

A

SAAKNOMMER: CC 482/85

PRETORIA

1988-06-20

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 422

(Bladsye 24 699 - 24 742)

COURT RESUMES AT 14h00.

LYBON TIYANE MABASA: d.s.s.

FURTHER CROSS-EXAMINATION BY MR JACOBS: I will ask you one more time Mr Mabasa is it correct that on the mass meetings held by AZAPO and addressed by speakers from AZAPO it is stressed to the people that it is a power struggle that you are engaged in? -- We say we are involved in a revolutionary struggle which means a struggle for fundamental change. We say that in all our meetings.

And never is it said it is a power struggle? -- When (10)
we talk about the revolutionary struggle we talk about the struggle that involves political power.

In any of your publications was it set out, AZAPO publications, was it set out that it is a power struggle a struggle for power in this country? -- We, in some publications we do make mention that we need transference of power.

And is it also generally on the public meetings and in your publications to the public stated that it is a struggle for the realisation of a socialist government in South Africa? -- Yes we are unapologetically socialist in our approach. (20)

And is it stressed in the documents of AZAPO that it is a fight for the repossession of this land by the blacks? -- Yes it is stressed but most of the time it is also qualified that the land forms the basic means of production in this country and any meaningful change would necessarily mean that the land question, which is the whole question of wealth, be considered.

Not considered, for the repossession of the land? -- I did make that point very clear that these things we are hoping the government would listen to them. It is our way of exerting pressure on the government and if the government was to say we (30)
want/....

want to talk to you as AZAPO but we do not agree with point A, point B. If they show intention there will be a basis of negotiation. But at the present moment we say what we as AZAPO alone as an organisation, before any response from the government believe in. The same thing you do when you negotiate as a trade union level. If you want R50 increase you cannot go to management and say I want R50 increase. You will go and say I want R70 increase. You know in the process of negotiation you will have to make compromises and ultimately you will end up with the R50 which you wanted in the first (10) place.

COURT: Yes Mr Mabasa but there the R50 nor the R70 is a matter of principle. In your case as I understand it the question of the land which should go back to the black people is a question of principle? -- It is a question of principle so far as if you look at the documents when I was still banned, referring to the national convention. We say, then the people said the national convention is a possibility but these are our pre-conditions and you put your pre-condition. Pre-conditions can be changed where the other party says I would want to (20) talk to you but this is what I offer. It is general practice.

You mean if you do not like my principle I have got another set? -- If, no, no, what I mean is that we cannot put ourselves right from the beginning from a position of weakness. We want to talk to the government which is in power and obviously the government will draw even more concessions from us rather than listen to us and make concessions based on our demands.

Well you want a socialist system, you want the land back to the indigenous people. -- That is correct. As our pre-conditions. (30)

You/....

You are speaking of revolution? -- We are speaking of revolution in the manner in which it is spoken every day, meaning fundamental change, very fundamental change.

Yes.

MR JACOBS: And must I understand then that it is not your message in your publications to the public at large that it is a fight for the repossession of the land? -- That appears in some of the publications and we have many publications in a year, we have many pamphlets. It is not in each and every, actually I think it appears in fewer publications. (10)

And is it also stated that nothing will stop you from repossessing the land? -- Anybody who engages himself in the struggle for change would not go to people and say "We will retreat, we will create an impression that we do have strength".

No but that is quite something different than you will stop at nothing to repossess ... -- We are encouraging our people. We say for what we want we will try all in our power.

It is the same as we will try all in our power to get what we need.

But do you agree that it is also said to the people at (20) large that you will stop at nothing "in our fight for the repossession of the land"? -- The people at large, which is the black people, know about AZAPO, they know about its aims and objectives, the majority of them, and therefore whatever document is presented by AZAPO they would understand it in the context of what AZAPO is.

COURT: Should one say that they take AZAPO with a pinch of salt? -- They take AZAPO as an organisation engaged in an overt political struggle in this country. The first interview I had when AZAPO was formed I did make that very clear. They (30) said/....

said why did you form AZAPO. We said organisations were banned, the choice was maybe going underground to do things the state would not know anything about and I made the statement, I said we chose to be overt, we chose to be seen, we chose to be responsible.

MR JACOBS: Now Mr Mabasa without the explaining do you agree it is conveyed to the public that you in AZAPO will stop at nothing in your fight to repossess the land for the blacks? -- If you may allow me I have got a problem in taking one sentence in a whole context of thing and I have got to give (10) a yes or no on the basis of one sentence, because it is not a whole, it has to be in the context of the whole thought of what is being said. We do say that in the context of so many other things you might say.

I would like you to have a look at EXHIBIT B.26. That is volume 2. Is it correct that every year AZAPO brings out a new year's message? -- Most of the years.

And this one was the end of 1983 for the year of 1984? -- That is correct.

Were you party to the compiling of this new year's (20) message? -- The new year message is usually drafted by the president and therefore I drafted this new year message.

You drafted this one? -- That is correct.

Now in the middle there under "Land Repossession" I would like to read the first two sentences there:

"We want the world to know that there will be no grievances redressed until such time that our land has been regained."

-- That is correct.

So is it correct that the message conveyed by you is (30)

that/....

that there from the government part that nothing will be done about your grievances? -- I am not sure that the government has said they will do nothing about these particular grievances.

Now what do you mean by the phrase then "There will be no grievances redressed until"? -- We are saying the government, unless it attends to the question of the land which I said it also represents the wealth of the country, the basic means of production, is addressed, the government will not have addressed to the problems that faces our country. And I would need to add why it is so, why we say so. (10)

COURT: Yes, if you want to. -- I want to add, to clarify why we say so.

Yes? -- We are saying so because in South Africa through an act of parliament much of the land, or almost eighty six and a half percent of the land is in the hands of white people and if we have to talk about any meaningful change in South Africa the South African government will have to start considering what to do with the many empty houses in the suburbs, will have to start to take cognisance of the fact of the many schools in the suburbs, would have to start taking cognisance (20) of the many patches of land which is not being used. So the land question becomes our point of departure.

MR JACOBS: And then we go on:

"In the coming year and the years ahead the struggle will demand of black workers, students, women, churches and all sectors of the struggling black community to strengthen their organisations while on the other hand fighting all manifestations of ruling class ideologies which are wreaking havoc among the ranks of the exploited and oppressed. We will stop at nothing in our fight for (30)
the/....

the repossession of our land and the transference of power to the rightful owners, the black people."

-- That is correct.

And then on page 3:

"Capitalist systems...."

That is on page 3 the ninth line from the top:

"Capitalist systems the world over are by their nature repressive and have not yet developed a mechanism whereby they can abdicate positions of power through petitions, deputations and even negotiations." (10)

-- That is correct.

So does this mean that in principle you accept that no negotiations from the South African government will come about?

-- I do not think that is a correct interpretation of that document.

Well that is what you are saying here. -- Because if you read what I am saying I had already said we need to strengthen our organisations because if we think even remotely you cannot negotiate unless you have a power base from which to negotiate. So capitalist system will not change simply because Lybon (20) Mabasa, president of AZAPO, wants to send a negotiation team. They change because they perceive those organisations to be having enough power to negotiate with.

COURT: But now are you not saying that capitalist systems, which you say we are, have no mechanism whereby they can abdicate positions of power through negotiation? -- I am saying, I start by talking about strengthening our organisations and I am saying capitalist power by their very nature nobody who has R100 would willingly out of the blue want to share it with other unless there is an outside pressure and an outside (30) pressure/....

pressure for the government in this instance it is the organisations of black people which make the government, despite the fact that on their own they would not want to change, to consider change.

MR JACOBS: Do you agree in this message of yours nothing is said about it being peaceful means? Never, there is no iota of saying explanation that you were trying to repossess the land and so on by peaceful means? -- We are a peaceful organisation and we will not at every platform repeat that we are peaceful as if we doubt the credibility of our being peaceful. (10) We are peaceful.

COURT: Now somebody receiving this pamphlet who has never heard of AZAPO before and reading it where will he find that you are peaceful? -- AZAPO is an organisation which belongs to black people and the majority of black people know about AZAPO, and if they do not know there is always an address where if they have things they want clarified they can go to and ask us in AZAPO what we mean, like we are being asked today in court.

MR JACOBS: Is it correct that this new year's message is distributed all over the country in all the black townships? (20) -- It is distributed all over the country where our branches exist, otherwise we would, if we have branches which means already we have people, the points of reference, people who could be asked about it. It is distributed. We do not normally do like it normally happens, you wake up you find a pile of, we distribute it by people man to man distribution.

And will you accept that there are people that are not conversant with the policy of AZAPO? -- There are millions of people who are not conversant with the policy of AZAPO.

Yes thank you. Who is Mr Sibusiso Mabaso? -- He is a (30) member/....

member of AZAPO.

Is he in the executive? -- He is just an ordinary member. He is not in any structure. He is just an ordinary member of AZAPO.

Is he a person that you used to address commemoration services and such? -- I have never addressed commemoration services with him. Remember he is just an ordinary member. I was president of the organisation which means he could be in a meeting where I am but otherwise it is not likely that we would be going to the same meeting to address. (10)

COURT: He is no relation of yours? -- No.

MR JACOBS: Did you attend the 16 June commemoration service in 1983? -- In Regina Mundi.

Was that in Regina Mundi? -- Yes I did.

And this Mr Sibusiso Mabaso was he at that meeting? -- He could have been. There were lots of people.

Did he address the meeting on the role of students in the liberation struggle on that meeting? -- I cannot remember.

You see I would like to refer you to EXHIBIT B.8. It is in volume 1. And this seems to be his address to the people (20) on this commemoration service on 16 June 1983. -- Yes I see.

Can you remember now that he spoke on that occasion and that this was his address? -- I cannot particularly remember him addressing the meeting because the representative of AZAPO for that particular meeting it was myself and Saths Cooper who spoke on behalf of the forum. So I am saying I am not sure that he did and there were many other organisations.

Yes, will you have a look at the third paragraph:

"When death has become a common daily occurrence, when precious blood flows copiously from open and (30)

continually/....

"continually opening and festering wounds who can continue to fear it. When blacks have divested themselves of the fear of inevitable death what more can they be afraid of? Our people entirely now understand that a nation ill prepared has no right to live. It has only the right to be plundered and tortured and murdered. I believe that the dagger of the assassin grows more deadly when sharpened on tombstones of the martyrs. Our aim is to liberate our black people from the ...

HOF: Ek dink die tikster gaan 'n bietjie sukkel met daardie (10) naam. U kan dit maar spel.

MR JACOBS: Martyrs. "Our aim is to liberate our black people from the perpetual bondage of slavery like those who have died in Angola, Mozambique and Zimbabwe. Our mind must be prepared for the coming revolution where there will be blood and death."

Do you agree that was the message to the people attending that mass meeting? -- Like I have already said the people who represented the organisation was myself and Saths Cooper. If he did he was not representing the organisation. It might (20) be because many people know Sibusiso as the youngest man who was sentenced to Robben Island some years ago.

Oh was he also sentenced to Robben Island. Well he is stating AZAPO's revolution here where there will be blood and death? -- It is incorrect. I said he is not in any structure and he does not represent the organisation. I would have known, we would have delegated him to represent the organisation. Sibusiso at no time can represent the organisatino without him being given the mandate by us and therefore to say he stating AZAPO policy would be incorrect. (30)

Well/....

Well you were present at that meeting or were you not? -- I had said, and I repeat again that I do not remember Sibusiso delivering this paper. He might have written this paper, he might not have delivered it like so many times that papers which were never delivered are found in the possession of people.

And will you have a look at page 5, on page 5 of this the second last paragraph. His message to the people at that meeting:

"Today heroes of June 16 we reaffirm our commitment, (10) dedication, selflessness, involvement and resolution to oppose and destroy the system of tyranny and oppression with the might and mane to our last breath and last drop of blood."

-- The question of resisting to the point of blood it used to be St Paul, a common thing in the Bible, you have not resisted evil to the point of blood. What you simply mean is resisting and not changing despite what happens to you. I cannot see this being an advocate of violence.

Is it correct Mr Mabasa ... (20)

MR BIZOS: My lord it was put that this was delivered at the Regina Mundi. I do not see anything in the document indicating that.

COURT: All we know is that it was found with Mr Sibusiso Mabaso. That is all I have on this document.

MR BIZOS: As your lordship pleases. I did not want to say anything before checking and that is all that we really have.

MNR JACOBS: Edele ek dink my geleerde vriend maak 'n groot fout as hy sê dit is geput, dat ek gestel het dit is op Regina Mundi. Ek het ondervra of daar 'n kommemorasie (30)

dingus/....

dingus gehou was op 16 Junie en die getuie het gesê dit was op Regina Mundi. Ek het dit nie gesê nie.

MR BIZOS: He said my lord that he ...

HOF: Wag 'n bietjie. Mnr Jacobs maar die getuie het gesê hy weet nie of hierdie man gepraat het daar nie. Mabaso, en hy weet nie of hierdie ding voorgelê is by daardie herdenkingsdiens nie. Nou kan jy nie kruisverhoor op die basis van dit is daar gesê nie en as dit nie daar gesê is nie en daar is geen verband tussen hierdie getuie en hierdie Mabaso nie waar kom ons?

MNR JACOBS: Soos dit u behaag edele. Do you in AZAPO (10) regard the youth as an important part of your struggle or your revolution? -- We are informed by the Bible on that issue when Moses was challenged to take part of his people out of bondage, he said we will go with our old, our young, everybody. We consider everybody who is black as part of the momentum for change.

COURT: Mr Mabasa is the answer now yes or no? -- It is yes we regard them as part of our ...

If the answer is yes just say yes. -- Yes.

Thank you. The answer is yes Mr Jacobs, next question. (20)

MR JACOBS: And the workers are they regarded as the vanguard of your liberation struggle? -- Yes.

What is meant by them being the vanguard of the, the workers themselves are the vanguard of the liberation struggle? -- It means simply translated the most important, the backbone of our struggle.

Yes, what must they do, the workers? -- The workers have to start challenging exploitation and oppression in their place of work, and thereby pressurise the whole capitalist system because the capitalist system is centred around the (30) question/....

question of exploitation and the workers receive that exploitation on a day to day basis.

Yes, what else? -- I think that is sufficient.

Is it only in the working place that they must be active? -- I thought it is understood that while they do that at their work places they still remain an intrinsic part of the black community. They do not sleep where they work, they go back where they will go to their houses, where there are no lights in the houses, where there is exploitation every day. So they should be able to translate those things to give meaning to their (10) lives, in the entirety of their lives.

COURT: Now what does that mean, to translate it to the entirety of their lives? You mean they must take the struggle from the workplace to the place where they live? -- Simply translated yes, because one would want to point out that they have to realise that things will not change substantially until the whole system, apartheid system in this country, has changed.

MR JACOBS: And women's organisations, do you put great stock on them? -- We put great stock on women's organisations.

And civic organisations? -- Well where they exist we (20) put emphasis because they do deal with the issues of the people on the day to day basis.

And what did AZAPO do in order to get all these organisations, workers, civics, women, students, to get them to unite or work together in the freedom struggle? -- While maybe that ideal we have not achieved we keep on encouraging such organisations to try and work together. It is an ideal. We have not achieved it.

What did you in actual fact do to get them to work together? -- We do talk to these types of organisations. (30)

We/....

We talk to student organisations like AZASM, we talk to youth organisations, we talk to women's organisations wherever they may be. We encourage our members in those areas to keep in touch with them.

Did you encourage also the affiliates of UDF to work with you? -- Once organisations, I will give you an example with Soweto. Initially the Soweto Civic Association, we had members of AZAPO in the Civic Association but once it decided to affiliate members of AZAPO pulled out. It is a matter of principle. (10)

Now after they pulled out and other organisations affiliated to UDF did you try to get them to work together with AZAPO in the struggle? -- The organisations which have pulled out?

Yes, and other UDF organisations? -- If you pull out from an organisation it means then you will not have common problems where you come to , programmes where you come together to draw a programme to say this is what we will do and this is what we will not do.

What is a progressive organisation? -- A progressive organisation is an organisation working for change. (20)

Do you regard the UDF and organisations affiliated to UDF as progressive organisations? -- At that level, yes.

COURT: And the Progressive Federal Party? -- It works within government created structures.

I am sorry? It is not a progressive party, despite its name? -- Yes.

MR JACOBS: Did you in AZAPO not seek the co-operation of the progressive organisations? -- Every time we have sought the co-operation of progressive organisations I think we have already qualified that, provided the principles of (30)
organisations/....

organisations are not compromised we have no problem.

COURT: Yes but on your definition of non-compromise of principles there cannot be any co-operation at all with anybody except with an AZAPO man? -- No we could have, there could be co-operation with say for instance structures or maybe unions which are black unions which might not necessarily be members or believe even in black consciousness. But then the principle is that the basic principle for our organisation is it will not go out to fraternise with these organisations which we know may be on the basis of their principles are diametrically opposed.(10)

ASSESSOR (MR KRUGEL): But it seems also then to be your contention then Mr Mabasa that in order to be able to work for change at all one needs to be outside any government organisation? -- That is correct.

So the government cannot work for change, nobody in the government can work for change and nobody ... -- We believe, we are separating because we believe that the government actually has the power to change but should we molly coddle the government and say, clap its back and say you are on the right road, the likelihood is that they will not change. So we (20) stand and keep on putting pressure because we want meaningful change.

MR JACOBS: Now AZASM was that affiliated to AZAPO or was it part of AZAPO? -- AZAPO has no affiliates. It has branches. AZASM is an autonomous organisation which believes in black consciousness and therefore makes it easier for it to work with AZAPO.

It is not your, the youth wing of AZAPO? -- Well most of the time it is taken in that manner but the truth of the matter is AZASM is autonomous. They have got their own programmes.(30)

They/....

They have got their own constitution and set of principles.

COURT: But their principles are the same as yours? -- Sometimes theirs can even bend because they are students. So they are not a political organisation. That is why when they are invited say to a white university to share a platform sometimes they go and we do not come back to them and say why do you do that. They are a student organisation. We are a political organisation.

MR JACOBS: And were they represented on your executive? -- No there are ten members on the central committee. There is (10) nobody who is not AZAPO in the central committee of AZAPO.

COURT: But can one hold dual membership of AZAPO and AZASM? -- It is possible.

Now is the executive of AZASM, does that not consist wholly of AZAPO members? -- No it consists of students. Some of them AZAPO might not even know. I mean there are so many universities, schools and so on.

MR JACOBS: Have you addressed any congresses of AZASM? -- One.

When was that? -- In I think April 1984.

Where was that? -- It was in Pietermaritzburg in Lay (20) Ecumenical Centre in Edendale I think.

How did it happen that you addressed them? -- The same way that it happens AZAPO invites people to come. They asked me to come and address, I agreed.

When was AZASM formed? -- 1983.

When in 1983? -- I cannot remember the exact date. I know it was after the national forum.

Which organisation was responsible for the formation of AZASM? -- AZAPO.

Did you organise it from AZAPO? -- Members of AZAPO (30)

youth/....

youth secretariat worked towards the formation of AZASM.

Is it generally accepted that AZASM is the youth front of AZAPO? -- Well depending on which way you look at it. Others call AZANYO, which is the Azanian Youth Organisation, the youth wing of AZAPO and they call AZASM the students who believe in black consciousness.

COURT: Just a moment now. Others call AZANYO ... -- AZAYO.

A-Z-A? -- Y-O.

Y-O? -- Yes.

What is that organisation? -- The Azanian Youth Organi- (10)
sation.

Yes, they call that the youth wing of ... -- Of AZAPO.

And when was that formed? -- 1987, 1986/1987.

MR JACOBS: Now before this was formed in 1986 or 1987 then there was only AZASM as the youth? -- As the student, we never really referred them at that level that they are a youth wing. We gave them their due that they were students because they were concerned only with students, not the youth in general.

Now what is the relation between AZAPO and AZANYO? -- I said there is no relation. (20)

Do you know what the policy of AZASM was in regard to education? -- I would not be able to articulate it to the letter but I think my understanding is that they accept that the education given to black people still remains inferior.

Was, can you tell the court whether their policy was similar or the same as that of AZAPO on education? -- I would think there would be quite a lot of similarities, it is possible

And when you addressed the congress in 1984 can you tell whether they took up any issues in regard to education country-wide, on a national basis? -- From that congress it was, (30)

they/....

they were still, I think that congress they were looking at things like constitution and so on. I do not think they actually took decisions on what to do. It might have followed maybe in their councils and

What is the AZAPO policy on black education? -- We start from the premise that black education as it is it is inferior.

Yes? -- And that to try and call for a complete transformation of education now it is being short sighted because we do not believe that education presently can change greatly without the whole, without a change that affects the whole (10) present status quo. That is why we are not supportive to calls like we can transform education completely. We admit it is inferior and we admit some of us are products of that education.

You said you tried to call, did you only try to call or did you call for a complete transformation of education? -- I am saying we could not even completely support the call of transformation of education within the present status quo. The argument is simple, any education in any country represents the values and the ethos of that particular society and the values and ethos of that particular society are represented (20) in the ideas of the ruling parties and in South Africa education will remain being tantamount to National Party thinking.

And on student representative councils, did AZAPO take a stand on that? -- AZAPO did not call for student representative councils though we were not against the call for anything which brings democracy.

Did you take a stand on it? -- I am saying we did not call for it.

And on schoolchildren not attending school after, or the age limit? -- We actually called them to go back to school, (30) like/....

like I am saying we believe that you cannot transform education without transforming society.

Did you adopt any resolutions on education in AZAPO? -- We have AZAPO's education policy and we have had various discussions on education and I think what I am saying presently encapsulates the whole idea of how AZAPO looks at education. Indeed we do agree that there is a need for democracy in all institutions of learning and everywhere in life but at the same time we do not believe that you can transform education alone without the complete transformation of society. (10)

On that conference attended by you, the congress in 1984, was that the first congress of AZASM? -- It was the first congress after their launch which was going to look at their constitution and other things.

Do you know whether Mr Sibusiso Mabaso was a speaker on that conference, at that ... -- I came late and I think I was one of the last speakers.

But you must know whether he was a speaker there or not? -- No it is not our congress. It is AZASM congress. Indeed if it was our congress I would know to the letter who is (20) going to speak, what he is going to say because I would be organising that. It was being organised independently of AZAPO.

Did you hand in a written speech? -- I did.

And the others, did you receive theirs? -- No.

Was it not contributed between the, dispersed between the people on the meeting? Distributed? -- It is common practice that if you are there they give you all the documents which are being given but if you are not there or you even come late they do not say here is Lybon Mabasa, let us start from the (30) beginning/....

beginning and give him all what has taken place before.

So why is it that you were late on that meeting where you were a speaker as well? -- I was president of AZAPO and I will consider the interests of AZAPO first before I consider the interests of anything else. I agreed to speak, I told them that I am going to come and I did come. And we were going to have a national forum salute on that same date and one had to prepare.

Yes. How many times, can you tell the court how many times did you have discussions with the radio people or (10) papers in connection with policy of AZAPO?

COURT: You mean with newspaper reporters?

MR JACOBS: Interviews, interviews with either newspapers or radio people? -- Radio people it is once, newspapers almost every other day. It is so many times I cannot count.

And the once that you mentioned is only the time that you had the interview with Radio Capital? -- Capital Radio, that is correct.

Capital Radio. And where was the interview? -- At the Capital Radio's premises next to Milner Park Holiday Inns. (20)

COURT: Next to? -- Milner Park Holiday Innes, Johannesburg.

MR JACOBS: Who were present? -- It was myself, Saths Cooper, the interviews, I think one of them the name is Mike Hanna, and there was yet another person and there were two ladies I think from the Tribune, Natal Tribune.

Now this interview at the same time was the public also invited to participate in this discussion? -- That was the arrangement of the interviewers.

And did it take place? -- It did take place.

And was that also recorded when this interview was (30) recorded?/.....

recorded? -- Well Capital Radio had approached us and said they would want us on their panel to talk about the question of the referendum and we asked the date and the time. We informed the membership that those who have time and would be interested to listen that they should tune in to Capital Radio and listen.

And were questions asked from the public to you and did you answer them? -- Yes they were answered.

And that was also recorded on that tape? -- That is correct.

And afterwards where did you get the tape? -- I saw it for the first time I said before, after council in Cape Town, (10) 1983.

When was this interview? -- It should have been early October. I cannot remember the exact date.

October? When? -- 1983.

1983. Did you make any arrangement with Capital Radio in order to get a copy of this interview? -- Personally I did not. I would not be quite sure that Saths did but anyway the first time that I saw it was in Cape Town.

And where did you see it in Cape Town, in what form was it? -- When it was played, in a tape. (20)

Only one tape? -- There was one tape which I heard and people were listening and I tried to find out what and they said no it is your interview, Capital Radio, and other people were already selling those tapes. So I do not know what the arrangement has been and how they came to make it.

Am I correct then that according to your evidence you only saw one tape or heard one tape on this conversation or this interview? -- You did not hear me well. I said I heard one tape and others were already selling the tapes. I do not know how they came to have them. (30)

Oh,/....

Oh, were they selling the tapes? -- That is correct.

I put it to you that you and Mr Saths Cooper also had a conversation with Radio Freedom? An interview? -- It is inconceivable.

I beg your pardon? -- It is completely inconceivable.

COURT: Why do you say so? -- It is inconceivable because knowing our constituency is here in the country why would we want to travel to go and talk to people outside the country about the problem which we would address here, and people who are not members of our organisation nor are we sure of their(10) support of our organisation.

MR JACOBS: Now in 1983 were you outside the country? -- In 1983 yes I was outside the country.

And Mr Cooper? -- Never.

Where were you then? -- I went to Vancouver, World Council of Churches.

And where else? -- I went to America, UN, to see the buildings.

And in Africa? -- I have never been....

COURT: To see the buildings? -- To see the UN buildings, (20) yes.

You did not even go up the Empire State? -- Where is that?

You are not a priest or something that you go to the Council of Churches? -- I have interest in the church but I am not a priest.

What interest in the church? -- Well I am a believer.

That had nothing to do with the World Council I take it? -- It did have something to do with the World Council of Churches. The type of job I was doing also made it possible for me to go to the World Council of Churches. I used to (30) work/....

work for a co-operative. It used to be called Ukukhanya Intermediate Technology which was attached to the Wilgespruit Fellowship Centre and I had to go to Vancouver, through Vancouver I was supposed to go and see the Mondregon(?) project in Spain which is said to be one of the seven wonders of the world, that co-operatives, people helping each other can work in developing countries or developed countries.

Will you just spell for the record Ukukhanya? -- Ukukhanya, U-k-u-k-h-a-n-y-a, and then it is Intermediate Technology. We used to call it Ukukhanya IT. (10)

MR JACOBS: Mr Mabasa can you tell the court what were your demands for a national convention? -- Our demand, the demands which I found being in the organisation after I was banned were that if there is to be, they start by saying it seems to hold a lot of promise, the question of a national convention and they say if there is to be a national convention the agenda of the national convention should be the question of the transference of political power, the question of the transference of land and the question of, I cannot remember all of them offhand but the most important aspect of that is the (20) question of no negotiation between equals, because there is no negotiation at all.

COURT: I am sorry, no negotiation between ... -- Between equals.

Negotiation only between equals? -- Negotiation is only possible between equals.

MR JACOBS: Now what is meant by that? -- What is meant by negotiation between equals is simply that if a man negotiates with you on the basis that you are equal he is not going to look down on you or try to pressurise you on the basis of (30)

the/....

the more power which is available in his hands.

COURT: What does this then made, no police force and no army?
-- I could try maybe again to simplify it. If franchise, say for instance if the government was saying organisations of the people, organisations of black people come we want to negotiate with you and the organisations such as ours say what about, what do you want us to talk about. They say okay we want to talk about the question of the franchise. Already they are creating a level where black people would believe that they are going to talk about things which will make them equal. (10)
They go to that meeting at a level where they show they are equals.

No but now that is something different. I thought you told me that we will not negotiate until, unless we are equal.

It is not a question of negotiating about equality. -- It is so unfortunate that what gets written down maybe can draw other meanings but what we are saying is that the basis of negotiations should be equality because like I am saying if we were to go to a negotiating table when we are weak, the government will just go and say we do this and this and this and this, (20)
finished, finished and klaar, and that is the end of us. We would want to negotiate, we would want to be able to say to the government that no we do not take that proposal, please improve that proposal. Okay we are willing to compromise on this proposal, we should be able to have a ground upon which to stand and that is what we mean by equality.

Yes but I still do not understand what you mean by equality because I understood you to say that for example power should be equally balanced, the one should not be able to coerce the other. Then you are equal at the negotiation (30)
table?/....

table? -- If black people were to go unified and black people who go to that negotiation table because they know they have the full backing of their people, obviously while other people might not see it like that but I think it will basically mean that because we would be able to tell the government a thing which probably now we are not able to do, we will be able to tell the government that no that clause we want you to phrase it that way. It will, you cannot say such things if somebody has arbitrary powers telling you no go away I am not talking to you. (10)

But now on what basis can you then ever hope to negotiate with the government because a government as government is always in a powerful position, it cannot be helped? -- But government as government can be willing to make compromises. That is why earlier on I used the word "stretching the olive branch". The government obviously, under normal circumstances, would not talk to us but the fact that the government can stretch the olive branch and say we are willing to talk to you it is in a way saying as much as we know we are strong we are agreeing to be weak for your sake. (20)

MR JACOBS: Were there any pre-conditions set by AZAPO for a national convention? -- I said so. I said it starts by saying if there is to be a national convention the national convention should be about and then it speaks about the agenda, the pre-conditions is the agenda of the national convention and we have since left that position as you have heard earlier on.

Now what are the pre-conditions? -- I gave the pre-conditions.

But there is no condition it should be about it, that does not bring out about, bring out any pre-conditions. (30)

Were/....

Were there any pre-conditions that you stated that ... -- I say the pre-condition is that the agenda should be about those things which I mentioned for the national convention.

Now is there any condition that the agenda must, that is is only for the transfer of power, that you are only interested in negotiating with the government for the total transfer of power? -- Transfer of power simply translated to be understood it is give the people franchise and all the other things follow.

No but answer my question now. Is it one of your con- (10) ditions that ... -- The pre-condition is the agenda.

Now is it one of the conditions or one of the items on...
COURT: But now just a moment Mr Jacobs. An agenda is normally not a pre-condition because an agenda is something that, which sets out the order of things about which you are going to talk. That is all. -- That is what we said, that if there is to be a national convention it should be about, and it sets down the agenda that this is what we would be prepared at that time, because I have already pointed out we have left that position because the government did not respond, we were presumptuous (20) in thinking that those who speak of the national convention actually represent government sentiment.

So your stance is now no national convention full stop? -- We are saying we will wait until the government, if it wants to negotiate it tells us that this is what we will negotiate about and we will respond to that.

MR JACOBS:

Does AZAPO say that there are uncompromising pre-conditions for a national convention? -- It is framed that way but when you read you come to understand what they are fully saying.

COURT: Just a moment Mr Jacobs. The witness has told you (30)

that/....

that they have changed their stance. Now you are asking him what AZAPO now says. Well give him a date and then we know what we are talking about.

MR JACOBS: In 1983.

COURT: And if you have a document put the document to the witness so he can deal with the document. Let us not run around the document and eventually after half an hour put the document in front of the witness.

MR JACOBS: EXHIBIT B.2. That is the Third Annual Congress held in Lay Ecumenical Centre, Edendale on 4 and 6 February (10) 1983. On page 38.

COURT: Have you got the page? -- Page 38.

Page 38 yes.

MR JACOBS: Have you got the page? 38. -- It is not the same.

Now in the first column I would like to read from the middle of the first paragraph:

"Our organisation is still uncompromising on its pre-conditions for such a convention. These are

1. It (national convention) should be about means of transferring complete power and the land to the (20) indigenous owners.
2. All political prisoners should be freed, the banned unbanned and the banished unbanished."

And so on, but I am more interested in this first one. Here it is stated that they are uncompromising pre-conditions and they are, one the transfer of complete power and land to the indigenous owners? -- I think it is very clear. It says the national convention should be which means it now sets the agenda of what the national convention should be discussing. And that we are uncompromising like I said earlier on you (30)

can/...

can never go on any negotiation and tell them that I am coming to negotiation but I am very willing to compromise you. As much as you know you will compromise but you present your case that our workers are saying this and as time goes on people give, people take. You get the compromises, you get that situation.

COURT: What would you say if it is argued that this means that we will only go to the negotiating table provided the agenda is transfer of complete power and the land to the indigenous owners? -- I would not have a problem because in (10) essence it means nothing. The government can come and say we will not talk about that, we will take about this, and it will go back to our organisation, to our congress, and they will consider and go and talk to the government or not talk to the government. It still does not cause me any problem.

Well you took the trouble of putting it on paper? -- It is true but all AZAPO papers cannot be read in isolation from all policy documents of the organisation.

MR JACOBS: And I put it to you Mr Mabasa that this means that you are only, you will only be satisfied when power is (20) transferred to AZAPO? -- I have stated it time and again, if we are given the franchise the franchise would actually attend to that particular problem.

And I would also like to put ...

COURT: Well what do you mean thereby? -- The right to vote.

Do you mean thereby that if you have the franchise you would make it a socialist Republic of Azania and hand the land back to other people? Is that what you mean by that? -- The mechanisms of how it is actually done, I have already given the example that in this country there is so much land which is (30) unused/....

unused, there are so many houses which are unused and people can talk about those things, start at that level and the mechanisms of how you deal with the question of land it is normally left for a later stage when there is change. Anywhere in the world.

MR JACOBS: In this socialist government that you envisage will it go to the nationalisation of businesses and the land? -- Our understanding of what we want, we do not want to nationalise somebody's grocery shop at the corner or somebody's little business. But probably we could even take leaves from South (10) Africa where a great extent major industries are nationalised and we believe this should be done to benefit the majority of our people. The cutting line being that the elimination of exploitation of man by man.

So will you nationalise the big businesses, banks, big businesses? -- I think we would do that.

Why do you say "I think"? Did you not discuss it when you ... -- Well if AZAPO was to be, we have always said AZAPO does not speak as if it represents everybody. Obviously if there is change all parties, even the Nationalist Party, (20) will be involved and there might be compromises. If it was AZAPO's wish obviously we will nationalise big business.

And ... -- And the banks and the ...

And also the land? -- The land, socialism does not, the way we understand does not mean that the land should belong to the government. People have the right to own land but it does not make sense if there are people who own thousands of acres of land when in the same country there are those who would not own an inch of the land. So there would be controls, even the government of the day is talking about land controls because (30)

it/.....

it sees those things as problems.

And I would like to put it to you also Mr Mabasa that AZAPO fully assisted and worked with UDF in their campaigns against black local authorities, on the day-to-day issues in the townships and in education and the issues in education? -- I wish to reject that because AZAPO has continued carrying its programmes long before UDF was there and when UDF came into being AZAPO did not need to change anything in its policies.

And that was also the case in the Vaal, and that speakers from AZAPO even addressed meetings, a meeting especially on (10) 2 September 1983 in the Vaal? -- They did not do that by the mandate of AZAPO.

1984. And that was Mr Khehla Mthembu? -- He did not do that on the mandate of AZAPO.

And he even promised the people there, in case of any troubles, that AZAPO will assist them? -- I am not aware, I should have known, I was president.

And I put it to you that this question of you saying you should have known and all that, that is only window dressing because you are trying to evade it and not to tell the truth (20) to the court? -- I was the highest official in the organisation at that time. Anything which would involve the organisation taking a decision at official level to work with any other person I should have known.

Thank you sir.

RE-EXAMINATION BY MR BIZOS: Mr Mabasa you said that in your documents statements were made in relation to the position of AZAPO and the means by which it would try to achieve its ends or its policy. I want to refer you just to one document. B.18 page 4, the middle paragraph. (30)

COURT: /...

COURT: Is this an AZAPO paper?

MR BIZOS: Mr ...

ASSESSOR (MR KRUGEL): I thought you were referring to page 4 of the presidential address.

MR BIZOS: B.18.

COURT: Page?

MR BIZOS: Page 4 my lord.

COURT: That is Jones' address?

MR BIZOS: Yes. Well is it Jones my lord, no there are, I am sorry my lord it is not Jones' address. There are a number (10) of documents.

COURT: Well which one are you referring to? My page 4 is Jones.

MR BIZOS: I am referring to B.18, Presidential address, towards the end of that.

ASSESSOR (MR KRUGEL): It has also got a page 4.

MR BIZOS: It has also got a page 4. And the one that I am referring to is signed by the witness.

ASSESSOR (MR KRUGEL): That is right, that is why I asked you, are you referring to Jones' address or the presidential (20) address?

MR BIZOS: Oh I am sorry, I did not hear the question properly.

COURT: Well the first one is Jones'.

MR BIZOS: No I am not referring to Jones. I am referring to the witness':

"The philosophy of black consciousness has strengthened our belief in the saying that revolutions can neither be exported nor imported. It is an imperative duty of every nation or country to work its own way and fight its own liberation, relying on its own people. In our country (30) black/....

"black people are faced with the task of having to defeat an enemy armed to the teeth with destructive weapons of modern technology. We know that the outcome of our battle will not be decided by technology but by the will of our people. The final outcome will not be decided by the massive accumulation of weapons, however genocidal, but by the local and historical consciousness of the masses. The peoples involved and determined to resist the violence with whatever means available, to defend themselves in an implacable contest. In such (10) a struggle therefore a politically conscious educated people led by a dedicated revolutionary movement will, by winning at the end, prove the old saying that ideas and men are stronger than weapons."

Now did you write that Mr Mabasa? -- I did.

And did you deliver this paper? -- I did deliver it at congress.

And is this passage in consonance with the AZAPO standpoint as to how change in the country might come about? -- That is true. (20)

Does it involve in any way the use of violence? -- We are emphasising the use of ideas and people.

COURT: Where does it say that? It says here "with whatever means available". -- To resist the violence, we do not involve ourselves ...

Well what is the violence you are resisting, that is the state is that not so? -- Not the state only in that sense. Things like the forced removals, hostels issues, those are...

Well let us take it one by one. Forced removals, whether one likes it or not they are either done legally or (30)

illegally?/...

illegally? -- That is right.

If it is done illegally you take them to court. If it is done legally how do you resist it? -- We will keep on sending, we will keep on telling the government that we have this problem because the government has not provided houses for people.

But now what does it mean to resist the violence with whatever means available? -- That statement is like the sky is the limit. It has been used to mean that you can go to court, sometimes you can be involved in peaceful protest ...

Well does it not mean that it is an unlimited statement, (10) and now you want to limit it in court? -- I have already given a limitation on the same paper that what is available to us it is, we are not using any weapons. We are using ideas to resist, we are using people, the willingness of people. And we have seen people being removed today, the following day they come and stay in the same place until the government does something for them. It has happened in Soweto. There are now legal squatting areas, Mshenguville, Mdlaloseville, and this has happened because time and again the government removes people, the people come back and say provide houses, we are willing (20) to move away from here. And that is resisting.

MR BIZOS: Now you took part in the arrangements for the formation of AZAPO you told us? -- That is correct.

Now BPC was banned as an organisation on 19 October 19 ... -- 1977.

1977? -- That is correct.

Now you were asked a question by my learned friend Mr Jacobs whether AZAPO was to take the place of the BPC and you said yes. I want you to please explain what you meant by that? -- When I said yes I was not talking about replacing (30) the/.....

the BPC as an organisation but I was responding to the question as it refers to a vacuum created by the banning of the organisation that that normally leads to a situation where there is no control, there are no answerable people. If we do not have organisations, even for the government it becomes very difficult to ask when things are not right, who to ask. We gave them the option, we formed an organisation and today they can ask us in court if we know of certain things.

You said that after the formation you made a statement that you either stay, you either go underground or you (10) become an overt and lawful organisation? -- Because the banning did not say in the country there would be no overt political organisations. So we took advantage of the fact that lawful overt political organisations were allowed and formed a lawful overt political organisation, AZAPO.

At the time of the formation of AZAPO, when you made this statement, was it given any publicity? -- It was publicised in various newspapers saying Mr Mabasa said the only options which were available was going underground which would have been illegal or forming an overt political organisation which (20) we chose to do.

COURT: But now Mr Mabasa in what respects did AZAPO differ from the BPC movement? -- When we formed AZAPO we did not use the BPC as a basis and when a question like you are all black consciousness we would believe that black consciousness did not belong to the BPC and there were still many organisations which were not banned which were black consciousness, like the black Pre-Solidarity group of which I know Reverend Moselane to have belonged to.

Yes but now in principle what difference was there (30)
between/....

between you and the BPC group? -- I think there were a lot of differences. The BPC never spoke about workers or the BPC never at any time spoke about the question of socialism, which will be the removal of exploitation of man by man. There were various areas where there were differences between us and the BPC.

MR BIZOS: Now I want to turn to the Vaal.

ASSESSOR (MR KRUGEL): Are you sure about all this Mr Mabasa?

-- I was a member of the BPC.

You say workers and socialism? -- On their constitution(10) they never spoke about the workers forming the backbone of our country and the things you find in AZAPO.

Is that not part of their normal vocabulary? -- I mean those things were the things which AZAPO came to be known on.

COURT: But Mr Mabasa the first executive of AZAPO was there anyone on it who had not been a BPC member? -- The majority of them were never in the BPC.

What were they before? -- Ismael Mkhabela who was a close friend of mine was just a good christian who belonged to a student christian movement. Khehla Mthembu was director of (20) another christian organisation, the team Outreach. Nombulelo Kobus was a student from the university of Ongonya(?). He could not have been in the BPC. He was a student. Hermat Wagmaray was a man from Lenasia and I think he had held no position in the previous organisations.

Nombulelo was, what was that name? -- She was Nombulelo Kobus ...

G? -- K-o-b-us. Kobus.

Kobus. Yes thank you.

MR BIZOS: I would just like to go back to the Vaal. Do (30)

you/.....

you know whether there were a number of branches in the Vaal or branches in each township or whether there was one branch in the Vaal? -- Well it operated to a great extent as a region because we did not have branches in areas like Boipatong, Sharpeville and Bophelong. But people from Zamdela and Sebokeng would come together and consist of what we came to know as the Vaal branch.

The Vaal branch. Did you know of any chairman of any branch other than Mr Hlomoka, accused no. 2, during 1983/84? Was there any other chairman of any other committee in that (10) area that you know of?

MNR JACOBS: Edele ek weet nie of my geleerde vriend nou besig is met kruisvrae nie want die getuie het gepraat van Zamdela dat hy 'n persoon genoem wat 'n naam het wat daar 'n voorsitter was en mnr Bizos nou hierso ander stellings aan die getuie maak en dan hom daarop verander.

MR BIZOS: No I put it during the period, and the evidence of the witness, with respect I do not want to remind him what ...

COURT: Yes very well ask the question.

MR BIZOS: Can you remember say in 1984, in 1984, late 1983, (20) whether there was any chairman of any committee other than Oupa Hlomoka, accused no. 2? -- I only knew Oupa Hlomoka.

Thank you my lord, no further questions.

NO FURTHER QUESTIONS.

MOJANE MATCH LETSELE: d.s.s. (Through Interpreter)

EXAMINATION BY MR BIZOS: Do you live in Bophelong? -- Yes.

Are you 29 years of age? -- Yes. ,

Passed standard 6? -- Yes.

You are a plumber by profession? -- Yes.

Have you lived in Bophelong all your life? -- Yes. (30)

Have/....

Have you ever been a member of any political organisation in Bophelong? -- No.

Whilst there did you ever hear of BOYA, that is the Bophelong Youth Association? -- No.

Did you hear of BOYCO, the Bophelong Youth Congress? -- No.

Did you ever hear about a civic association? -- Yes I heard of that one.

Yes. When did you hear about that one? -- It is long back that I heard of this one. I cannot tell how long it is (10) but I used to hear about the existence of such an organisation.

COURT: Before the riots or after the riots? -- Before.

MR BIZOS: Did you attend any of their meetings or have anything to do with their organisation? -- No.

In the middle of 1984 were there any grievances that you were aware of by the residents of Bophelong? That is not the purpose of the evidence my lord, it is just by way of introduction.

COURT: I thought we were getting some new stuff.

MR BIZOS: It is new in a sense but this is just by the way (20) of ... -- Yes I did.

And was one of the difficulties the question of rent and electricity charges? -- Yes.

Did you hear whether or not there were any meetings about this? -- Yes I heard.

Did you go to any of the meetings yourself? -- No.

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In August 1984 do you know whether the councillors called for any meetings, towards the end of August 1984? -- Yes.

Yes, and did you go to any of the meetings or did you go anywhere near where the meeting was held? -- I did not go (30)

to/....

to attend but I was on my way passing from work.

Yes and what did you see or hear there or happening?

COURT: Just before you answer that question just tell me where the meeting was? -- In Bophelong.

Yes, what place? -- In the hall.

Civic hall? -- Yes the civic hall.

And at what time were you passing it? -- After 17h30, before 18h00. Anytime, something to 18h00.

Yes now tell us what happened? -- While passing there I noticed some police who were patrolling, that is driving (10) around the block of the hall, while there were people standing outside the hall.

Were they looking in? -- Who now, the police?

No the people outside, were they part of the meeting trying to get in or were they just standing talking around? -- They were there awaiting for the start of the meeting from the look of things.

MR BIZOS: Yes? And? While passing not very far from that point I heard some shots which were being fired from guns and teargas was also shot there. (20)

COURT: At the hall? -- The police were aiming their shots towards the hall building while they were outside.

MR BIZOS: Yes, other than pointing their shots towards the building were the police doing anything else, either at the time they were taking these shots or shortly afterwards? -- No nothing else.

Yes. And did you stay there for a while or, watching them or did you go away? -- I first had a look at what was happening at this hall. Immediately when I heard the shots which were being fired and the teargas I left. (30)

COURT:/.....

COURT: Did you walk? -- I ran.

MR BIZOS: Now after this incident that you saw what was, how were things in your township? Were they calm and collected or not? -- It was not calm.

What was happening? -- What was happening thereafter I became aware of people who were involved in the fighting, the police were busy shooting, chasing people in the streets.

From when did this chasing of people in the streets start, how long after you saw the gas there at the hall? -- It was already after dusk, it was at night, at about 20h00 (10) because it was already dark.

On that same day? -- Yes it was on the same day.

COURT: Where? At the hall or somewhere else? -- No not at the hall now this time. People were being chased in the streets of the township.

MR BIZOS: From the evening, or from 20h00 the same evening? -- Yes.

And the next day? -- On the following day what I noticed happening there was that the police were hitting children who were playing in the streets. This happened at about 05h30. (20)

And was it just an isolated incident or did it happen more than once? -- It was only at that time and it did not take long.

Yes.

COURT: And where was that? -- In Bophelong.

Yes but where in Bophelong? -- In the street.

MR BIZOS: Were the children doing anything unlawful in the street when this happened? -- No as far as I could see the children were just playing in the street.

Did you hear whether or not there was going to be a (30)
stayaway/.....

stayaway on Monday 3 September 1984? -- I am not clear, what is the question?

COURT: Did you hear about a stayaway? -- On a Monday?

Yes. -- Yes I heard of a stayaway.

MR BIZOS: Yes, was that going to be on a Monday? -- Yes.

Now the night before that Monday when there was going to be a stayaway ... -- That means the Sunday?

On the Sunday yes, now in the afternoon ...

COURT: I am sorry you are asking about the night and now the afternoon. (10)

MR BIZOS: No the late afternoon.

COURT: It gets dark early we know but ...

MR BIZOS: The late afternoon or the early evening of the Sunday did you go anywhere? -- Yes I did go somewhere.

Where did you go to? -- I paid a friend of mine a visit at his residence.

And thereafter? -- I went home.

And did you then go out again? -- Yes.

And where did you go to? -- To a shebeen.

Now on the two occasions that you went out did you see (20) any obstructions on the road? -- No.

Did you see at that stage any police moving about? -- No.

Did you meet anyone that you knew well at the shebeen or stokvel? -- Yes.

Who? -- A person by the name of Reuben Thwala, T-h-w-a-l-a.

Did he have any other first name than Reuben? -- Yes his other name is Takabana.

COURT: Spell it please. -- T-a-k-a-b-a-n-a.

Is it one word? -- One word yes.

MR BIZOS: Was that abbreviated to anything? -- Yes it is (30) abbreviated/....

abbreviated to Taka.

Yes. Did you know him well, did you do anything together as friends? -- Yes.

What did you do together? -- We used to play soccer with him.

Was he a young man, your age? -- Younger than me.

Now how old was he in 1984? -- I am not quite certain but I estimate him to have been 19 or 20 then.

Yes. You saw him there. Did you yourself have any intoxicating liquor there? -- No. (10)

Did the late Reuben Thwala have anything to drink there? -- When I came there he greeted me first and to me he looked sober. He did not have anything to drink.

COURT: Well one can be sober and still have had something to drink. -- From my assessing his appearance there I would say he was sober. Because he greeted me and the manner in which he greeted me was one of the reasons why I say he did not have anything to drink. He was not drunk.

MR BIZOS: Now whilst you were sitting there did you hear anything happening outside? -- Yes. (20)

At what time was that more or less? -- After 20h00, 20h30 is the latest but it was after 20h00.

Yes. And did you go and see what the noise was about? -- Yes.

What did you see? -- I saw police passing in vans and there was some noise through firing of teargas and ordinary shooting by the police.

At what were they shooting? -- They were shooting teargas. At who these were aimed I do not know.

Were there people in the street? -- Yes. (30)

COURT: /

COURT: Would you just tell me now in what street was this?

-- Tsolo Street.

T-s-u-l-u? -- T-s-o-l-o.

Tsolo Street. Is that where the shebeen is? -- Yes.

MR BIZOS: Was there any misbehaviour, any riotous behaviour by any of the people that were on the streets at the time that the teargas was being used? -- It is difficult for me to say it but I can say no, the reason being this that when we came out for the first time outside there what I noticed was that there were people running in the street. As a result of (10) that, after having heard the shots, we went back into the house. Therefore I am not in a position to tell what the behaviour of the people was.

And the police, were they walking or were they riding? -- They were driving.

How many vehicles were there? -- There were quite a few. From those that I saw while being in this yard, passing in that street, I noticed two vehicles and in the next street I noticed others as well which were travelling different directions, that is the opposite direction of the others. (20)

Yes. Let us just get back to the premises that you were at, the shebeen. How many of you were in this shebeen at the time that you heard the noise? -- We could have been 19 to 20 people.

COURT: Is a shebeen a quiet place normally? -- No.

It is noisy with music? -- Yes.

MR BIZOS: Did you remain in the shebeen? -- No.

What did you do? -- I also started drinking.

What did you drink? -- Beer. I had to drink some two bottles of beer. (30)

And/....

And Thwala did he drink anything at that stage? -- I do not know but when I came there he was already in that house, that is in the shebeen. He was sitting together with other friends of his. I do not know whether he had something to drink then.

Yes. When you left the shebeen did you leave the shebeen alone? -- No.

With whom did you leave? -- With Thwala.

Why did you leave? -- What happened is after the shooting incident that we witnessed outside, having gone to investi- (10) gate what was the noise about, we went back to the house with a view of getting into the house but the shebeen queen decided to close the door for us so we could not gain access into the house. As a result of which then we decided to jump into the yard next to that one, that is the back opposite yard. While jumping that fence I was coming behind Thwala following him. There were two policemen from behind us. When another policeman emerged from the front, that is the one who fired a shot, shooting at Thwala after he had jumped the fence.

COURT: So you were jumping the fence into the yard next (20) to the shebeen? -- We were jumping into the yard next door.

And then as you jumped into the yard two policemen were behind you and one in front of you? -- Yes.

And it was dark? -- It was not dark. There were high mast lights there, therefore it was not dark.

Yes thank you. What were the police doing in that yard? -- They were chasing us. What happened is they could see us in that yard when we were looking at what was happening in the street. When they came we started running away from where we were standing at the time into the yard with a view of (30) getting/.....

getting into the house, therefore being followed by these policemen.

MR BIZOS: Yes, and what happened then? -- After Thwala was shot, the deceased, I tried to run away and I was told by the police I must not run away because they are also going to shoot at me. As a result of which I decided to stop.

And once you stopped did the police come up to you? -- Yes.

Now what happened to Thwala? -- I was instructed by the police to pick him up from the ground where he was lying. I picked him up and I was told to take him out of that yard (10) into the street which I did. I was in the street instructed to put him into the Landrover so he was put by me in the Landrover. We the two of us were then in the Landrover.

Was the late Reuben Thwala still alive when you put him at the back of the van? -- He was still breathing although not speaking.

COURT: Could you just on this aerial photograph indicate to me where this took place? Just stick a pin into the place. You will see at the top of the marked area there is a red line and where the red line bends downwards that is where (20) the beerhall is and the red line then circles a block and that block is where the administrative offices at point 7 are and the community hall at point 6. Just indicate which is Tsolo Street please. -- It is about here.

Yes, have you indicated Tsolo Street. Just indicate to my registrar and I will write it in.

Whose shebeen is this? -- That is Mr Ntorane's house.

N-t-o? -- R-a-n-e.

Yes point 9 on EXHIBIT AAR.5 is stated to be then the shebeen of Ntorane and Tsolo Street has also been indicated.(30)

We/....

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LETSELE

We will take the adjournment now and then counsel can have a look at my exhibit.

COURT ADJOURNS UNTIL 21 JUNE 1988.