407 p23701 lines 13 - 25

- 15.9. The submission in Betoog page 369 para 1.2.1.11 that Ndwebisa's evidence concerning 'aluta continua' was 'pateties en leuenagtig' is unwarranted. It is submitted that the witness was pressed for an interpretation which was beyond his reach. In the course of the evidence cited by the State, Ndwebisa quite candidly identified the original letter written to CRADORA and that he had been party

to it. At the beginning of the cross-examination the note which appeared in Exhibit W56 reading 'aluta continua' comes from the Mozambican revolution and it means: 'the struggle continues', was read out to him.
Vol 407 p23727 lines 3 - 9

He is later asked what 'aluta continua' means and answers 'nee, beter as wat daar geskryf staan kan ek dit nie verduidelik nie'.
Vol 407 p23729 lines 11 - 12

It is submitted in all the circumstances that this was a fair statement by the witness and that the following should be borne in mind: the original letter (Exhibit CA37) did not contain any reference to the Mozambican revolution. Nor did it record the interpretation that it means 'the struggle continues'. That meaning and the reference to the Mozambican revolution appeared in the Grahamstown Voice (Exhibit W56) and was quite evidently added by the editors of that publication. The letter as it appeared in that publication had not previously been seen by the witness. There is accordingly nothing to suggest that he had previously discussed

this slogan in relation to Mozambique or any other struggle.

- 15.10. The submission made in Betoog page 569 para 1.2.1.12 that Ndwebisa went out of his way to try to mislead the Court about the co-operation between GRACA and UDF is rejected. The submission is not in any way warranted by the evidence. It is based on cross-examination concerning an Exhibit AAZ16. This document is simply headed 'Report of the Housing Commission (February 10)'. The document does not even identify the year in which this commission met. It is clear from the document itself that no earlier meeting of this 'housing commission' had been held. It is concerned only with proposals and there is no report of any activities having been undertaken by any of the organisations represented, including GRACA. The document ends with a recommendation that the commission should meet again. There is no independent proof relating to this commission or whether it ever met again or whether it undertook any activities or whether any of the proposals were effected, whether by GRACA or any other of the bodies. The document itself does not

warrant the inference that GRACA was involved in an ongoing way with the UDF in respect to housing. The evidence of Ndwebisa that he had never seen Exhibit AAZ16 must be accepted and, it is submitted, the State's contention that he went out of his way to mislead the Court in this regard should be rejected.

15.11. Paras 1.2.1.13 - 14 of the Betoog (page 569) deal with the evidence of Ndwebisa that all the schools in Grahamstown boycotted from 1984 until 1987, in opposition to the new constitutional proposals. He gives no evidence concerning the manner in which the boycott began and does not in any way refer to COSAS. The submission made at the foot of page 569 by the State that the evidence shows the extent of the incitement and abuse of the youth by COSAS has no foundation whatsoever in the evidence of Ndwebisa.

15.12. The submission in para 1.2.1.16 (page 570) concerning what was said at a 'parent committee' meeting on 18 November 1984 is irrelevant to the present case. In any event, what is described by the State in its submission as '...waar bevestig is dat hul

besef...' is in fact what two different speakers had to say and there is no evidence of any resolutions having been adopted or their views having in any sense been incorporated.

- 15.13. In relation to the meeting of 6 January 1985, in connection with submissions made in para 1.2.1.17 (Betoog page 570), it is observed that the report concerning a COSAS decision about the continuation of the school boycott is hearsay. It was the witness Ndwebisa himself who said at this meeting that parents wanted the scholars to return to school when they reopened on 9 January 1985.

Vol 407 p239739 lines 2 - 13

This evidence of course makes nonsense of any suggestion that the boycott of schools by scholars forms part of the conspiracy, to which GRACA is on the State's case alleged to have been party. This evidence establishes that the senior executive officer of GRACA made a direct appeal for the school boycott to come to an end.

16. Several documents are referred to by the State in its

Betoog. These are dealt with below:

16.1. Exhibit AM39 (Betoog para 4.1, page 577)

This is an undated pamphlet, admittedly issued by GRACA, but before Court merely on the basis that it was found in Grahamstown between 20 August 1983 and 16 September 1985. No attempt was made to date it through the witness Ndwebisa, and no connection can be drawn between it and the incidents of violence which have been canvassed by the State in this trial, the latest of which was on 9 November 1984. It is in any event submitted that the pamphlet does not encourage violence, that it evidently was produced because of the problem GRACA experienced in obtaining community halls and, finally, that the State has not established on what basis this pamphlet is admissible against the present accused.

16.2. Exhibit AAC23

This Grahamstown Voice of December 1983 is admitted to have been found in possession of Accused No 22 on 24 April 1985. Again, the basis and extent of the admissibility of this document against the present accused has not been laid out by the State. In any event, it is submitted that the passages referred to do

not propagate violence or suggest that violence is the only remedy. In any event, the document makes clear that the fact that GRACA had dealings with the authorities, was made a matter of public record through the medium, inter alia of Grahamstown Voice. Thus on page 3 under the heading 'GRACA Fights High Rents in Many Ways' it is recorded 'by sending delegations and letters with the demands of the residents to the township authorities. The civic also asks many questions and finds out how the system works'.

On the same page it is observed: 'We have asked people to sign a petition to support these demands and it is going well'.

The aims of the association were also set out as a matter of public record and appear at page 7 of the same exhibit:

'THESE ARE THE AIMS OF THE GRAHAMSTOWN CIVIC ASSOCIATION 'GRACA' THEY APPEAR IN THE CONSTITUTION OF THE ASSOCIATION. THEY GIVE THE PEOPLE WHO WORK IN GRACA A CLEAR IDEA OF WHAT TO DO.

1. To strive for proper housing, essential amenities and other

services for our community;

2. To strive for affordable rents, service charges, rates, water and electricity;
3. To act as a "watchdog" on any matter affecting the life of our community;
4. To unite the residents against their daily constraints and frustrations;
5. To liaise and co-operate with other similar organisations;
6. To take a lead on any matter affecting our residents'.

16.3. Exhibit AAY4

The only evidence concerning this document is that it was given to Mestre by an informer in about September/October 1984.

Vol 107 p5314 lines 25 - 30

As with the other documents put in through Mestre, it is subject to the major difficulties that there is no evidence that

the document was distributed or that the document is authentic. This exhibit was not put to the witness Ndwebisa and, it is submitted, that no inference whatsoever can be drawn from it or any weight attached to it. In particular, it is pointed out that the State submissions, which are made in the form of a series of facts, pays no regard to the fact that the document itself is subtitled 'Questions for discussion by Grahamstown ad hoc committee'. There is no evidence that these questions were in fact ever presented, that they were ever discussed, or that any decisions relating to them were made.

Thus, the submission that it is clear that GRACA discussed UDF campaigns (Betoog para 4.3.1) has no foundation. In any event, it is noteworthy that only two UDF campaigns are referred to by name. These are the Million Signature Campaign (which Ndwebisa testified GRACA was involved with) and the anti-election campaign (in respect of which there is no suggestion anywhere that GRACA was involved). The document in no way advances the argument generally made by the State that GRACA was involved in a range of UDF

activities. If the anti-election campaign refers to the Black Local Authorities election at the end of 1983, then Ndwebisa's evidence - which is unchallenged - is that GRACA resolved upon a boycott campaign long before the UDF had any presence in Grahamstown. If the anti-election campaign refers to the election to the House of Delegates and House of Representatives, then there is every reason to believe that GRACA would not have been involved in any way. In relation to the remaining State submissions concerning this document, it is reiterated that its interpretation of the document as discussion and planning is entirely misplaced. It had evidently mistaken a series of questions for a minute of a meeting.

16.4. Exhibit AAY7

This is an undated pamphlet purporting to have been issued by the Grahamstown branch of COSAS. Again, the only evidence relating to this pamphlet is that it was handed to Mestre by an informer; Mestre thinks that it was at the beginning of 1984.

Vol 107 p5315 lines 20 -26

No basis has been established as to why this

document should be in any way admissible against any of the accused in respect of any of the charges.

In any event, the interpretation placed on it by the State is not supported by the contents of the pamphlet. The pamphlet does not say that any attempts at reconciliation with the authorities must be rejected. Whatever rhetorical flourishes there may be, the essential message conveyed is the following: 'THERE IS ONLY ONE WAY TO LET THE AUTHORITIES LISTEN TO US THAT IS BOYCOTT'. The call is not to physical violence.

Against the evidence of Mestre that he thought this pamphlet to have been given to him at the beginning of 1984 the reference to 'the blood of Vaal, Thabong, Cradock, Atteridgeville...' is meaningless.

16.5. Exhibit AAY9

The only identification of this document comes again from the evidence of Mestre, who testified that it was handed to him by an informer. He testifies further that this was during the time of the launch of the Education

Charter campaign during the weekend of 29/30
August 1984.

Vol 107 p5317 lines 5 - 9

Whenever the document may have reached Meistre (and it is submitted that his own evidence establishes that no reliance can be placed on his fixing of dates) certainly, no inference can be drawn that this pamphlet was distributed at the launch of the Education Charter campaign, since that would depend entirely upon implicit hearsay. As with other Meistre documents, no inference can be drawn about distribution or authenticity. The fact that a UDF emblem appears on page 3 of the document comes to nothing. Meistre himself agreed that any UDF affiliate might append the UDF emblem to a pamphlet and that this would not necessarily be the UDF itself.

Vol 107 p5318 line 24 - p5319 line 5

It therefore becomes a matter of useless speculation as to who might have produced it.

16.6. Exhibit AAZ16

The State has not established in respect of which accused or which charge this document

might be admissible. In any event, as already submitted, there is no evidence of any of the proposals considered in this document having come to fruition and it ultimately comes to nothing.

17. It is submitted that the evidence of Ndwebisa concerning GRACA, as read with the contemporaneous documents considered above, is of a quality sufficient to establish the most material aspect, being that GRACA did not have a policy of violence or promote violence in Grahamstown. It is submitted that the evidence establishes that COSAS dissociated itself from the violence which took place. The State has understandably made no submissions in regard to the other organisations set out in the further particulars relating to Grahamstown. In the circumstances, it is submitted that no inference can be drawn that the violence which occurred in Grahamstown resulted from any planning, decision or activity of the organisations as alleged, or that such violence resulted from the UDF campaign against Black Local Authorities or that such violence can in any way be connected with the accused in the present matter.