

Ass

IN DIE HOOGGEREGSHOF VAN SUID-AFRIA  
(TRANSVAALSE PROVINSIALE AFDELING)

SAAKNOMMER: CC 482/35

PRETORIA

1988-12-06

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. H. SMITH

NAMENS DIE VERDEDIGING:

ADV. A. CHASKALSON  
ADV. G. BIZOS  
ADV. K. TIP  
ADV. Z.M. YACCOB  
ADV. G.J. MARCUS

TOLK:

MNR. B.S.N. SKOSANA

KLAGTE:

(SIEN AKTE VAN BESKULDIGING)

PLEIT:

AL DIE BESKULDIGDES: ONSKULDI

KONTRAKTEURS :

LUBBE OPNAMES

COURT RESUMES ON 6 DECEMBER 1988.

WILLIAM JOHN KALK: d.s.s.

EXAMINATION BY MR BIZOS: Professor Kalk what are your medical qualifications? -- I have an MB BCh and MRCP, Member of the Royal College of Physicians, United Kingdom.

And are you a professor at the University of the Witwatersrand school of medicine? -- Yes.

And have you an appointment at the Johannesburg Hospital? -- Yes I am senior physician in the Department of Medicine and an associate professor. (10)

And what is your particular speciality? -- Endocrinology with a particular interest in diabetes.

Yes could you spell the speciality for the purposes of the record please? -- E-n-d-o-c-r-i-n-o-l-o-g-y.

Yes. Has it got a more common name? -- Not really. It is the study of hormonal diseases.

Were you asked to see Mr Ephraim Ramagula, accused no. 9 before his lordship, some time ago? -- Yes I was requested to see him I think it was July 1986 for the first time.

And have you his file before you? -- Yes I have it here. (20)

At our request did you draw a report of his medical history? -- Yes I drew up a brief report last week.

I would ask your lordship to receive it.

COURT: What did you say the last number was?

MR BIZOS: DS2 is this one, the one was DS1 and DS1(a). And whilst we are dealing with exhibit numbers did you also find it necessary, soon after Mr Ramagula became your patient to write a letter to the Commissioner of Prisons? -- Yes I wrote a report, I see, dated 28 July 1986 which I sent to the Commissioner of Prisons for his information with a copy to (30)

a/....

a Lieutenant Burger who I think was in charge of the prison hospital at Modder B prison. The reason for writing the report was both to inform the Commissioner of Prisons about my patient's general condition but also to report some of the problems I had in his management. I do not know if you would like me to detail these issues.

We will come to that. Will your lordship receive that as ...

COURT: DS3.

MR BIZOS: DS3. And do you adhere to what ... (10)

COURT: So what we have here is a report dated 2 December 1988 that is DS2 and a letter dated 28 July 1986 DS3.

MR BIZOS: As your lordship pleases. Did you in addition have an interview with Mr Ramagula before the commencement of these proceedings this morning? -- Yes I saw him some minutes ago.

And did he make a report to you as to what his management in prison was since his bail was cancelled and he has remained in custody? -- Yes we discussed some of the I think more important aspects of his diabetic management.

Do you adhere to what you have said in your reports (20)  
EXHIBITS DS2 and 3 Professor Kalk? -- Yes they stand.

Now I do not know whether your lordship wants the reports read, they are mainly of a historical nature which your lordship can read at leisure, with respect.

COURT: Yes.

MR BIZOS: But there are certain aspects of it that we really want to deal with.

COURT: What do you want to highlight in the report?

MR BIZOS: Well nothing in the report because I think viva voce the professor should really explain to your lordship (30)

on/....

on the possibility or otherwise of proper management of his condition in prison. That is really the matter.

COURT: Give me two minutes and I will go through the report quickly.

MR BIZOS: As your lordship pleases.

COURT: Yes, thank you Mr Bizos.

MR BIZOS: Now could you please tell his lordship what was reported to you about the management of this condition of Mr Ramagula by him this morning, did you make notes? -- Yes I have made a few notes here. I established that he is being (10) given his usual insulin dosage. It is being given in the appropriate injection site which is a correction of some of the inappropriate management he has had in the past. However, the time of the insulin as regards his meals is completely inappropriate. For example he told me that he receives his morning injection at 06h00 and there is a full two hour delay before he has breakfast. This is followed a mere three hours later by his lunch and then really a few hours after that he has his supper, which is at about 15h00. Here he has his insulin injection seemingly immediately before he has his (20) meal instead of the appropriate delay, which should be about 30 minutes. At weekends this routine changes - it changes quite significantly in that he has supper, his evening meal at 14h00, immediately preceded by his insulin injection, again the appropriate dose 6 units and into the abdominal fat. He told me that yesterday his evening dose was omitted completely. Further to that in terms of looking at the effect of this really quite bizarre fashion of treatment for an insulin dependent diabetic his blood glucose is being monitored inadequately as well. He is having a blood glucose check at (30) 06h00/....

06h00 only. The levels he tells me that he has been running at recent days are much worse than before. He reported to me that the levels were about 9 to 12 millimls per litre. One is aiming, the ideal level that one is aiming for is between about eight and seven. So he is considerably above this. In addition he mentioned to me that he has become thirsty again, particularly at night. He estimates that at about midnight he gets thirsty, drinks two or three cups of water and has to pass urine. This probably indicates that his blood glucose is high at this time, probably even considerably higher perhaps (10) than the 9 to 12 it is in the morning. This is speculation however. One of the major symptoms of uncontrolled diabetes is excessive thirst and passing of lots of urine. It is in terms of his weight which is another important issue. We really have no information about that. He is not sure whether he has lost weight or not. One of the other important issues is that he is not provided with a snack in case of emergencies. This is required for all insulin dependent diabetics. One would go so far as to say that they should never be without it on their person, they should have a glucose snack and a (20) carbohydrate snack of more complex nature than glucose. This is in case the blood glucose should fall. Many diabetics get some warning signs that the blood sugar is falling and this is the indication for them to abort the attack by taking extra food. If it is severe glucose, if it is not severe to take some carbohydrate. I believe he has not been provided with a snack. He has kept some sugar on his person he tells me and has used it on one occasion at about 19h00 at night when he felt he was becoming hypoglycaemic. I might add it is clinically important that such a patient does have funny (30)

turns./...

turns. They are often attributed to hypoglycaemia and I think it is very important that it be, the diagnosis should be proved and the only way to do this is to check his blood glucose at the time and in this way one can be certain that the blood sugar is low or that perhaps it has another cause. I think since he has gone back into prison he said he has had one such episode at about 19h00 in the evening. In terms of the comments that I have just made and as they relate to his therapy and the letter I wrote to the Commissioner of Prisons really the situation is much the same as it was in 1986. (10)

I want you to please explain to his lordship the dangers for a young diabetic, as you refer to him, if this routine is not followed in the manner in which you have suggested to the Commissioner of Prisons and if the patient is not managed in the manner in which you expected him or in which you did manage him whilst he was out on bail. -- Firstly I think he managed himself remarkably well while he was out of prison and there is seemingly quite a marked contrast to what has happened since his redetention. There are two really major issues in the management of an insulin dependent diabetic person. The (20) first relates to acute metabolic emergencies. This is a high blood glucose or a low blood glucose. High blood glucose levels are really less problematic because they tend to rise rather slowly, taking hours, sometimes days, to get to important critical levels in terms of lapsing into ketoacidosis(?) and coma. In contrast the onset of hypoglycaemia or low blood glucose levels can be extremely abrupt and although the sugar may be falling over some period the patient may not be aware of it until the levels are critically low and this can result in bizarre behaviour, really uncontrolled behaviour. A (30) lack/....

lack of insight into what is going on all the way down to coma, epileptic fits and if it goes on for long enough the patient may die because the brain is critically dependent on blood glucose for survival.

What time span can all this happen in once it becomes critical? -- It can happen in a few minutes. Let us say five, ten, twenty minutes is the kind of situation where one has observed patients changing character and lapsing certainly into pre-coma. This is really why it is essential that such a patient should have food on them at all times. On the (10) other hand it is not always as simple as that. The situation can arise that the individual is unaware that the blood glucose is falling. They lack insight I think quite characteristically and the first intimation that the individual may have that he is hypoglycaemic is when he wakes up in a hospital, in the casualty with a drip in his arm, with glucose being infused and in then the typical response is to wake up very rapidly and say sort of "Where am I". But that can be the first indication that the patient himself or herself may know that they are hypoglycaemic. It is compounded not infrequently by these (20) hypoglycaemic episodes being not uncommon during the night, during sleep, where the individual may wake up but certainly may not be aware that this is a problem.

With all the goodwill in the world, having regard to the regimen of prison life can a prison really deal with a person in the position of Mr Ramagula properly Professor? -- I find in theory yes that it is possible, one should be able to adapt the regimen to suit most circumstances. However one has got to bear in mind that part of the critical areas of management relates to the duration of action of insulin and one, there (30)

is/....

is no way on usual conventional treatment that a dose of insulin can be provided at 14h00 or 15h00 in the afternoon which is going to last through until the next morning. I think there would, one would have to stand the prison regimen on its head to be able to accommodate a diabetic. In detail the patient would have to have his insulin dose half an hour before the meal, there should be a fairly rigid diet, one is expecting under most circumstances the patient to have six meals a day, the last meal being more or less at conventional times and in addition there is usually a bedtime snack which(10) is offered, advised at about 22h00. This last is particularly important to try and prevent the nocturnal hypoglycaemia.

When he was out on bail who was injecting Mr Ramagula? -- He was doing it himself.

Was he trained by your department to manage himself? -- Yes, yes he was. He had been trained in Benoni, Boksburg-Benoni Hospital as well.

And do you know whether prisoners are even given medication or whether they are allowed to inject themselves? -- My understanding is that they are not allowed to medicate themselves (20) in prison but I am not aware of the law on that.

Is there any danger in allowing a person alone in a prison to inject himself? -- Ja I think there are potential dangers. The obvious one obviously is manipulating the insulin dose in relation to meals, to either induce high sugars or more likely low blood glucose. This is quite easily done by giving even an appropriate insulin dose but missing a meal. Obviously a bigger dose can be given and in my experience, small as it is, of prisoners I have seen one such person who was not even administering his own insulin but then refused his meals (30)

and/....



and was rushed into hospital because his blood sugars were very low. This in its own right is inappropriate treatment. Such a person should be treated there and then by whoever is present. This is something for example that we would teach the patient and his family and also expect a trusted colleague at work to do, that should a person develop symptoms or evidence of severe hypoglycaemia and be incapacitated, usually in coma, then they should have both at work and at home the wherewithal to treat that patient immediately because of the importance in terms of brain function. The delays of calling an ambulance, (10) getting a doctor, taking someone to hospital really can be prolonged and dangerous for such a patient.

Being kept alone in a cell during the night, what dangers does that hold for a person? -- Well the prime danger really is that there might be hypoglycaemia during sleep. There has in fact been a fair amount of literature on this in recent years describing in detail that it is really rather common, in the level of 20 to 30% of conventionally treated insulin patients.

What effect does the condition from which Mr Ramagula (20) suffers have on the expectation of life? -- It is impossible to prognosticate for an individual but in statistical general terms an insulin dependent diabetic's life expectancy is reduced because of the long term complications of diabetes which are more frequent and more likely to happen. The risk is greater if the blood glucose control is poor by which I mean if the blood glucose levels are left to be high. I think this is the long term problem of poor high blood glucose control in such a person.

And what complications are common in this condition (30)

which/....

which endanger the life of the patient? -- The major ones are accelerated cardio-vascular pathology whereby the patient will prematurely usually develop coronary vascular disease or stroke. The other very important one which affects some 40% of such patients is the involvement of the kidneys which really in the long term leads, is the major cause of mortality in the young insulin dependent diabetics.

Have you tried to ascertain when Mr Ramagula was last seen by the district surgeon or prison doctor since the cancellation of his bail? -- Yes. He told me he had seen him (10) soon after he had been redetained but not since.

Do you know what insulin he is actually using during the period of his imprisonment since the cancellation of his bail? -- I believe it is the correct insulin which he brought with him, which was provided by the hospital.

Does a choice of insulin come into play as time goes on with a diabetic of this nature? -- Yes it quite often does, and in fact looking at my notes when I first saw him, he had been treated on a variety of insulins at the Boksburg-Benoni Hospital. He had then been stabilised on a insulin called (20) Monotar. Then towards the end of last year his condition had deteriorated despited maintaining the doses and I thought it advisable to change him from a single long acting insulin preparation to a combination of short and long acting. The reason being that the way I interpreted his deterioration of metabolic control was that his own insulin which had been inadequate in the first place was becoming even more inadequate and in effect running out. This happens in the great majority of insulin dependent diabetics over a period of five years. After five years one can say, after the onset (30)

of/.....

of the clinical disease, that there probably is no endogenous insulin and the patient is entirely dependent on administered insulin.

Thank you my lord.

CROSS-EXAMINATION BY MR FICK: Doctor according to your report dated 2 December 1988 you have a limited experience of diabetes in prison patients, is that correct? -- Yes, the individuals that I have seen have been referred to me by the district surgeons.

How many have you seen? Approximately? -- In round (10) figures three, including this individual.

In all the years that you have practised? -- Yes, the only times that I have been referred patients has been in the last couple of years, from prison.

And do you have any personal knowledge about the conditions in the prisons and the regulations regarding diabetes patients? -- No I only have the information that has been reported to me by the patients that I have seen.

You have not checked it with the authorities? -- I have corresponded and spoken telephonically to Lieutenant Burger (20) in Modder B and some of the correspondence that I have with her and the phone calls have shown that as an individual she was very willing to carry out my instructions but there were inordinate delays in getting permission from higher authorities.

Yes. None of your complaints is of such a nature that it cannot be rectified by the prison authorities? -- They could be.

And you refer to the excessive passing of urine as a symptom of what? -- Of high blood glucose.

Now what is meant by excessive passing of urine? -- Most (30) of/....

of us sleep through the night. I regard a young person who wakes up in the middle of the night to pass urine and to drink and be thirsty in the middle of the night and to drink in terms of five, six hundred ml of water, which is what is described to me, as excessive.

No, no, let us talk about accused no. 9. -- Yes.

What do you mean with excessive passing of urine in his ... -- To get up once at night to pass urine.

And during the day? -- During the day that is very variable and it depends to some extent on what a person (10) drinks but the description of, or the symptom of excessive thirst and passing of excessive amounts of urine is one of the classic symptoms of poorly controlled diabetes.

It has nothing to do with timing, every ten minutes, every hour or something like that? -- If the bladder function is normal, which I expect it is, then it would obviously depend on how much he is drinking. On the other hand if he is passing lots of urine and does not drink he becomes dehydrated. That would happen to all of us.

But what is meant by excessive passing of urine as (20) far as time is concerned, every ten minutes, every half an hour? -- It seldom is as much as that. Say every hour, every couple of hours. That would be fairly typical of an uncontrolled diabetic. There are obviously ranges of control.

Thank you my lord, no further questions.

RE-EXAMINATION BY MR BIZOS: I do not know whether you heard the whole of the question by the prosecutor, he said Mr Ramagula is not a child in relation to your statement a young person. For the purposes of the condition that you are describing is Mr Ramagula a young person or not? -- Yes he is. (30)

COURT:/....

COURT: When does one stop being a young person? -- I think it depends on one's perspective. But he would be classified as an insulin dependent diabetic, for statistical purposes, generally taken this is onset before 35 or 40.

Thank you Professor, you may go.

NO FURTHER QUESTIONS

FREDERICK VAN ZYL SLABBERT: d.s.s.

EXAMINATION BY MR CHASKALSON: Dr Slabbert you hold a doctorate in sociology from Stellenbosch University? -- That is correct.

What was the subject of your doctorate? Not in technical terms but what were you studying? -- Well I analysed the theory of a particular social scientist who was trying to give an explanation of how society hangs together, I suppose, and what maintains equilibrium and leads to disintegration of society. (10)

And has that been an interest of yours? -- Yes from the outset of my academic career it has been an interest.

Have you taught at various universities in South Africa? -- Yes I taught at the University of Stellenbosch from 1964 until 1968, at the University of Rhodes in 1969, back at Stellenbosch in 1970 and 1971, Cape Town in 1972 and the University of the Witwatersrand until April 1974 when I was elected to parliament. (20)

Yes. And you entered parliament you told us in April of 1974 and did you in time become the leader of the official opposition in parliament? -- Yes in 1979.

In 1979. And were you the leader of the official opposition at the time proposals were made in regard to a new constitution for South Africa? -- Yes I was. I served on the parliamentary committee that had the terms of reference (30)

to/....

to investigate the possibility of introducing a new constitution for South Africa and I also gave evidence to the cabinet council on the constitution and participated in the debate.

And did you subsequently resign as leader of the opposition and resign from parliament? -- Yes I did.

When was that Dr Slabbert? -- That was on 11 February 1986.

Could you tell his lordship why you chose to resign? -- I tried to motivate my resignation during my resignation (10) speech in parliament which is on Hansard but basically it boiled down to the fact that I felt that our situation had polarised in South Africa, that increasingly the executive that had been created as a result of the constitutional change towards tricameralism was by-passing parliament as well. In other words more and more decisions were taken from the executive in relation to what was going on outside of parliament and I felt that it was very necessary to get a debate going in the broader side or context on the need for a non-racial democratic South Africa and I increasingly felt that (20) my position in parliament made it difficult at that particular time.

And as far as the principle of a non-racial and democratic South Africa can you give any indication as to the attitude within particularly the black community to such a proposition? -- Well the concept of a non-racial democracy enjoys widespread and pervasive support as far as my experience is concerned, talking to extra-parliamentary organisations and movements and that a great deal has been written about this stating the commitment of various individuals and (30) organisations/...

organisations to this idea.

Have you had discussions with homeland leaders? -- Yes I have.

Can you tell us generally the attitude of homeland leaders to tricameralism? -- Well in the case of homeland leaders like Mangosutho Buthelezi and Enos Mabuza, as well as the late Phatudi, and also discussions I had with Hudson Nsanwidzi all of them had grave reservations about the tricameral parliament and the shift in the constitution towards tricameralism and in fact I remember during the 1983 referendum sharing a platform with Buthelezi in which he actually said that this would lead to polarisation and to violence. (10)

When you talk about the idea of a non-racial state and your discussions which you have had with people outside of parliament can you indicate the position of homeland leaders in regard to the idea of a unified non-racial state within South Africa? -- Well certainly the gentlemen that I have just mentioned to you all of them agreed that they would prefer to be part of a unified non-racial and democratic South Africa.

Yes. So the support that you have described for such a proposition exists not only within people in extra-parliamentary black politics but people participating in government created structures? -- Yes certainly. I think even the Reverend Alan Hendricks has said he would prefer a non-racial democratic South Africa. (20)

Now as far as this case is concerned we have had evidence about grievances within the black community and I would like you to express your view in regard to whether there are or are not legitimate and sincerely held grievances within the black community in regard to their condition in South Africa? (30)

-- I/....

-- I do not think there is any question about that. This has been borne out by numerous government appointed commissions. I think for example in the Mbekweni(?) Vaal riots, the commission led by Justice Snyman, the commission under Justice Cillie on the disturbances at the University of the North, I think of the report of the Rector of the Potchefstroom University Tjaart van der Walt on the Vaal triangle. All of them point to the fact that there were legitimate grievances. I think even the Minister of Police has acknowledged that there were legitimate grievances. (10)

Are you, from your own knowledge of your contact with black politics and the black community, able to draw attention to specific grievances? -- Well I think broadly speaking one can distinguish between political, economic and social grievances. In the political sphere obviously the major source of conflict is the absence of effective channels for articulating political demands and aspirations, the fact that people feel that they cannot get redress for their other grievances in the economic and social sphere. For a long time in the economic sphere for example we have had influx (20) control as a policy on the part of the state that certainly introduced unfair competition in the pursuit of economic opportunities, if one wants to put it that way. I think there is ample evidence in the social sphere as far as the educational system is concerned. The reports subsequent to the 1976 June 16 riots show what the nature of those social grievances are, the area of welfare, certainly they have all so been identified.

Issues such as land, can you ... -- Well there is no question that land lies at the heart of the present (30)  
government's/....



government's policy and there is, there are a number of laws affecting the allocation of land. For example the Group Areas Act, the Urban Areas Consolidation Act, the implications of the Population Registration Act which allows differential access to land for different purposes, whether it be for residential, business or other purposes, farming.

If we could come back Dr Slabber to the question of political grievances could you say whether or not the majority of the people of this country are or are not governed with their consent? -- I think the test for any country being (10) governed by consent is the degree of free and voluntary participation by the majority of the citizens in the political process itself and I think one of the fundamental issues in the political sphere is the fact that political participation is structured on racial grounds in terms of the Population Registration Act. In other words there is compulsory racial group membership and this is a major issue of dispute between the government and I would say the vast majority of extra-parliamentary organisations, that they believe that there should be voluntary association. That was for them the only (20) legitimate way of demonstrating consent.

And in regard to power to influence allocation of resources and education policies and the like, where does that reside? -- Well that is a political process. The budget is essentially a political event because the budget reflects the priorities of the state in terms of state expenditure and obviously if one has a democratic kind of system it enables different interest groups to have access to the composition and distribution that takes place through the budget. So to the extent that significant groups in society are excluded (30)

from/....

from the process they would feel that they do not have access to the allocation of resources and the power of the state.

Now there has been evidence in this case concerning the African National Congress. Are you able to express any view in regard to the importance of the African National Congress in the South African political situation? -- Well it is my view that the African National Congress is one of the most important movements or organisations in the South African political context and certainly enjoys the support of a substantial number of people in this country. Now what I mean (10) by substantial, it is difficult to be precise in a survey sense but surveys would indicate that it can vary from anything from 46 to 70%, depending on where they were conducted. But also substantial in terms of the organisations and affiliates and not even affiliates but simply individuals that accept the significance of the ANC.

We have heard about calls made by the United Democratic Front for the unbanning of the African National Congress, the release of Mr Mandela and other leaders and the return of exiles. Are you able to make any comment in relation to (20) the significance of such calls? -- I think it is a very general call. It is not only limited to the ANC or the UDF for that matter. Buthelezi has made the same call. The Thatcher government through Howe has made the same call. The Eminent Persons Group that was here made the same call and if I am not mistaken I think on 20 July 1985 the Secretary of State in the United States, Schulz, made the same call.

You yourself are you able to express any opinion on the importance of such a move? -- I support that. I said so publicly a number of times that I believe that before such time as (30)

banned/....

banned organisations are unbanned and political prisoners released and there is a constructive attempt to dismantle apartheid laws it would be very difficult to get any reasonable process of negotiation off the ground.

And we know that we live in a society in which violence is a feature. Are you able to express any views in regard to causes of violence, both as a sociologist and as a politician? -- Well as a sociologist certainly there is a wealth of comparative material available trying to pinpoint the structural conditions which make violence a phenomenon in any (10) society, for example racism, economic inequality, regional inequality in a society, the absence of political redress for deprived or communities that feel themselves deprived. These are all structural factors that can lead to violence and different forms of violence. I mean it is not just a matter of uncontrolled, sporadic or arbitrary violence in society. You can have organised violence, you can have revolutionary violence if you want to. But I think the area of violence which is highly volatile in deeply divided societies is the area where people feel aggrieved and they see no way to (20) immediately redress their grievances.

Are you able to express any opinion in relation to such factors insofar as the South African situation is concerned? -- Well I can again only refer to some of those commission reports that I mentioned earlier that have pointed out what the structural conditions were that led people to violent acts. Some meditated, others not meditated or premeditated. You have outbursts of violence as has happened in certain areas like the Soweto riots broke out as a result of people's dissatisfaction with the educational system. I think it (30) would/....

would be an oversimplification to say that this was planned, systematic violence of any kind. People responded to a particular situation.

As far as the South African situation is concerned, the factors such as racism and inequality of opportunity and of wealth along racial lines are those features of our society?  
-- Yes.

You have talked about the African National Congress and its having taken up violence. Are you able to identify causes or factors which could lead to such a situation where a (10) group such as the African National Congress takes up violence?  
-- Well apart from the general structural conditions that I mentioned earlier on all I can add to that is that in my discussions with members of the executive of the African National Congress their explanation for what they regard as a very serious decision to commit themselves to the armed struggle referred directly to the early 60's when the organisations were banned and the leadership was put in jail and they then felt that there were no other avenues available to them in terms of which they could redress their grievances. So (20) they made the point repeatedly to me that this was a last resort kind of action after decades of peaceful petitioning and trying to alert the state to their dissatisfaction.

Are you able, on your own knowledge of politics and sociology in this country, to express, or first of all have yourself made your position in relation to, perhaps you should tell his lordship your own personal position in relation to violence? -- Well I certainly do not support violence and I do not support the armed struggle. In fact I have talked to the ANC about this at length and I, and having said that I can (30) understand/....

understand their explanation of what happened and why they have committed themselves to that and I am satisfied that it was a decision not taken lightly and has led to a great deal of self-examination on their part as well. The response to me and to others who were present when we had this debate was that although they could understand why those of us who were there did not support violence or the armed struggle the onus was on us then if we were committed to a non-racial democracy to show other ways of achieving. That was more or less the position that we had. This was made clear in a (10) subsequent communique which was available.

Yes. Now Dr Slabbert two things arising out of that. Other ways, what, can you advance ... -- Well the question that arose at, and I am thinking specifically of the meeting we had at Dakar and subsequently in Frankfurt and now recently in Leeukusen(?), the white young Afrikaner academics who were there made it quite clear that they found the idea of taking up arms against their kith and kin abhorrent but then the question was put to them well we can understand that but what are you prepared to do, what can you do. And then the argu-(20) ment was that well for them as white Afrikaners there were different avenues of political expression that could be used to promote the idea of a non-racial democracy which were not open to the vast majority of members in the ANC. I think that was the context.

We have heard evidence in this case from people who have said that they understand why the ANC has turned to violence and why young people have turned to violence by joining the ANC. Now I do not want to ask you for your view as to the correctness or incorrectness of that decision. What I do (30)

want/....

want to ask you is whether you feel that people who hold such a belief whether there are any reasonable grounds for them to hold that belief? -- Yes I believe that there are reasonable grounds. Not only as far as blacks are concerned. In the history of our society there were whites who turned to violence because they could not, I think of the Afrikaners in 1914 in the Boer War there was a feeling that they could not achieve their objectives in terms of the available channels. I personally am not committed to violence as an instrument for achieving political objectives but I think there is over- (10)whelming evidence on a comparative nature of people in a society who feel that this is the only way they can go about it.

Now, Dr Slabbert the United Democratic Front, you have been given extracts from his lordship's judgment dealing with the findings made about the United Democratic Front. I want to ask you whether or not you perceived or whether or not you regard the United Democratic Front as having any importance within the South African situation? -- Well certainly I regard the United Democratic Front in a sense as the child of the (20)Tricameral parliament. I mean it came into being after that and in a short space of time managed to capture the imagination of a great number of people in this country, managed to articulate some of the ideals and views of those people. So certainly I would say from its inception right up until the state of emergency was announced there was no question about the popularity of the United Democratic Front and its affiliates.

As far as the leaders of the United Democratic Front are concerned are you able to say anything about their standing (30)

within/....

within the black community? -- Yes certainly. Those that I have met enjoy very high standing and it varies from region to region. I think it is true to say that the United Democratic Front has almost total support in the Eastern Cape for example, certainly here in the Vaal triangle, they have significant support in the Western Cape. I am not, I cannot say right across the country, I have not been all over the country in that sense but certainly in the major metropolitan areas there is no doubt that they enjoy great support.

People like Mr Molefe, Mr Chikane and Mr Lekota who (10) are accused persons in this trial, are they, did you know them before this trial? -- I knew of them but I had not met them.

As far as their reputation is concerned do you know anything of their standing in the black political community? -- Well they and others certainly are highly regarded by members and supporters of the United Democratic Front and I have been to rallies, to meetings where there was clear evidence of their popularity.

Apart, at present Dr Slabbert you are I think teaching at the University of the Witwatersrand Business School and (20) that you are also a director of an institute known as the Institute for Democratic Alternatives for South Africa? -- That is right. I do that in a voluntary capacity in IDASA as director of planning and research but I am at the moment a visiting professor at the graduate school of business.

Yes. Could you tell us what you hope to achieve through IDASA? -- Well the terms of reference of IDASA as laid out to me in its programme, it is an attempt to promote the idea of a non-racial democracy, particularly amongst whites and to do so by engaging extra-parliamentary organisations, movements (30)

and/....

and individuals across a wide spectrum through workshops and seminars and conferences, to talk about what a non-racial democracy means.

Why have you chosen to engage persons in extra-parliamentary activities? -- Because I felt that there was a widening gap between parliamentary and extra-parliamentary politics and that increasingly if we are going to move towards a peaceful resolution of our situation or towards what I would hope to be a non-racial democracy it seemed to me inconceivable that this would come about without the active participation of the (10) people in the extra-parliamentary area.

Would that include people such as the UDF and other mass movements? -- Well as far as I am concerned the UDF, the ANC, the PAC, all the organisations would have to be involved.

Yes. Now I would like to ask you about your views of the future. Do you think it possible that reconciliation will come about within this country? -- I think it is possible and, but it seems improbable at the moment because the conditions for reconciliation are absent.

What would you regard as the conditions necessary for (20) reconciliation? -- Well I suppose if one take one's leaf from say industrial reconciliation or industrial bargaining what you have there are two parties negotiating with one another and they are able to freely mobilise support from their respective constituents, they can organise, they can choose a committee, they can choose leadership, they can give a mandate to the leadership, they can enable the leadership to enter into compromises, they can come back and enforce the compromises. Now those are all things that are more or less present in the industrial sphere but totally absent in the political (30) sphere./....



sphere.

In relation to that the issue such as the unbanning of the African National Congress, the release of Mandela and other leaders and the return of exiles, do they have any importance? -- I think it is absolutely crucial, I think that the general view held by not only foreign governments but the vast majority of organisations in the extra-parliamentary field is that until such time as there is that kind of freedom of association and for example an organisation such as the ANC or others can test their support on a constituency basis we will (10) always be trapped in the situation of not knowing what the grass roots support is of a particular movement or organisation that claims support and the only way one can find out is actually to allow them to participate peacefully and legally in the political process in the country.

If that were to happen are you able to express whether or not there is any reason to believe that violence might cease? -- Well if one takes the statement of the ANC which was issued in October last year concerning negotiations they made the point that should those conditions obtain and they can (20) participate legally then violence from their point of view and from their initiative would cease. But I have to stress that we live in a society that is ripe for all kinds of violence. I mean one cannot expect the ANC to curb right wing violence for example, or violence on any part of other organisations. So one can only really say test them in terms of their own commitment and see to what extent they hold to it.

And you told us of the importance of the United Democratic Front and the importance within the black community of its leaders. Insofar as the process of reconciliation is (30)

concerned/....

concerned do you consider that the attitude of this court to the sentence in this case has any relevance? -- You mean the impact of the ...

The impact of sentencing and the approach to sentencing of these persons? -- Certainly. I think it would have very, it would be very important.

In what way Dr Slabbert? -- Well I suppose the, I suppose in the sense of the severity of the sentence would be something that would certainly have a profound impact on the views of the supporters and the sympathisers of the United Demo- (10) cratic Front. I think this seems to me a fairly logical conclusion that one can draw. I think in addition to that it is an extremely difficult position that the legal system has in a deeply divided society and that in that sense the nature of the sentence would certainly influence the attitude of people towards the situation.

Yes. These people Dr Slabbert, are they mavericks or are they people, the accused persons whom I have mentioned who are leaders of the United Democratic Front are they mavericks or are they people with, representing views held by a sub- (20) stantial body of persons in this country? -- I certainly think that they represent views held by a substantial number of people in the country, certainly.

COURT: To which views do you refer? -- The idea of a non-racial democracy, the idea of a more just economic system, the idea of the abolition of all laws based on race or ethnicity, the idea of a more equitable educational system. I think that enjoys the support of a number of people.

MR CHASKALSON: And the fact that his lordship has held that a component of the activities of the UDF involved violence, (30)

would/....

would that in any way have, contradict what you have said?

-- Not necessarily. I must confess that I am not in command of any facts to the effect that they were, except to the extent that I ...

Please just accept the finding of his lordship. -- Yes well that is what I mean. That is all that I have to go on.

Yes but on that finding would it contradict what you have said about their importance within the community, the respect with which they are held and the importance of sentencing in the circumstances? -- Not necessarily, no. (10)

CROSS-EXAMINATION BY MR JACOBS: Dr Slabbert you told the court that you have seen part or extracts from the judgment. Which parts did you see? -- If I remember correctly the parts which refer to his lordship's view on the formation of the UDF, the subsequent activities of the UDF and his view on the accused.

Is that all? Not on the policies and aims of the UDF itself? -- I must say I did not have the full judgment at my disposal.

Are you thoroughly conversant with all the aims and (20) objects of the UDF? -- In terms of some of the published documents, statements of belief, the founding statement, yes.

But will you classify yourself as thoroughly conversant with it? -- More conversant than the average person, certainly.

Are you also conversant with the fact that the UDF, with all the victories the UDF claimed as a result of its organisation and mobilisation of the people, the masses? -- Well I cannot comment on the substance of those victories. I mean it is not uncommon for political organisations and movements to claim victories for which they are not responsible so one (30)

would/....

would have to go into what particular victory you are talking about.

Let us take for instance in their endeavour to destroy the Black Local Authorities. Did they claim any victories there to your knowledge? -- Yes I think that they, well I do not know whether they claimed victories but they certainly had a very strong view on Black Local Authorities but I think it is also important to point out that the rejection of Black Local Authorities is not an invention of the UDF. This has been the case for a long time. (10)

No that is not my question Dr Slabbert. I asked you whether they claimed any victories in the destruction of Black Local Authorities. Do you know how many members of the councils were killed as a result of the mobilisation and organisation by UDF and its affiliates? -- No I do not. But I was not quite sure what you meant with victories. I think if you have a low poll that would be considered as a victory as well.

Yes but also the destruction of the, I specifically referred to the destruction, after the Black Local Authorities came into operation. So do you know whether any councillors(20) were killed as a result of the organisation and mobilisation of UDF? -- I certainly am not competent to express a view on that. I know that councillors were killed.

Do you know the value of property destroyed over the country, right over the country as a result of the organisation and mobilisation? By the UDF? -- Not as a result but I can imagine that a lot of property was destroyed, yes.

Do you condone the destruction caused by the UDF and its affiliates? -- I do not condone any destruction by anybody.

Do you agree Dr Slabbert that there is a duty on the (30)

state/....

state and its tribunals to protect all the inhabitants and subjects of the state, of the country? -- Well that is the responsibility of the state, certainly.

So it is also the duty of the state's courts to mete out sentences for people destroying the country and destroying the people? -- Well that is the responsibility and task of the court.

Thank you sir.

RE-EXAMINATION BY MR CHASKALSON: No questions.

NO FURTHER QUESTIONS

(10)

MR CHASKALSON: I think I should tell your lordship that the doctors were able to see ...

COURT: Accused no. 17.

MR CHASKALSON: Accused no. 17. They actually conducted tests on him last night at 21h00. We have been informed orally of the results of the tests. It appears as if they are relevant and that the information should be placed before your lordship. I am reluctant without either my learned friend Mr Bizos or myself having spoken directly to the doctors to indicate what they are but certainly the information that has been commu- (20) nicated to our attorneys is that the tests will be of relevance. The arrangements have been made for the doctors to put their conclusions into writing. The writing is being brought across to Pretoria and we have been told that we could expect it here between 11h15 and 11h30. At that stage we would certainly be in a position or would hope to be in a position to tell your lordship more.

COURT: Will the doctors accompany their writing?

MR CHASKALSON: I understand that they may not accompany the writing now but we will have more information (a) as to the (30)

contents/....

contents of the writing and (b) as to whether the doctors can be made available today or tomorrow and generally in relation to that in a short while and I think that my learned friend Mr Bizos, who will be dealing with that part of the case, should indicate to your lordship how he would, what he has ...

COURT: Apart from accused no. 17 and his medical problems do you have any further evidence in mitigation?

MR CHASKALSON: We, perhaps my learned friend Mr Bizos can, he has had consultations and he will be leading. (10)

MR BIZOS: There are three others my lord who are not available today but judging by the pace at which we have been going we will probably be able to finish with all four witnesses tomorrow, if your lordship were to allow the matter to stand down until tomorrow. I have also had a discussion with Mr Fick in relation to the doctors. We will make the reports available to the state and if they are sufficiently explicit and we do not require to lead the doctors it is possible that that matter may be dealt with by consent. So it is with some reluctance that, there would be in my submission no useful (20) purpose to ask your lordship to wait for the reports. Firstly we do not know how quickly they will get them down on paper in Johannesburg early this morning and how quickly they will get over here and we would move for an adjournment of the trial until tomorrow.

COURT: Yes. May I now take it that the doctors will not keep us waiting beyond tomorrow but that they will, if they are required they will give their evidence tomorrow so that we can complete your part of the evidence tomorrow?

MR BIZOS: Yes I think that that can be taken for granted. (30)

We/....

We may have to ask possibly another doctor if one particular one cannot come to take the findings as read because there were examinations of a different kind. But we will certainly try not to burden your lordship beyond tomorrow.

COURT: I take it that these findings will not be very much in dispute. You probably will be able to agree with the state on the contents of the report.

MR BIZOS: Well your lordship has had accused no. 17 before your lordship for a long time and I think personal observation sometimes may be as important as doctors examinations (10) so I do not think that there will be great dispute in relation to that.

COURT: What is your attitude Mr Jacobs?

MNR JACOBS: Edele ek kan, dit is die situasie waarin die verdediging hulle bevind. Ek kan daarop niks verder sê nie as dit dan uitstel tot môre wil gee is dit reg.

COURT ADJOURNS UNTIL 7 DECEMBER 1988.