

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

(TRANSVAALSE PROVINSIALE AFDELING)

Ass

SAAKNOMMER: CC 482/85

PRETORIA

1987-08-13

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST EN

ASSESSOR : MNR. W.F. KRUGEL

NAMENS DIE STAAT:

ADV. P.B. JACOBS

ADV. P. FICK

ADV. W. HANEKOM

NAMENS DIE VERDEDIGING:

ADV. A. CHASKALSON

ADV. G. BIZOS

ADV. K. TIP

ADV. Z.M. YACOOB

ADV. G.J. MARCUS

TOLK:

MNR. B.S.N. SKOSANA

KLAGTE:

(SIEN AKTE VAN BESKULDIGING)

PLEIT:

AL DIE BESKULDIGDES: ONSKULDIG

KONTRAKTEURS:

LUBBE OPNAMES

VOLUME 258

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THE COURT RESUMES AT 14h00 ON 1987-08-13:

POPO SIMON MOLEFE, still under oath:

FURTHER CROSS-EXAMINATION BY MR JACOBS: Mr Molefe, will you have a look at EXHIBIT "AL151"? Have you got it? -- That is so.

That is a document found in the offices of UDF National Johannesburg? -- That is correct.

MR BIZOS: It does not say "National", M'Lord.

COURT: Mr Jacobs, "National"?

MR JACOBS: I put it to you it was found in the offices of UDF National Executive Council in Johannesburg? -- I do not dispute that. 10

And this is a document issued by the National Executive and signed by you? -- That is correct.

Now, page 2, the last paragraph of that, will you read it please? -- The last paragraph?

"Our struggle against the constitution and the Koornhof laws has not ended. We will continue stricing for the dismantling of the Black Local Authorities, the apartheid parliament and the Bantustans and for that matter the entire apartheid structure. We will not rest until our people have control over their own lives." 20

MR JACOBS: Mr Molefe, do you agree that this is a policy statement of the UDF or not?

COURT: Sorry, Mr Jacobs, I thought you were saying 159.

MR JACOBS: It is 151.

Is this a policy document, this exhibit? -- Well, in a sense it is.

And is it then the policy of the UDF that - and I put it to you, according to this last paragraph, that it is a fight/... 30

fight for the taking over of power? -- Which paragraph is counsel reading from, which line?

"We will not rest until our people have control over their own lives."

That refers to the - I put it to you, to the fact that you are in control of the land? -- Until we have a vote to determine our own lives. That is what it refers to.

Will you have a look at EXHIBIT "C97"? Just to make it clear, when you say until you have a vote, it is a vote in the general parliament in this country? -- That is correct. 10

It is not a vote, say for instance, in the fourth chamber or any other vote? -- No.

MR BIZOS: Whilst there is this pause, M'Lord, if we are not favoured with a list of the documents that are going to be used, could I appeal to Mr Jacobs to mention the volume number, so that it will facilitate our fishing into the documents.

MR JACOBS: Mr Molefe, this document was found in the UDF offices, and I put it to you, the National Executive office of UDF in Johannesburg? -- If there is an admission in that respect, I cannot dispute it. All I can say is that I had not seen this document before. I saw it for the first time as an exhibit in this case. 20

And Mr Molefe, can you tell us, Lalo Chiba, who is that? -- He was a member of the Transvaal Indian Congress.

Was he a member of the UDF? -- The organisation to which he belonged is an affiliate of the UDF.

And he himself, was he on the executive of the UDF Transvaal? -- I cannot recall if he was ever elected onto 30

the/...

the Transvaal Executive. I think we can have a quick look at EXHIBIT "C1" to determine if he is a member of that executive. It has got a list of regional executive members. No, he was not.

And Mr Raymond Sutner? -- Sutner was elected onto the Transvaal Executive, I think during March also, 1985.

Do you know to which other organisation he belonged? -- He was a member of the Johannesburg Democratic Action Committee.

That is .. -- It is an affiliate of the UDF. 10

COURT: What did they emphasise? What was their line or campaign or issue that they dealt with? -- They dealt with the issue of constitutional proposals, the Koornhof bills, but they were presenting alternative arguments in the White communities. They of course participated also in the campaign of the UDF.

MR JACOBS: And just to clear up the names I have mentioned, it appears on page 2 - on the second page, the first one is the heading "The Freedom Charter" and the next page then, Lalo Chiba and Mr Raymond Sutner, both of them delivered papers at a workshop on the Freedom Charter? -- It is so set out. 20

The paper from Mr Lalo Chiba appears from page 1 to 9 and then at page 10 there started a paper by Mr Raymond Sutner? -- I see that.

And just to get clarity further, on page 34 of this document there is a co-ordinating structure, the first paragraph? -- I see that.

The Co-Ordinating Committee, that co-ordinating structure is in relation to a campaign on the Freedom Charter. 30

Is/...

Is that correct?

COURT: What is the question?

MR JACOBS: The co-ordinating structure, that refers to a campaign on the Freedom Charter? -- I assume that is what it refers to.

And a Co-Ordinating Committee was appointed? -- I believe from this - I was not there, I did not attend that workshop. I made that point clear in my evidence in chief. One can assume from what one is reading in this document.

In this document it is clear. Can you tell us, the people appointed on that committee, they were from different organisations. Can we just get clarify from you, all of them are affiliates of UDF and they are mentioned here in this paragraph. -- Where is the paragraph that says they are all affiliates of UDF? 10

No, I ask you, is that correct? Are they all affiliates of UDF?

COURT: Where are we now? Page 34. Is the question, are the organisations mentioned in the first paragraph on page 34, are they all affiliated to the UDF? 20

MR JACOBS: UDF. -- I can single out those which were affiliated to the UDF, the TIC, the NTTC, JORDAC, those are the only three I can single out, but now the other one simply says "Youth", the other word is "Student", "Women", "Church" and "Trade Unions". I do not know which ones.

COURT: RMC? -- I am sorry, I missed RMC. So it would really be RMC, the TIC, NTTC and JORDAC. Now, these other words like "Youth", "Student", "Women", "Church", "Trade Unions", I do not know which specific trade unions or churches or women or students or youth is referred to here. As 30

I/...

I indicated, I was not there. I do not know which organisations were represented.

MR JACOBS: Will you go to the next paragraph, paragraph (d), the Freedom Charter Campaign and the UDF, and then it reads:

"The UDF being a front cannot co-ordinate or spearhead this campaign. However, two points must be made: there is no conflict between the Freedom Charter and the declaration of the UDF."

Is that a correct statement, Mr Molefe? -- I believe that statement is correct. 10

"The Charter is a great document that has emerged from the mass struggles of our people and the COP stands out as the most representative gathering of our people."

What is COP? -- I believe it refers to the congress of our people, which was held in 1955 and which adopted the Freedom Charter.

Of which organisations did they consist?

COURT: Who is they?

MR JACOBS: The COP, the Congress of the People? -- I think it consisted - it was - it came as a result of the initiative of a number of organisations which I shall mention, but that congress was a congress of delegates from various places representing a lot of organisations and communities which may not have had organisations, as I understand it. It was not limited to organisations, but the organisations which co-ordinated that effort, as I recall, would have been the African National Congress, the South African Indian Congress, the South African Coloured People's Organisation which later became the Coloured People's Congress, the Congress/.. 20 30

Congress of Democrats, I think the South African Congress of Trade Unions as well. I think those were the key co-ordinators of that Congress of the People.

These organisations just mentioned by you, did they not become known as the Congress of the People? -- No, they became known as the Congress Alliance.

Now, according to this ..

COURT: Could I just pause there? Is there any significance in the use of the word "Congress" in your circles? -- I have not thought about that.

10

Just let me give you an example. One would normally say that one launches a students' association, but now we have COSAS which is called the Congress of South African Students. A congress is a one-off event normally, it is not a society. Now, is there any particular reason why all these bodies are called Congress? -- I do not know. They existed before the UDF. We had the Transvaal Indian Congress, we had the Natal Indian Congress, all those congresses, and apparently there had been also the All Indian Congress which existed in India. I do not know the significance. I do not really know. I have not thought of it. I have not discussed it with anybody.

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MR JACOBS: I just want to ask you one thing: was not the South African Communist Party a member of that Congress Alliance? -- Well, historical records indicate that it was banned in 1950 and that the Congress of the People took place in 1955. So that it was not that time.

Now, the next paragraph of this:

"It is for this reason that UDF should play a supportive role and also bless the campaign. There is need

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for/...

for further discussion with the UDF and its role as regards this campaign."

It seems from this, Mr Molefe, do you agree, that the UDF did decide to support this campaign? -- To me it has not become apparent from reading this. All I understand this to mean is that the writer of this article or the compilers of this program or proposals think that the UDF should play a supporting role in the campaign, and indeed this is supported by the next line which says:

"There is a need for further discussions within the UDF on its role as regards this campaign." 10

There might have been some discussions before. I do not know about that. I do not know what it refers to.

Mr Molefe, did you never hear about this while you were in the UDF that this campaign was going to take place or about this workshop? -- I knew that the workshop was going to take place, and I knew that the purpose of that workshop was to discuss how to organise for the 30th anniversary, something like the commemoration of the 30th anniversary of the Freedom Charter, but I did not take part in those discussions. 20

And this workshop took place on 20 January 1984. -- According to this document, it is 1985.

I see on page 33 of this report it is 1984. Can you explain? -- I do not know. I do not know. I recall quite well that that weekend the NEC was having its meeting starting on the 21st and going on to 22 January 1984. I think the other part of this paper refers to 1985, the workshop papers, the front page of EXHIBIT "C97".

I see on the second page as well where the names of the/... 30

the people delivering papers appear, it is 20 January 1985. I suppose .. -- Yes, possibly it was a typing error.

Mr Molefe, you said you never saw this paper up to the time of your arrest? -- Yes, I cannot recall seeing these papers before my arrest.

And up to the time of your arrest you cannot explain how it came to be in the Johannesburg offices without you seeing them? -- I cannot recall that.

Now, I would like you to have a look at page 14. Page 14 is part of the paper delivered by Mr Sutner starting at page 10. Now, will you read the paragraph starting with - the third paragraph from the top, "The demand of the people shall govern". -- 10

"To demand that the people shall govern is in this context a revolutionary call. It is revolutionary because it cannot be accommodated in the existing South African state. The right to vote may have been a civil right question for Blacks in the USA in the 60's for they then sought absorption into a common society. In South Africa in contrast the demand to vote in and undivided South Africa is part of a national liberation struggle. It is part of a struggle for sovereignty, for the people have never governed South Africa." 20

MR JACOBS: And will you agree, Mr Molefe, that the call for a vote in the undivided South Africa and where the people shall govern also according to the declaration of UDF is a call for sovereignty and the taking over of power in South Africa? -- I have dealt with that question. I do not know if I should respond to that question again. I have explained what the UDF understands by power. 30

I/...

COURT: I would like to ask you a question, reverting to the civil rights, the definition of civil rights and that the struggle is not a civil rights struggle. According to this author the right to vote may have been a civil rights questions for Blacks in the USA. So that was not a question of separate amenities in the USA; it was the right to vote which was called a civil rights question for Blacks in the USA in the 60's, for they then sought absorption into a common society. Now, as I see it, according to your evidence, the UDF stands for a common society? -- That is correct. 10

And the right to vote for everybody? -- That is so.

Now, on this definition of a civil rights question, this is then a civil rights question? -- Well, if we take his own conception of civil rights.

I am not talking about your conception, but the author's conception of a civil rights conception would encompass the UDF's struggle? -- I am not sure - I do not understand the question.

What I am putting to you is this, that the UDF wants the right to vote? -- That is so. 20

The UDF stands for a common society? -- That is so.

According to the author this is a civil rights question for Blacks in the USA or was in the 60's a civil rights question for Blacks in the USA. I am dealing merely with the concept "civil rights", but according to the author civil rights is the right to vote and the absorption into a common society. Now, does the UDF stand for more than that? -- I think he is dealing with the matter in a different context. What he is saying is that in America he assumes that the only thing that the people did not have there was 30

a/...

a vote, but otherwise everything else was okay for them, and then they regarded that as a civil rights struggle, but he seems to be saying that in South Africa you cannot absorb those who do not have a vote now into an apartheid society. It would entail a fundamental change of that society, to become something fundamentally different. It would become a non-racial society, and then he says that that is the very - I think he means that that is a very fundamental change because whilst in the US you would just become part of a society that had not entrenched the racism in its constitution perhaps, and in South Africa you would have to change that racism that is entrenched in the constitution. I do not know what exactly he had in mind. I was not there when he wrote.

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Granting the right to vote would automatically, if it is a unitary parliament, negate racism? -- I think so, yes.

MR JACOBS: Mr Molefe, would you have a look also at EXHIBIT "AJ1"? Sorry, it is "AJ49".

Edele, ek het van die bewysstuk ekstra afskrifte gemaak vir die beskuldigde om na te kyk en ek het ekstras.

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COURT: Have a look at this one, Mr Jacobs. My assessor has got one and my registrar has got to fetch it because I want to make my notes on my own copy.

MR JACOBS: Mr Molefe, we had evidence this morning about the letter to be written by accused no 22 when we referred - I think it is EXHIBIT "G5". -- I think I said no 20, not no 22.

I am sorry, accused no 20. Can you tell the Court if this is the letter written by him? -- I had not seen it, as I indicated earlier on. It looks like it.

30

This/...

This is a document found in the UDF National Johannesburg and it was signed, it seems, by ..

COURT: Is this an agreement or are you putting it to the witness?

MR JACOBS: The national part was not in the agreement.

COURT: You said "National"?

MR JACOBS: Yes, in the National - I am putting it to him.

COURT: Are you putting that or is that part of the agreement between State and defence?

MR JACOBS: No, it was not part of the agreement. 10

COURT: Is this document not agreed on at all?

MR JACOBS: It is agreed on that it was found in the offices of UDF Johannesburg.

It was signed, it seems, by accused no 20? -- It appears like it was signed by him. It has got his name on it.

And if you would like to have a look at page 2, the top paragraph, and there he is adhering to the instruction of the National Executive of UDF and stating that your struggle is not a mere struggle for civil rights. -- May I be given time to read the letter? Maybe I should start 20 from page 1.

COURT: Could I have a copy please?

MR JACOBS: Is it correct then that this - can you explain to the Court what is meant by the words:

"To suggest therefore, as Comrade Mobothe reported Sentiment Duff, that the South African struggle is a mere civil rights affair is to mistakenly lend legitimacy and credibility to the minority colonial regime."

What is meant by that? -- Well, I do not know what the writer of this letter had in mind, but my interpretation of 30

this/...

this is that he is really saying that to say that the struggle of - the South African struggle is a mere civil rights affair is to suggest that the apartheid government based on - the government based on the policies of apartheid is a legitimate government, it represents the aspirations of the majority. I understand it, that is my interpretation.

COURT: So what? Do you not want inclusion in the Government? Does the UDF not want to be part of the Government?
-- The apartheid Government, no.

No, do not describe it, a part of the Government of South Africa? -- Well, the UDF wants to be that, but as I understand it he says he is referring here to minority, then you cannot talk of a minority when you are talking about the Government of the people of South Africa. 10

Why call it a colonial regime? -- I do not know what he had in mind.

MR JACOBS: Did you discuss this fully at the General National Executive Council meeting? -- No, we did not discuss the letter.

But before you gave him instructions, was it not discussed fully? -- No, it was discussed in the context in which I have explained what the national democratic struggle is, or whatever - my views on the issue of civil rights and the issues that are not of a civil rights nature, which means the issue of vote in a democratic government. We have discussed that. I think he was putting it in his own language, the way he sought to explain it. I think he is the only one who can say what he meant by colonial regime. 20

COURT: Well, it is said in the third paragraph:

"The South African struggle as you are no doubt aware is/... 30

is a struggle against colonialism."

Is that the UDF's struggle, a struggle against colonialism?
-- Which paragraph are we reading?

The third paragraph on the first page. -- I would not regard the struggle of the UDF to be the struggle against colonialism. However I would accept that there are - it has got - the situation in South Africa has got characteristics of a colonial authority in the sense that if one looks at a colonial situation, you have a situation where the people who are ruling are those who came from foreign countries, and they are accountable to the foreign country and the people in that country are simply subjected to the kind of structures which are merely advancing the interests of the colonialist. They are not determining their own future. Maybe if one looks at some kind of authorities that the Government has set up, like the homelands, the Black Local Authorities for the indigenous people of South Africa, one may see that similarity, because in the colonial situation you would have tribal authorities which are accountable to the colonial masters, the government set up by the colonial masters, but South Africa is different from a real colonial situation in the sense that a government that is in power is not accountable to any other foreign power. It is accountable to itself, but the point is that it is those people who initially came here as part of the colonising power, who are ruling the country, and the people who had been in the country are not part of that government. I think if he means that, as I understand it.

I do not know whether we will hear what the author meant by this letter, but if it is proved that this letter was/...

was sent by the UDF, the national publicity secretary to a comrade president, might it not conceivably be argued at the end of the case that as the whole of Africa has thrown out the colonists and the colonial powers, got rid of them and got them off their backs and off their soil, likewise ours is not a civil rights affair, we must get them out of the country, or at least get rid of them totally as they are a colonial regime? -- That is not the policy of the UDF. The policy of the UDF is not one that seeks to drive white people into the sea or out of the country. It is one that seeks to accommodate everybody. It accepts that everybody who has settled in South Africa, South Africa has become their home and a government that governs South Africa should be a government that incorporates all those people. 10

Yes, it may be that this letter gave the learned Comrade President the wrong impression? -- It may well be. That is not the policy of the UDF.

MR JACOBS: Is there any view of the UDF, in the UDF itself as to a special kind of colonialism in South Africa? -- Well, the UDF has never sat to discuss that. I know of no occasion when the UDF sat to discuss it. I was merely responding to the question that Your Lordship raised, how I understand it, my interpretation of it. 20

Mr Molefe, I would like to put it to you that ..

COURT: I would like to ask one more question on this letter. Comrade Mabothe, who is he? That is page 2, the top of the page? -- I think he was one of the senior government officials there. I am not quite sure.

This is now in Mozambique, I take it? -- Yes.

ASSESSOR (MR KRUGEL): And Comrade President, Mr Molefe, would/... 30

would that have been at that time - have been the late President Samora Machel? -- I believe so.

MR BIZOS: May I say, M'Lord, as indicated at the opening, that Your Lordship and the learned assessor would hear accused no 20.

MR JACOBS: Mr Molefe, I put it to you that the preconditions set by UDF for a national convention are so high that it boils down to the Government handing over power to the UDF and the people and the leaders of the UDF that must draw up a new constitution? -- I do not accept that proposition. 10

I would like you to have a look at EXHIBIT "C18", Volume 2, on page 9, the second paragraph. Will you read them please? --

"There are also several non-negotiable preconditions that would have to be met for such a NC to occur. One, the suspension and demobilisation of the police and army, the unbanning of political organisations, the freeing of political prisoners, the unbanning of all those banned, the unconditional return of all those in exile. All of these people should be free to participate in the proceedings of the NC, and also in the preparation for such an NC; the immediate suspension of all racist and unjust laws (like the pass laws, Group Areas, the Land Act etc); the attempted revival of these laws would be made a punishable crime; the suspension of the current racist constitution and the dissolution of the Bantustans." 20

MR JACOBS: Now, the first point I would like to make, the suspension of the constitution in South Africa is a non-negotiable/... 30

non-negotiable precondition, according to this document? -- Well, this is not UDF according to this document.

And a non-negotiable precondition is also the disarming and suspension of the police force and the army in this country? -- What line is that? I am missing it, I cannot see it here. I cannot see the disarming.

Point 1? -- I do not see a disarming.

COURT: Demobilisation of the police and army, demobilisation. -- Yes, I see that.

MR JACOBS: That is a non-negotiable precondition? -- According to this paper, yes. 10

And is it a non-negotiable precondition that all political prisoners must come back to the country and must be released and the others in exile must come back? That means the people from the ANC must be unbanned and released? -- I do not know if the writer of this paper was referring to the people in the ANC.

The prisoners, are there not many of them members of the ANC and are they not political prisoners? -- Well, there are prisoners who are members of the ANC. There are 20 prisoners who were members of other organisations.

COURT: Could we just get clarity? What do you mean by political prisoners? Forget about what this author may or may not mean. You when you speak of the freeing of political prisoners? -- Those people who were incarcerated for political beliefs, who were involved in a political struggle.

Let us just get clarity on that. If a criminal offence was committed by those people, like murder, do you still regard them as political prisoners? -- If it was politically motivated. 30

So/...

So even if an innocent man was murdered by that person and he was politically motivated, that would mean he is a political prisoner in your terminology? An easy example would be somebody who plants a bomb in the middle of Church Square, a couple of policemen are injured but also a couple of innocent bystanders? -- I think it might assume a different interpretation.

Would that be then a political prisoner? He says, I do it because I believe in the ANC? -- As I understand it here really, the political prisoners, although I said if the matter is politically motivated, but generally it is understood as referring really to those people who are regarded as leaders like Nelson Mandela and so on, and others. We have never thought of the question of murder. 10

But surely you must have thought of that, Mr Molefe. There are many people in jail who on the basis of their belief in the ANC committed violent acts, amongst them murder. You cannot tell me you have never thought of it, of what freeing of political prisoners means. -- I have never really thought of it in that context, but I think if we accept that all those acts happened as a result of the policies of apartheid and that if they are removed nobody would be involved in that kind of action, everybody has got a vote, would not be involved in that kind of action. I think we need to accept that ordinarily people would not have got themselves involved in that kind of situation. 20

You do not have to justify your beliefs to me in this sense. I just want a definition of political prisoners. -- I have not applied my mind extensively to that, but ordinarily one would be having in mind people like Nelson Mandela/... 30

Mandela, Sizulu and others.

MR JACOBS: And the banned people, the exiles, what do you understand under them? -- Well, the exiles would refer to all the people who left because of the apartheid policies. It would include those who are members of the ANC, those who are members of the PAC, who are members of the Black Consciousness movement, all the refugees who are out of the country, who are not members of any organisation, and other people who have left and are working in other countries because they feel that they cannot live in an apartheid society, all those, all of them. 10

Will you have a look at EXHIBIT "C19". We have already referred to this document, on page 2 in the middle there. Have you got the document in front of you? -- I have got it.

Now, in the middle there, there is again stated that there are five preconditions before there will be any discussions about a national convention. -- Is it at page 2?

Page 2 in the middle. Will you read it please? --

"Beyond this, to ensure that the national convention is genuinely sovereign and democratic, there are five preconditions that have to be met. The present racist constitution has to be suspended. All the people's organisations have to be unbanned. All political exiles have to be allowed to return immediately and unconditionally. All political prisoners banned, banished and restricted patriots have to be released. In addition all the people's leaders must fully participate in the preparation for and actual work of the national convention. There has to be an immediate, complete/... 20 30

complete and unconditional compliance with the universal declaration of human rights. There must be an immediate repeal of the Land Act, the Urban Areas Act and in addition all repressive legislation. The Internal Security Act, security legislation and proclamations in the Bantustans must also be repealed."The police and army must be disarmed and they must also be disbanded."

MR JACOBS: Do you agree, you have got the preconditions here again, and will you just read the next sentence as well please? -- 10

"This then presents us with a picture of what characterises a national convention and what the preconditions are before a democratic national convention can be convened."

MR JACOBS: Do you agree that it is the policy of the UDF that before there can be any discussions on the national convention these five preconditions must be fulfilled? -- Before there can be any discussions on the national convention? 20

Yes. -- I disagree. This is not a UDF policy document. I made that point.

Do you agree in this document again it was regarded that the constitution must be suspended? -- Yes, I see that.

And that the police and the army must be disarmed? -- I see that. .

And disbanded? -- I see that.

THE COURT ADJOURNS. THE COURT RESUMES:

POPO SIMON MOLEFE, still under oath: 30

FURTHER/...

FURTHER CROSS-EXAMINATION BY MR JACOBS: Mr Molefe, will you regard this reflected in EXHIBIT "AH1", page 5, paragraph 10 - you have already answered on this, page 5 paragraph 10.

COURT: What is the question?

MR JACOBS: Will you accept this as a policy of the UDF where the NEC decided on it? -- No, I do not regard it as such. At the outset, I think the first page, item 3 where it says workshop, it states very clearly that regional mandates were required. It was a matter that was still 10 going to be discussed further by the regions. The feed-backs of the regions in respect of these issues would make it policy of the UDF. However, I agree that the principle of a national convention is a policy of the UDF and that the question of unbanning of organisations, release of political prisoners and return of the exiles from the outset when the UDF was launched, that was policy. New things had been added which were to be discussed further.

I see in this minimum demand set here, there is one, the national convention and the disarming of the armed 20 forces. -- Of the current army and the police, the disarming and disbanding of the current army and the police force.

So on page 10 point 2, conditions for a national convention? -- That is what I have been looking at. I do not know what counsel has been looking at.

There is also again provision for the suspension of the racist constitution? -- Yes.

And there is also one then for the return of political prisoners and taking part in the national convention. -- Yes, there is a point on the return of political prisoners. 30

And/...

And a point on the exiles as well? -- That is correct.

Now, when you mentioned the exiles a few minutes ago, you said nothing about Mkonto we Sizwe. Is that also part of the exiles that must take part in the national convention? -- That is correct.

And Mkonto we Sizwe, is there anything that they must be disarmed and returned to this country? -- My understanding is that if the ANC is unbanned, it would operate lawfully, they would be disarmed. It is automatic as far as I am concerned, as far as we were concerned. 10

Now, Mr Molefe, something that is not clear to me on this is on the next page, paragraph 10.3:

"We must draw a clear distinction between national convention and talks."

What do you mean by a clear distinction - what is meant here by a clear distinction between mere talks and a national convention? -- What we intended to convey by that is this: in a national convention you have a multiparty sort of a situation. It means you would have the UDF there, you would have the ANC, you would have the PAC, you would have 20 the Black Consciousness movement, you would have Inkatha, you would have all sorts of people who are elected by their constituencies, the Nationalist Party and so on. It is a broad thing that deals with the crucial issues relating to the future of the country, broad principles. But then the talks would simply be a situation where the UDF is involved with the Government, it is talking to the Government and it is talking about matters that pertain to itself and its supporters maybe or how it sees the situation in the country to the exclusion of other parties that are referred to. 30

This/...

This is what we sought to convey to regions, that a national convention is much more than just the question of talks.

And did you in the UDF have discussions with the ANC on the question of a national convention? -- We have not had any discussions with the ANC on that issue.

Did you have any discussions on the national convention with the PAC? -- No, we have not.

And Mkonto we Sizwe? -- We did not.

Now, Mr Molefe, can you tell the Court, I put it to you that according to the documents of the - especially 10
Mkonto we Sizwe, that they are not prepared to take part in any discussions, but they want to take over the country by violence. It is not a question of sharing but taking over power. What did you do in this regard? What did you do to try and get clarity on this in the UDF? -- I do not know of those documents. I do not know about what counsel is putting to me, but when we made a call for a national convention, we believed that the primary force, the primary power in South Africa is the Government, and we believed that as a starting point, if the Government had accepted 20
just the principle, just the principle of a national convention, of calling for a national convention, other parties would be persuaded once the Government throws the gauntlet to them, if the Government makes a commitment that it is intent on negotiating seriously the future of the country, we thought that other parties would have no difficulty in that respect.

Mr Molefe, on what basis did you decide for the ANC that Mkonto we Sizwe would be disarmed? -- We did not decide for the ANC. We were looking at the situation as we 30
saw/...

saw it, that these people have given reasons for taking up arms, as the fact that they were not allowed to propagate their views openly, their organisations were banned and they had no other option. That is what we understand, we understood, and if indeed that is the reason, we believed that once the organisations are unbanned, there exists no reason why they should pursue an armed struggle, when they are unbanned and the Government gives a clear intention to end apartheid and to talk to the leaders, everybody, to leaders of the people to set up - to discuss the future of the country and agree on broad principles in that regard. We see no reason how anybody could have pursued a violent strategy.

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COURT: Were the organisations banned before they decided on a policy of violence or after they had decided on a policy of violence? -- Well, as I understand it, it was after. As I understand it, the organisations were banned in 1960 and only in 1961 did they adopt violence as a strategy, as I understand it. In fact that is how one comes across it in reports everywhere.

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MR JACOBS: Were they banned as a result of their violent policies? -- I said as I understand it they were banned before they adopted the violent strategy. They were non-violent organisations.

ASSESSOR (MR KRUGEL): So you say that when they were banned, at the time they were banned, they were non-violent organisations? -- Yes.

MR JACOBS: Mr Molefe, if it was a precondition that the army must be disarmed and the police must be disarmed and they must be disbanded, how were you going to keep order in

30

this/...

this country if you have got a lot of people, armed people coming back from exile, that you have not had any talks, any discussions with, of them participating and the second point, and them not taking - without the army and without the police taking over the country by armed force? -- My position on the matter is clear. I had indicated what my attitude was to that, but I had also indicated that there was a general consensus that there would have to be a peacekeeping force. That kind of a peacekeeping force would have to be a neutral one, but as I have also indicated, that those issues were not matters that could - that if not met, could invalidate the convention. I personally do not think that the Government would have agreed to that, and I have said that I do not think that was a practical suggestion. But I am satisfied that even if the Government had not agreed to disband the army, the national convention would take place, and secondly that I do not imagine that any situation could be allowed to develop where one side should be armed, another side unarmed, those who are in exile to come carrying weapons and there being no peacekeeping force. Because in any event the national convention itself has got to be protected, there have got to be people who protect those who are negotiating at the national convention. 10 20

COURT: I take it the national convention would be a very long drawn-out affair. It will not be over in a week? -- Well, looking at the problems that we have in South Africa, it seems like it would have been the case.

Now, who in the meantime would catch the ordinary thieves, bring the judges into court, that sort of thing? -- Those would have been matters really discussed in the initial talks/... 30

talks, once the principle of a national convention had been accepted. In fact that is one reason that indicates that the suggestion that there could be a situation without law enforcement agencies would not be a practicable one.

MR JACOBS: Who would have governed the country after the suspension of the constitution of this country, because that is also stated that it is a precondition, the constitution must be suspended? -- Well, as I understood it really, what the NEC intended to say was that the Government should merely announce a commitment that it would be prepared to suspend the constitution. 10

COURT: But now, where is that stated in the documents? Is the condition set out in the documentation not clear, so far we have read, suspension of the constitution as a precondition to the negotiations, that is to the convention, not as a position somebody will take up at the convention? -- Well, when people discuss, motivations are made, but when things are written down, they are not written down in the broad sense in which they were discussed. I am merely trying to capture the spirit of the discussions at the time, and as I have indicated, we were not under any illusions that every one of these conditions would be accepted by the Government. What was crucial to us was the acceptance of the principle of the call for a national convention and the preparedness of the Government to talk to all the leaders of the people who would be elected according to a criterion or criteria that would have been agreed upon with the Government. 20

MR JACOBS: Mr Molefe, I would like to put it to you, I asked you this morning this question because we are coming to this, and you did not answer it, but this will be not in 30

line/...

line with the National Executive decision of the UDF, as stated on EXHIBIT "C102", it is Volume 26, that is a statement of the UDF National General Council, that same article we had this morning. -- What is the question?

I am putting to you what you are saying now is in conflict with what the National Executive Council of UDF is saying in paragraph 3, that they say that they are only prepared to talk with the Government according to this paragraph, with this racist minority regime on the question of handing over power to the people. 10

COURT: To which paragraph are you referring now?

MR JACOBS: Page 6 paragraph 3.

COURT: Of the secretarial report?

MR JACOBS: No, the statement of the UDF National General Council.

COURT: We have not numbered the pages. The statement of the UDF National, the third paragraph. -- I do not understand it in the way counsel is putting it. All it is saying, that the discussions should be aimed at the effective dismantling of the apartheid state and the transfer of power to the people. I understand this to mean that the national convention would have as its primary goal the whole question of how to dismantle apartheid and accomodate other people, to give a vote to all the people. 20

MR JACOBS: You see, if you will go to page 7 of that - the next page of that same statement, from the fifth paragraph from the top, have you got it? -- Yes.

Will you read it please? --

"We therefore make the following immediate demands as the beginning of a process of transition from the prevailing/... 30

prevailing oppressive and exploitative order to a democratic state: the immediate scrapping of the 1913 and 1936 Land Act and all Group Areas laws and an end to any form of forced removals; the dissolution of the Bantustans and the ending of the migratory labour system; the scrapping of the tri-cameral parliament and all other puppet bodies created under the Black Local Authorities Act and other instruments of racist rule; a unified and democratic education system; the repeal of the pass laws and all other restrictions on freedom of movement; the right of workers to freely organise in trade unions, to collectively bargain, and the right to strike without being penalised; the right to security of employment, housing, social welfare, pensions and maternity benefits as laid down in the United Nations Human Rights Covenant and the charters of the international labour organisation; release of all political prisoners; unbanning of the banned individuals and organisations; the return of all exiles and the lifting of all restrictions on freedom of speech and assembly; the disbanding of the SADF, Koevoet, the SAP and all other repressive apparatus; the scrapping of all barbaric security laws which violate the fundamental freedoms set out in the universal declaration of human rights."

MR JACOBS: Mr Molefe, will you agree then that now this is part of the policy and that is now part of - it is a policy of the UDF? -- Yes, at this stage it had been adopted. This was now 1985, but I understand that new circumstances had developed, although I was not really party to the drafting of this statement, but they talk specifically on the SADF,

Koevoet/...

Koevoet and SAP. I think in this context it was really expressing the attitude of those present to the activities of these - the SADF, Koevoet and SAP in communities.

COURT: Was this now in April? -- That was in April 1985. It happened at a time when the army had already moved into the townships. There had been reports of - regular reports in the newspapers about the Koevoet activities. There had been reports of shootings in killing of several people there, at Crossroads and so on. I think when this thing was written into this statement, it was in that context. 10 I personally was not party to this, but I saw the statement at the press conference that was held after the conference, at the end of the NGC.

Why were you not a party to it? -- I could not attend the conference fully. I was in and out because of the problems I had mentioned. I was advised not to stay throughout the conference.

MR JACOBS: Did you know that this was going to be adopted at that conference? -- I did not know.

Did you not discuss it beforehand? -- No, it was some- 20 thing that was discussed at that conference and it was adopted there. It was not planned before the conference.

COURT: Are you saying that you do not go along with the statement of the UDF's National General Council? -- No, I am not saying so. All I am saying is that ..

Are you saying then that you do go along with it? -- I am going along with it, but my position has not changed in respect of point B of this statement.

MR JACOBS: Mr Molefe, can we just get clarity now, when did the National Executive convene to take this decision? -- The 30
National/...

National General Council?

COURT: It is the General Council.

MR JACOBS: Mr Molefe, can you clear up a few points for me. Why do you include Koevoet and when did Koevoet operate in the Republic of South Africa? -- Koevoet has not really operated in the Republic of South Africa. It operated in Namibia, but Namibia has always been governed as part of the Republic by the South African Government. It was in that context, and we believed that if atrocities were stopped or reduced in a part that has been governed as part of South Africa, there would be no reason why they should continue in the Republic, the part that is regarded as the Republic. 10

But is it not so that Koevoet is part of the South West African or Namibian police force? What has that got to do with the Republic of South Africa? -- The Republic of South Africa is the controlling power. The Government of South Africa is the controlling power in Namibia. That is why all the negotiations that are taking place as to the independence of Namibia are taking place with the South African Government, not with any other person to the exclusion of the South African Government. 20

COURT: As the beginning of the process of transition the following demands are made, the disbanding of Koevoet? -- That is so.

What has Koevoet got to do with the process of transition in South Africa? -- Well, what I understand is that - I do not know how it was brought in, but all I can say is that Koevoet operating in Namibia, Namibia was seen as part of South Africa because South Africa was administering that place also, and that also - the South Africans - I cannot 30

remember/...

remember whether this Koevoet is part of - I think it is a police unit or an army unit. I am no longer sure about it, but I understand it that if they had disbanded that unit that had become so notorious for its activities in Namibia, that would have given an indication of the Government's intention to address the problems which lead to brutalities. That is what I am merely surmising on. I was not there when the matter was debated.

MR JACOBS: But Mr Molefe, since 21 and 22 July up to this national convention in April 1985 - the General Council meeting in April 1985, I suppose there must have been a long discussion about this, and you must have participated in it? -- No, I was arrested in 1984, detained in 1984. There was general harrassment, and after that meeting of July 1984 there were immediate issues that the UDF had to address, the question of the boycott of the elections in terms of the tri-cameral parliament, and a lot of UDF leaders were in gaol, and at the beginning of 1985 again more leaders of the UDF were detained. It was not possible for the NEC to meet.

Do you say the NEC did not meet since July 1984 up to the time of the General Council in April? -- I am not saying so. I have not attended a single NEC meeting since that time.

But did they meet? -- I think there was an NEC meeting in November 1984 or October 1984. It is one of the exhibits, EXHIBIT "J1", I think reflects the discussions at that meeting.

Mr Molefe, were you so hiding from the police that you cannot even attempt to meet other people from the National Executive or other people from UDF, either regional or so?

Did/...

Did you not attend any of those meetings? -- No, I did not. I attended secretariat meetings dealing with different matters.

Was it not important for the secretariat of UDF to go into this because it was referred back to the regions and it was one of the duties of your - duties as secretary to see to it that orders or decisions of the National Executive is carried out? -- It might have been important, but we have problems of administration. We had problems also arising out of the fact that the police had confiscated UDF documents. 10 It was really not easy for one to know what were the issues to be addressed except the fact that we knew that there was supposed to be an NGC in April.

It seems as if there was enough time to plan the NGC, enough time to get things ready for the NGC, even for you to assist in drawing up a secretariat report? -- There was not enough time. It was really a cumbersome process. I had sent out a suggested program which would be followed in preparation for the NGC. I think it is EXHIBIT "T29" in this case. By March or by the beginning of April a lot of 20 those things that I had suggested should be done by regions were not done. It was a really difficult matter. In fact it is a miracle that that NGC did take place at all.

Mr Molefe, what is the attitude of UDF in regard to the Ciskei and the Transkei and Venda? Are they seen as Bantustans?

COURT: Only the three? You exclude Bophuthatswana?

MR JACOBS: Bophuthatswana? -- The UDF is opposed to the policy of separate development and the governments set up in terms of that policy are unacceptable to the UDF. 30

Do/...

Do you regard them as Bantustans or what? -- Yes, we regard them as Bantustans.

You do not recognise them? -- No, we do not.

Will you accept then that the de facto position, although you do not recognise them, that they are governments on their own? -- The reality is that they are governments of those homelands. That is the reality, yes.

COURT: Is the situation then not so that that situation you cannot change unless forcibly or unless the people of those countries decide that their constitutions will be scrapped and that they be reunified with South Africa? Are those not the only two alternatives? -- I do not know if there is any other alternative, but the violent alternative has never been part of the UDF policy. However, the UDF sought to organise in those homelands also, to influence change of attitude at that level, and we believe that if the attitude changed from the side of the Government, it would be in a position to influence those governments also. One advantage we have of course is that at least some of them were still resisting to accept independence, such as Qwa Qwa, Lebowa, Kangwane, Kwazulu, I think those. 10 20

Yes, those are homelands, not independent states. I was only dealing with the independent states. -- It is true that ..

What mechanism did UDF envisage, to get them back in the cold or was the idea to leave them in the cold? -- The UDF was really a very young front. It really had broad principles. It would articulate a vision, but it had not reached a stage where it could work out the pro's and con's of everything, the mechanics of everything. But we worked on/... 30

on the belief that once the South African Government accepted that all the Black people are part of South Africa, there would really be no problem in that respect, even if they would have possibly wanted to - maybe to have a regional government, but as long as it is part of South Africa, that would not create any problems for us. We did not envisage problems in that regard. But obviously when those questions arose from time to time, they would have been debated as and when they arose. When people develop a vision, they do not start from a position of action. It is in the course of development that they perfect their ideas in respect of the issues at hand. 10

MR JACOBS: Mr Molefe, was UDF banned in any of these states, the four of them? -- I think it was banned in Transkei.

Only Transkei? Ciskei? -- I am not sure if it was banned in Ciskei. It may well be. I cannot remember.

Bophuthatswana? -- I do not think it was banned in Bophuthatswana as such, but the attitude was that the government would - it was not welcomed in Bophuthatswana.

Now, if the UDF was banned in the Transkei and in any other of them, how could you then have organised in those countries? -- I do not know. We have not considered that, how effectively we would organise there, but it might well have meant that new organisations which saw eye to eye with the UDF might have emerged in those regions, because we had people who supported the UDF in those countries anyway. Our affiliates had branches in Ciskei, like AZASO for instance, so that they possibly could have formed their own organisation which even if it might not have been part of the UDF, it could have maybe had the same beliefs as the UDF, the same views/... 20 30

views as the UDF. I do not know, we had not looked critically at that. I think even at the last NGC we were merely saying that maybe we need to look into methods of organising in those regions, taking into account the concrete conditions as exist there. I think it perhaps is a similar situation that had arisen for the Afrikaner Broederbond around, I think 1926 or so, when all the teachers who were members of that organisation were being victimised by the Government. The organisation then sought to become a secret yet a non-violent organisation because it had to protect its members. Perhaps some kind of an organisation would have developed which would not bear the UDF stamp yet holding the same views of the UDF. 10

Mr Molefe, then in the light of what is a fact of those independent nations, independent countries in South Africa, then how was it possible that for an immediate and a beginning demand for the people, demand for the Government of South Africa to have been able to dissolve these four countries because UDF regard them as Bantustans?

COURT: The question is not quite plain, Mr Jacobs. 20

WITNESS: I was going to say that, M'Lord.

MR JACOBS: How can the Government as an immediate demand, as the beginning of the process be party to the dissolution of the Bantustans in regard to the four countries, Venda, Bophuthatswana, Ciskei and Transkei, because UDF regard them as Bantustans? -- How could that be an immediate ..

Yes, can it be achieved and immediately complied with? -- Well, once more, the approach is a flexible one. Some of the things the Government declares as the intention to do certain things. In others, those which can be done 30

immediately/...

immediately, one would have expected the Government to do that, and again these matters would also be subject to negotiations, discussions as to the practicalities of certain things. I do not know, I do not think that those who drafted this statement were under the assumption that everything that is in here would be done immediately. We have experiences of trade unions where several demands are made in the course of maybe a labour strike, that management then concedes to certain things, other are not settled that time, but workers go back to work. So I imagine a similar situation would have arisen where the Government would declare the intention to do certain things and deal with those that it was able to deal with. I do not think it was an insurmountable problem. 10

As an immediate demand, the dissolution of the Bantustans was required, and immediate, that means it must be done immediately? -- Well, these are the demands that are made at that time. Maybe the word "immediate" is an unfortunate one, but when one looks at the secretarial report where it deals with the position of political prisoners, it states very well that we think that that is a long term issue, but immediately we think the conditions of prisoners could be improved. I do not think that situation had changed, that attitude had changed when this statement was written. I think when they say the immediate demand, they are simply saying what we can say immediately as we stand now, what we can present as the demand immediately as we stand now. 20

But it is not stated like that, as the beginning of the process of transition. But let us go on. The next point that I want to take up with you is, we again have the provision/... 30

provision and the immediate demand, that the Government must be dissolved as well, point 3. -- Which one are we looking at?

The scrapping of the tri-cameral parliament, that must be done immediately, according to the demands of the UDF. -- I do not understand it to mean that the Government should have dissolved because I think this whole thing must be read in context. This statement talks about consulting, the Government must consult with the leaders. I think it was paragraph 3 at page 1, if one may go back to that. 10

"There is still time for the racist minority regime to consult with the authentic leaders of the people."

COURT: Yes, just a moment.

" .. with the sole objective of making the necessary arrangement for the speedy and effective dismantling of the apartheid state"

and then if you read that in conjunction with the paragraph we are busy with, immediate demands are set as the beginning of the process of transition? -- Yes, but as I understand it the Government will still be there, because it is talking, 20 it is consulting with the leaders.

Without parliament there is no basis of government? -- If we are talking about the dissolution of the Government, then we cannot talk about consulting with the authentic leaders, and saying that it is the Government that must do that. It may well be that the whole thing was not carefully thought out as to how in practice it would operate, but as I understand it here, the Government would still be there, and I understand it really to refer to a commitment on the side of the Government, that if we are moving to a non-racial 30 order/...

order, then the present constitution would obviously have to go.

MR JACOBS: Mr Molefe, do you regard the Government of this country as an instrument of racist rule? -- I think yes, it is the racist rule.

Then there can be no ambiguity about this because if you read the whole paragraph 3 you will see "and other instruments". So it is any instrument of racist rule? -- Well, if it says other instruments, I think it really refers to other structures which are set up in terms of the apartheid laws, and which are intended to control the lives of the Black people. That would refer to say for instance things like the Coloured management committees, the local management committees in the Indian areas. I think it refers to that. I do not know what the precise details are, but when it says "and other", it is clear that it refers to other things that are not mentioned in name here. 10

Mr Molefe, will you agree then that this requirement in paragraph 3, the scrapping of the tri-cameral parliament is in line with all the others that I have referred you to where it was a precondition, where it was a minimum demand that the Government must be dissolved, in all the other documents that I have referred you to, in regard to the national convention? -- It may well be. 20

Mr Molefe, can you just tell us one other thing: if the Government is gone and other instruments of rule, who is going to control and govern in the Black townships? -- Well, there cannot be a government that goes and there is nothing. Where the call is made for the dismantling of the apartheid system, that is made with the understanding that a more equitable/... 30

equitable government, a more representative government will be installed in its place, and that government, the principles that are the foundation of that government would apply as principles that become the foundation of local government, provincial government and everything. We are not envisaging a situation where the Government goes and there is nothing. We are envisaging a situation where the present Government gets involved in the negotiations that leads to the establishment of a new order. This has been the development throughout history as we see it. I do not know of a situation 10 where a government goes and there is nothing.

It does not stand here. -- Well, that is how it is understood in the UDF. That is why we have repeatedly called on the Government to be the one that calls a national convention, because there has got to be someone who is in power, who takes the initiative and who has got the power to do that.

Mr Molefe, can we just get some clarity. You said to the Court that some things were not well thought about. Now, from the start of the UDF the idea was that there must 20 be a national convention? -- That is correct.

Now, I suppose that was an idea even before the start of the UDF? -- Well, it had been propagated by other people long before that.

In your planning, the launching of UDF National, was that discussed between you people who organised for the launching of UDF National? -- Before that, no. I cannot recall a discussion of that nature. It is a matter that as I recall arose at the conference, and from the floor.

Now, the national convention was a very important part 30 of/...

of your whole strategy, your whole planning and your whole object in the UDF? -- It was an important part of the whole plan and the whole strategy. The immediate issues at that time were opposition to the constitutional proposals, building strong opposition to that, and the Koornhof bills, as a way of indicating to the Government that what it was doing was unacceptable, and the national convention developed as a method which we believed that if the Government had followed, would enable - create a climate for proper discussions that would lead to an acceptable solution to all of the people. 10

The principle per se was a very important one, and it was mentioned, the UDF sought to propagate it as much as possible for acceptance, both in its communities, its constituencies and to pressure the Government also to take that principle up.

THE COURT ADJOURNS TO 1987-08-14