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Your reference

Our reference

Mr Dison/TJM

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26/9/88
11h30*

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The Honourable K van Dijkhorst
Pretoria

Dear Judge

We enclose the remaining sections of written argument which have been completed by counsel. These comprise:

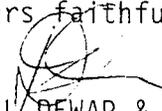
1. Answers to those sections of the "betoog" dealing with the following areas:

Soweto:	betoog pp 424-468
Alexandra:	betoog pp 469-507
Mankweng:	betoog pp 508-532
Tumahole:	betoog pp 533-562
Grahamstown:	betoog pp 563-581
Worcester:	betoog pp 582-596
Somerset East:	betoog pp 597-666
Adelaide:	betoog pp 667-685
Graaff-Reinet:	betoog pp 686-713
Seisoville:	betoog pp 714-736
Thabong:	betoog pp 737-773
Huhudi:	betoog pp 774-814
Leandra:	betoog pp 815-827
Cradock:	betoog pp 828-869
Tsakane:	betoog pp 915-946
Atteridgeville:	betoog pp 947-972

2. Miscellaneous sections dealing with various matters which arise out of the betoog, questions raised during the oral argument and matters for which counsel undertook to provide references.

We are advised by counsel that they are in the process of perusing the record of oral argument, and if it emerges that there are further references that counsel undertook to provide, these will be forwarded to you in the coming week.

Yours faithfully


BELL, DEWAR & HALL

AREA NO 3 - THOKOZA (Betoog pages 364 to 366)

1. It is alleged at page 77 of the Further Particulars that, since November 1984, the Thokoza Progressive Party organised. There was revolt and violence, attacks on houses, and a policeman was murdered.

2. The Thokoza Progressive Party is neither alleged nor admitted to be an affiliate of the UDF. Accordingly, anything done by this body cannot be said to have been done in terms of the alleged conspiracy. No oral evidence was led to show that the violence which occurred in Thokoza was caused by the Thokoza Progressive Party, or if it was, that such violence had anything whatever to do with the UDF.

3. The State relies on certain documents referred to at pages 364 to 366 of the Betoog.
 - 3.1. Generally, in regard to these documents we repeat the arguments already advanced in regard to the admissibility and purpose for which such documents can be used.

 - 3.2. Exhibit C 99
It has already been contended that the document C99 is irrelevant to this case. If this argument is rejected, it is submitted

that it is not alleged by the State that a branch of ERAPO was active in Thokoza. In these circumstances, the reference to this exhibit is irrelevant.

Betoog: p364 para 2.1

3.3. Exhibit C 110

We have already made submissions that Exhibit C110 does not constitute proof of any of the facts stated therein, and that it has not been shown to be a UDF 'policy' document. C110, unlike C99, does not refer to ERAPO having an active branch in the area. In fact the document does not refer to ERAPO at all.

Instead, it refers (on page 21) to the Thokoza Progressive Party as being active in the area.

3.4. Exhibit C 118

C118 has already been dealt with. It is sufficient to note that the allegation that this exhibit confirms that the struggle in Thokoza was continued by the East Rand Area Committee is without substance.

Betoog: p364 para 2.3

3.5. Exhibit W 21

The reference to W21 of November 1984 is also misleading. The accused are alleged to be responsible for the violence which occurred since November 1984. See: Further Particulars page 77. A publication dated November 1984 could well refer to activities which occurred before November 1984. The passage cited from Exhibit W 21 deals with school boycotts and does not deal with opposition to Black Local Authorities. Moreover, the publication does not refer specifically to any violence or damage having occurred in Thokoza as a result of the school boycott. Accordingly it is of no relevance to the allegations made with regard to Thokoza. Betoog: p365 para 2.3

3.6. Exhibit W 32

The State does not indicate why the document is alleged to be admissible. Moreover, it is clear that W32 which was published in December 1984, refers to activities which took place during the whole of 1984. Accordingly, it could well be referring to activities in Thokoza before November 1984. In any event, there is nothing in the passage cited from

Exhibit W 32 to link the events reported to the allegations made in the indictment.

Betoog: p365 para 2.5

4. No evidence (oral or documentary) has been produced by the State to support the allegation that the accused are responsible for the violence which occurred at Thokoza since November 1984.

AREA NO 4 - KATLEHONG (Betoog pages 367 - 373)

1. It is alleged at page 77 of the Further Particulars that, since September to November 1984, the East Rand People's Organisation and Katlehong Youth Steering Committee organised there and violence and revolt took place.
2. There is no evidence or admission that the Katlehong Youth Steering Committee was ever affiliated to the UDF. Proof that it 'organised' in Katlehong is therefore of no assistance to the State.
3. No oral evidence was led by the State in support of this part of its case.
4. The State relies on the undermentioned documentary evidence:
 - 4.1. Exhibit C99

The admissibility of this document has already been dealt with. It has not been shown to be a 'UDF document'. This document does not establish that ERAPO had a branch in Katlehong. All that the document records is that ERAPO was 'involved with the homeseekers committee' (which is not referred to in the indictment), as well as with the 'bucket

system' in Katlehong. There is nothing to link this activity with any of the violence or damage in Katlehong.

State Argument: Vol 3 p367 para 2.1

4.2. Exhibit C118

4.2.1. This document does not confirm (as contended by the State) that the area committee of the UDF continued to prosecute the struggle of the community, school and workers in Katlehong. There is no evidence in this document that any struggle had been prosecuted in Katlehong before this date, or that an area committees existed before this date (or at all), or that the UDF had affiliates or had been involved in activities in the various townships mentioned in the document itself. There is, moreover, no evidence that the proposed area committee for the East Rand ever functioned, or that any of the proposals set out in the document were ever adopted or implemented.

4.2.2. To the contrary, the document makes it perfectly clear in the last paragraph on page 3 that 'this working document is not final at all. All suggestions or modifications are welcome'.

State Argument: Vol 3 p367 para 2.2.

4.3. Exhibit S10

Reference is made by the State to the document S10, alleged by the State to be the minutes of the meeting of the Transvaal regional executive committee of the UDF of 11 September 1984, in support of the proposition that area committees already existed as early as 12 September 1984. These minutes are supposed to confirm the contents of C118 which has been discussed in para 4.2. (supra).

There is some doubt as to the date on which the meeting was held, since paragraph 5 refers to a National Executive Committee meeting held on 9 to 11 October 1984. A report of this meeting is given. Secondly, the minutes refer to the funeral of Brian Mazibuko under para 5 and the need for a speaker at the memorial service which, according to the evidence

relating to Tembisa, took place on 14 October 1984.

Furthermore, it is clear from Exhibit S17 which are the minutes of a meeting of the Transvaal regional executive committee of the UDF held during December 1984 that the Vaal and East Rand area committees are not functioning at all.

State Argument: Vol 3 p368 para 2.5

- 4.4. The State also relies on certain documents concerning activities in Katlehong during 1983 namely K1, M2, and W24.

Paragraph 3.5 of Exhibit K1 records an intention on the part of the UDF to address mass meetings 'over the next few weeks' at various places including Katlehong. There is no evidence that a meeting was in fact held in Katlehong, or if it was, what was said at the meeting. The State is equally wrong in its reference to W24. W24 does not say that the UDF addressed the masses, that issues were used, that these issues concerned the question of squatters and removals, that the aim was to mobilise and organise the masses in Katlehong,

that the masses were in fact organised and mobilised, or that these masses were urged to take part in the freedom struggle. All that Exhibit W24 says is that UDF had spoken to a mass meeting of Katlehong squatters.

In paragraph 9.1 of Exhibit M2 all that is recorded is that a verbal progress report was received from Katlehong. No details of the report are recorded. It is not known who made the report or precisely what the report contained.

There is no mention of any campaign having been conducted in Katlehong. In any event, it is difficult to see what the relationship is between the unknown report of 1983 and the violence which occurred in the area during the period September to November 1984.

State Argument: Vol 3 p367 para 2.3; p368 para 2.4; and p369 para 2.7

- 4.5. The State then relies on W32. This is a SASPU National of December 1984. General argument has already been presented in connection with the extent to which such publications can be relied upon. The following submissions are

made on the basis that the Court holds contrary to our argument that the publications can be relied upon for the purpose of proving the truth of the facts mentioned herein.

First, the State has not established the admissibility of the document for any purpose.

Secondly, there is no evidence that this publication was used by the UDF to further and popularise the activities, opinions and policy of the UDF. On the contrary, the evidence is that SASPU was not an affiliate in December 1984 and that the UDF had no influence over its editorial policy, or the contents of its publications.

There is also nothing to indicate precisely when the events referred to in the passage cited from W32 occurred. The events could well have occurred much before September 1984. Moreover, the damage mentioned in the passage cited from Exhibit W32 does not accord with the admitted damage recorded in paragraph 4 of Exhibit AAS3.

There is also nothing to link the damage to the allegations made in the indictment. The article concerned deals with the whole of 1984.

In the circumstances, no proper reliance can be placed on this article.

State Argument: Vol 3 p369 para 2.8

- 4.6. The State then refers to W42 a UDF News of October 1984. The publication does not confirm, as the State contends, that the UDF is involved in the school struggle or that the UDF furthered the demands of scholars as made by COSAS. The article also does not say that the boycott in Katlehong is around COSAS demands as alleged by the State.

The article says that the scholars are organised by COSAS. It points out that COSAS is affiliated to the UDF. This statement of affiliation must be read in the light of the evidence given elsewhere as to the independence of affiliate. Later in the article, reference is made to boycotts continuing in numerous areas. In this context, reference is made to Katlehong.

Again, it is not clear from this article, even if it be accepted that the document proves the truth of the facts stated therein that the UDF was involved in the area, or that the events described are linked in any way to the allegation made in the indictment concerning violence and damage.

State Argument: Vol 3 p369 para 2.9

- 4.7. The State then refers to three publications, all of which appeared during March 1985. These are W2, W68, and AAC55. The submissions are advanced on the basis that the Court finds that the publications can be used to establish the truth of the facts referred to therein.

It is pointed out that none of these publications were produced by an affiliate of the UDF.

The State says that, according to W2, councillors were attacked and stoned at a rent meeting. A look at W2 indicates that this is said to have happened at a meeting called by councillors. The article also refers to a meeting held on that afternoon by the Katlehong Action Committee. This is an

association not mentioned in the indictment at all. The accused are not sought to be held responsible for the activities of this organisation. Furthermore, the article rather obviously refers to a meeting held pursuant to rent increases on 1 January 1985.

Accordingly, and on the face of it, this could have nothing whatever to do with the unrest which is alleged to have occurred in the area during the period September to October 1984.

This article does not mention ERAPO, or the Katlehong Youth Steering Committee which are the organisations allegedly linked with the damage.

Exhibit W68, 'The Eye' of March 1985 is not a publication for which the UDF can be held directly or indirectly to be responsible. The passage cited again refers to the Katlehong Action Committee and to a meeting held by that body on 17 February 1985. This again has nothing to do with the period of the indictment or the organisations alleged to have been responsible for the damage and violence done in Katlehong.

The reference in the Betoog to the document AAC35 is equally irrelevant, incomplete and misleading.

It refers to the fact that the article says that a students/parents crisis committee was started in Katlehong. Again it does not say when this happened. If it happened after October 1984, it is not relevant to the allegations made in the indictment. In any event, the article refers simply to the establishment of a parents committee and says nothing at all about it being a students/parents crisis committee.

There is no indication in the article that this parents committee is affiliated to the UDF or any of its affiliates or that it had any connection with the organisations alleged to have been active and responsible for the damage and violence in Katlehong. There is no basis for any reliance on CA42 and CA46. The NECC is described in the argument as a UDF 'meeloper'. It has been pointed out in another context that the NECC is not alleged to be an affiliate or an active supporter of the UDF, and any documents or allegations

relating to this committee can have nothing to do with the allegations made against the accused in this case.

State Argument: Vol 3 p368 para 2.6; p370 para 2.10 and p370 para 2.11

- 4.8. Reference is next made to the document AAV6. It is said that according to this document, it is clear that the Katlehong Youth League (the fifth organisation which suddenly pops up) borrowed a video film relating to the UDF national launch from the film and media unit borrowing body on 21 July 1984.

A number of points are made in connection with this. The facts alleged are not clear from the exhibit. None of the organisations referred to are alleged to be affiliates or active supporters. The exhibit does not establish that the film was borrowed. In any event, the borrowing of a film during July 1984 has no apparent connection with the unrest which occurred during September/November 1984 and which is alleged to have been the result of activities of organisations other than the Katlehong Youth League. There is nothing to show that the

film was shown, or if it was, that the purpose of the borrowers was to popularise the UDF.

State Argument: Vol 3 p371 para 2.12

4.9. The reference to C110 is also misleading.

The status of the document and the purpose for which it can be used has already been dealt with. There is nothing in the document to suggest control of the township by residents in any revolutionary sense. Control is referred to in a democratic sense only.

Katlehong is certainly referred to on page 7 of the exhibit. However the article says that in Katlehong and Daveyton, opposition to the rent increase was led by opposition councillors who called meetings of residents to discuss the increase. As such it does not support the allegations made by the State.

It is quite clear from the first paragraph on page 8 that there was nothing planned about the use of problems faced by the residents, and the demand of the students for democratic SRC's. All that the paragraph says is that there was a coincidence that both these

happened at the same time. No inference adverse to the accused can be drawn from this.

Finally, and in relation to this exhibit, the State is quite wrong in suggesting that, on page 21, the UDF confirms that the issues of rent, education and squatters are taken up by ERAPO and the Katlehong Youth Steering Committee. In the first place, the writer says that there is no clear reason for what happened in this area and this makes it quite plain that the writer does not ascribe what happened there to the activities of any particular organisations.

Secondly, the State has connected two parts of the document where there is indeed no connection. In column two of the document, ERAPO and the Katlehong Youth Steering Committee are described as active. In column four of the document, the issues which exist in Katlehong are referred to. There is nothing to suggest that the issues mentioned in column two were taken up by the organisations mentioned in column four or were the result of their activities. Indeed, there is no description of any steps having been

taken by any organisation in relation to these issues.

State Argument: Vol 3 p371 para 3.12

5. There is accordingly no basis for any of the final submissions made by the State, though some are singled out below for further comment.

State Argument: Vol 371 para 3

- 5.1. The submission that the UDF co-ordinated the action in Katlehong is remarkable in the light of the fact that, according to the documentary evidence relied upon by the State, the only UDF involvement shown is that it spoke to some squatters in Katlehong during 1983. Katlehong is referred to in only one progress report, without any details as to 'co-ordination' or other activities.

There is nothing in C110 to suggest that the coincidence of activity was a result of any planned 'taktiek'.

State Argument: Vol 3 p372 para 3.2

There is no basis for the contention that the UDF was already active organising and mobilising the masses in Katlehong in 1983. This submission tends to imply that there was

continuous organisation after the meeting referred to in Exhibit M2, though no evidence exists to support such a proposition. The true position is that the evidence reveals that one meeting of squatters was addressed in 1983, and that there is no evidence of any further activity by the UDF in Katlehong after that.

State Argument: Vol 3 p372 para 3.4

6. There is no evidence to support the allegation that the UDF, through ERAPO and Kettlehong Youth Steering Committee, was responsible for the unrest, violence and damage which occurred in Katlehong during the period September to November 1984.

AREA NO 6 - DUDUZA (Betoog pages 374 to 408)

1. It is alleged at page 77 of the Further Particulars that, since February 1985, COSAS organised, and revolt, violence and attacks on the police took place. It is submitted that, bearing in mind the contents of para 66 of the indictment, the allegation effectively means that the State case is concerned with the period February 1985 up until the end of April 1985.

2. At its face value, the evidence of the State is as follows:
 - 2.1. There is evidence that the Duduza Civic Association (DUCA) and COSAS were active in the area. The only activities of these organisations specifically referred to, however, are meetings held at halls, with no indication of what happened at the meetings themselves. The State evidence was that there were 'problems' after the meetings such as the singing of songs, the giving of black power salutes and the stoning of members of the SAP.
Muller: Vol 115 p5783 line 16 - p5784 line 7

 - 2.2. The evidence was that DUCA was formed during 1982 before the formation of the UDF.

Muller: Vol 115 p5811 lines 28 - 31

And there is no allegation that there was any link between the activities of DUCA and the violence and damage done in Duduza, or that the UDF is liable in anyway for the activities of DUCA.

- 2.3. According to Muller, there was unrest in the area during the period October 1984 to July 1985. After February 1985, the targets of the attack were buildings belonging to the government development boards, beerhalls, beer depots, a house and businesses belonging to a community councillor who had already resigned, houses of the South African Police, etc. There were also attacks on the development board personnel.

Muller: Vol 115 p5781 lines 17 - 27

- 2.4. The same witness gave evidence to the effect that there was a campaign against community councils carried on in the area but he says that he does not know who carried out such campaign. His evidence to the effect that councillors resigned as a result of threats made to them is hearsay. It will therefore

not be dealt with further.

Muller: Vol 115 p5784 line 29 - 5785 line 10

- 2.5. Muller also gave evidence concerning a funeral held on 4 September 1984 of an official of FOSATU. FOSATU was not an affiliate of the UDF and its officers are not alleged to be parties to the conspiracy. The funeral was held at the community hall. He observed the funeral and, when the procession moved from the hall towards the graveyard, he noticed that the coffin was draped in material coloured black, green and gold. COSAS and FOSATU banners were displayed during this procession. The witness saw no other banners.

Muller: Vol 115 p5790 lines 1 - 25

- 2.6. Also Muller gave evidence that on 18 May 1985 there was a funeral after which fourteen houses belonging to policemen and a business were destroyed. This incident is outside the period covered by the indictment.

- 2.7. Sgt van Tonder gave evidence of the same funeral saying that his vehicle was attacked and a petrol bomb was thrown into it. There was a reference by him to COSAS T-shirts.

2.8. Muller's evidence which emerged for the first time under cross-examination was that a students/parents committee was formed which had discussions with the Minister concerning the school boycott. This committee endeavoured to solve the school problem and get the children back to school. This was after October 1984.

Muller: Vol 115 p5818 lines 2 - 28

He said that there was violence both during and after meetings of the students/parents committee, which were held in the community hall.

Muller: Vol 115 p5818 line 29 - p5819 line 17

2.9. A number of documents were found by the witness Muller in the area. These may be particularised as follows:

2.9.1. There were three UDF documents found in the area namely ABA49, ABA52 and ABA9. Two of these i.e. ABA49 and ABA52 respectively are a pamphlet and a poster in respect of the 16 June 1985. The pamphlet is a general pamphlet relating to 16 June announcing meetings in various

places throughout the Transvaal including the East Rand. No particulars are however given in relation to the time, date or venue of a meeting at Duduza and there is nothing to show that such a meeting was held. ABA9 is a UDF pamphlet dated 28 March 1985 relating to the happenings at Uitenhage.

2.9.2. There were two documents issued by DUCA namely ABA48 and ABA50. ABA48 is a pamphlet concerning a meeting to be held under the auspices of the Duduza Civic Association and referring to issues which had to be discussed there such as the bucket system and housing. ABA50 is a pamphlet in respect of 16 June meeting held by the Duduza Civic Association itself. It will be noted that ABA50 which is the programme of the Duduza meeting does not reflect any UDF speaker at all. Nor does it have a UDF logo.

ABA51 is a COSAS pamphlet in relation to the 16 June.

It may be pertinent to note that of the six documents found in the area, four relate to the 16 June 1985 (an important day in the calendar) and a date which is outside the period of the indictment, one relates to the day of mourning in relation to Uitenhage, while the sixth relates to the day-to-day matters in Duduza itself.

2.9.3. Muller did not find these pamphlets himself in the townships. They were all apparently handed over to him by members of his staff. He makes it plain that the documents handed in by him are the only documents which he came across during the period mentioned in the charge sheet. This would be the period February to April 1985.

Muller: Vol 115 p5806 lines 8 - 26

2.10. Muller further says that the slogan 'Viva UDF' was seen by him in the township during the period February to July 1985. He handed in certain photographs showing this.

Muller: Vol 115 p5788 line 3 onwards.

3. It is submitted that the evidence of Muller concerning his having seen violence take place after COSAS and DUCA meetings is unsatisfactory.

3.1. He first says that, during 1985, COSAS and DUCA held 'heelwat vergaderings' at the community hall, the church hall and the gymnasium. He kept these meetings under observation. He emphasises that, on many occasions, the community hall was used by both these organisations without permission.

Muller: Vol 115 p5783 lines 15 - 29

3.2. According to his evidence-in-chief halls were booked under the mantle of the parents-students committee. There were problems after these meetings which included the stoning of police etc.

Muller: Vol 115 p5783 line 30 - p5784 line 6

On occasion the halls were taken over by intimidation.

Muller: Vol 115 p5784 lines 8 - 28

- 3.3. He kept observation at these meetings from a distance and did not know what was said at the meetings. He does not know when and where these meetings were either. He does not know who spoke at the meeting nor what was said. He could not say, in connection with any particular meeting who organised or arranged the meeting except that he drew the conclusion from the documents he saw. He says that he came to the conclusion that the meetings were held by DUCA and COSAS from the pamphlets which advertised the meetings. He confirms that the pamphlets handed in were the only ones that he saw during this period.

Muller: Vol 115 p5815 line 9 - 5816 line 17

- 3.4. Only two of the documents handed in by the witness referred to meetings scheduled for a particular time on a particular day. ABA48 refers to a meeting to be held by the Duduza Civic Association on 17 February 1985, while ABA50 refers to a meeting, again to be held by the Duduza Civic Association, on 16 June 1985.

3.5. The witness says that he did not know whether the meeting at the gymnasium hall on 16 June 1985 (as per Exhibit ABA50) took place. He would therefore not know whether violence took place after this meeting either.

Muller: Vol 115 p5787 lines - 7

3.6. This leaves the meeting described in ABA48 which is that of 17 February 1985.

3.7. His evidence that many meetings were held, and that there were many occasions on which violence was committed, cannot therefore be sustained.

4. His evidence in connection with the nature of the violence is also open to criticism.

4.1. He first says that there was violence in Duduza during the period October 1984 to July 1985 but that there were certain targets after February 1985.

Muller: Vol 115 p5781 lines 17 - 27

4.2. He later says that there were specific targets even before February 1985. It seems that the distinction was made by the examiner for no reason. It is submitted that the distinction

must have been based on some statement made by the witness. This is an unsatisfactory feature of his evidence.

Muller: Vol 115 p5781 line 31 - p5872 line 3

5. He does not say how often he saw UDF slogans during the period. It could well have been only once.

6. There was no evidence whatsoever about precisely how the violence was brought about, who caused the violence (except for the reference to COSAS T-shirts) or what was said at the funeral and meeting after which or during which the violence was supposed to have occurred. The State sought to draw the inference that COSAS was responsible for the violence. The fact that certain people were seen to be wearing COSAS T-shirts is insufficient to prove this. The T-shirts could have been those given by the ANC to its cadres before they returned to South Africa, or of people who were either not members of COSAS, or not acting with the authority of COSAS. There is, moreover, nothing to link the UDF with the violence, which is what the State has to establish.

7. It is not alleged that the UDF caused the students/parents crisis committee to commit violence, or that such committee was an affiliate or connected in any way with the UDF.

8. In these circumstances, any violence resulting from such meetings does not take the case against the accused any further. On the contrary, it identifies another possible source of violence unrelated to the UDF.

9. The evidence of the defence was to the following effect:
 - 9.1. Duduza residents have had longstanding grievances and that these grievances could well have been a cause of the violence which ensued.

 - 9.2. No violence was preached at the meetings of DUCA.

 - 9.3. No violence was preached at meetings of the students/parents crisis committee.

 - 9.4. There was no black, green and gold banner at the funeral during November 1984.

 - 9.5. There was police violence after certain funerals which could have given rise to more violence.

10. Conditions, Grievances and Rent Increase

10.1. Mrs Thobela, a forty-eight year old woman, has given evidence to say that she moved to Duduza during 1963 at a time when she was told that there would be sewerage and other facilities. The council provided sewerage and water only in 1987, but no other improvements were provided by the council. This evidence is not in dispute.

Thobela: Vol 365 p21050 - p21054 line 5

10.2. Mr Mhlambi, a thirty-six year old man, says that there were bad roads in the area, that he was dissatisfied with the bucket system and the absence of water and electricity. He says that the council made numerous promises about the installation of sewerage, better roads and water during elections. He says that these promises were never fulfilled.

Mhlambi: Vol 365 p21694 line 4 - p21698
line 1

10.3. Mr Mazibuko, who was forty-one years old, gave undisputed evidence that his house was a shell when he moved into it, and that no improvements were ever made by the authorities to the 'house'.

Vol 391 p22627 lines 4 - 29

10.4. It is submitted that the residents would have been particularly unhappy about the situation where promises were continuously made, rents increased again and again, but no improvements forthcoming over an extended period. The experiences of these witnesses are put up as representative experiences only.

11. The DuDuza Civic Association

11.1. Mrs Thobela gave evidence of a report back meeting of councillors at which they came back and said that the whites said that the rent would have to go up in order to pay for the sewerage. There was no money to do it any other way. Apparently this caused considerable dissatisfaction.

Thobela: Vol 365 p21055 - p21056

It is in this context that DUCA was formed.

11.2. Mr Tsagane gave evidence to the effect that DUCA was formed during November 1982 at a time when there was already an interim committee. It was to be a link between the community and the community council.

Tsagane: Vol 381 p22095 - p22097

In this connection, it might be mentioned that any debate about precisely when DUCA was formed is irrelevant in the light of the fact that it is clear from the evidence that it was formed before the UDF, and that the UDF had nothing whatever to do with its formation.

It is clear from Tsagane's evidence that DUCA did not initiate the objection to the increased rent. It in fact came into existence after people had refused to pay, and it devoted time and effort to negotiating with the council and the board to find a solution to the rent problem. One of the proposals it made was the suggestion that it might well be possible to persuade the residents to pay the increased rent, if they could be told that the houses in Duduza would be sold to them. This proposal was rejected by the authorities.

Tsagane: Vol 381 p22097 - p22100

The nature of the Duduza Civic Association appears very clearly from the evidence of Tsagane who said that the association called other public meetings at which for example the

social worker employed by the council was asked to explain his duties. He made it quite plain that no violence was suggested at any meeting and that there was no trouble.

Tsagane: Vol 381 p22102 - p22103

12. It must also be remembered that there is undisputed evidence to the effect that the Duduza Civic Association, in relation to the elections, took up the position that people should vote for community councillors. The witness himself voted.

Tsagane: Vol 381 p22103 line 17 - p22104
line 29

13. The Meeting of 17 February 1985

13.1. There is evidence of a meeting called by DUCA at which it was decided that buckets would be taken to the board offices in protest against the fact that the sewerage system had not yet been installed.

13.2. Under cross-examination, the witness said that the DUCA management did not agree with this decision and was surprised by it. Everyone left immediately the decision had been taken. The committee members tried to prevent the protest but failed.

Thobela: Evidence-in-chief Vol 366 p21076
line 9 - p21077 line 16

Cross-examination: Vol 366 p21099 line 7 -
p21104 line 9

- 13.3. Mr Mazibuko also testified about this. He said that he attended a meeting at the Dutch Reformed Church about the sewerage system. People said they were sick and tired of the bucket system. There was a debate about whether they should go to board office on that day (a Sunday) or on the next day. People from the audience got up and went despite an effort by the members of the Duduza Civic Association to prevent them from so doing. About 100 people participated in the protest. He says he heard a shot at the stage when he was on his way back.

Mazibuko: Vol 391 p22629 line 20 - p22934
line 29

- 13.4. The difference between the witnesses as well as the differences between what the witnesses said and what was put in cross-examination are totally irrelevant. The only aspect of the matter which it was intended to prove was that people were sufficiently angry about the

sewerage system to do something about it and to carry their buckets to the offices of the board. They could not have enjoyed doing this. It is not action which had been carefully planned and orchestrated. It was rather obviously spontaneous. It is clear that the people took it up as soon as it was suggested and against the wishes of the DUCA representatives at the meeting.

14. The Funeral of 4 November 1984

14.1. Three witnesses attended the funeral of 4 November 1984. All of them confirm that there was no black, green and gold flag draped over the coffin nor was there any incitement to violence at the funeral.

Thobela: Vol 366 p21075 line 20 - p21076 line 8

Mhlambi: Vol 375 p21706 line 3 - p21707 line 27

Mazibuko: Vol 391 p22628 line 26 - p22329 line 19

14.2. Mr Tsagane said under cross-examination that he stood outside the hall at the funeral of 4 November. There was no flag over the coffin which was carried.

Tsagane: Vol 381 p22114 line 12 et seq

14.3. The State tries to place reliance on certain minor differences between the versions of witnesses. Regard must be had to the fact that the witnesses were giving evidence concerning a funeral which occurred more than three years ago. Witnesses had also been to more than one funeral. In these circumstances differences about precisely when the coffin was put into the motor vehicle become quite irrelevant.

14.4. In any event, the relevance of the State evidence on this issue is doubtful. The fact that there was a black, green and gold flag draped over the coffin does not mean it was an 'ANC flag', nor, if it was, would it show any co-operation between the ANC and the other organisations who displayed banners there. At the most it would show that the ANC was active in the area. If that is so, the ANC might well have been responsible for the violence there.

15. Meetings of the Students/Parents Crisis Committee

15.1. Equally, there is evidence that no violence

was propagated at any of the meetings of the students/parents crisis committee, nor was it put to any witness that violence was propagated.

Thobela: Vol 366 p21077 lines 17 - 23

- 15.2. It is incorrectly contended by the State that Mrs Thobela said that the parents interim committee was initiated by COSAS.

Betoog: page 383 para 1.2.1.10

What Mrs Thobela said was that the Chairman of COSAS suggested the idea, but there was nothing in what he said to suggest that he acted on behalf of COSAS in initiating this.

- 15.3. This is supported by the witness Mhlambi who makes it clear that nobody at the meeting at which the students/parents committee was formed spoke on behalf of any organisation. This would necessarily include COSAS.

Mhlambi: Vol 375 p21720 lines 8 - 22

- 15.4. Mhlambi is also cited out of context by the State in relation to the 'call' made at the meeting at which the students/parents crisis committee was formed. The State contends

that, according to Mhlambi, it was said at the meeting that parents and teachers must stand together to solve school problems.

Betoog: p387 para 1.2.2.4

- 15.5. In fact, Mhlambi's evidence was that it was said at this meeting that parents and teachers must help each other to get the children back to school. It was in this context that he said that parents and children must stand together or be together in solving problems faced by scholars.

Mhlambi: Vol 375 p21704 line 27 - 21705 line 4

The witness Mhlambi made it perfectly clear that there was no disorder after the meeting of the students/parents crisis committee which he attended.

Mhlambi: Vol 375 p21706 lines 1 - 2

16. Police Violence

There is also some evidence of police violence:

- 16.1. Mrs Thobela gave evidence about the fact that, after the funeral of her daughter, teargas was fired while the people were on their way home. In addition, teargas and a rubber

bullet were fired at her house.

Thobela: Vol 366 p21081 line 10 - p21082
line 23

- 16.2. She was somewhat unfairly cross-examined about what happened at her house. In fact, after she had said that a single rubber bullet was fired, she was asked the following question, namely 'Was dit al wat hulle geskiet het, die een rubber koel?' to which the witness answered 'dit is net dit'.

Thobela: Vol 367 p21130 lines 4 -5

- 16.3. It is very possible that what she was trying to say was that not more than one rubber bullet had been shot. This is clearly what she meant when she said later 'dit was u vraag wat my mislei het dat ek nie gepraat het van die traangas nie'.

Thobela: Vol 367 p21131 lines 13 - 14

- 16.4. This is an appropriate place to refer to the State allegation at page 384 of the Betoog that Mrs Thobela was biased against the State.

Betoog: p383 para 1.2.1.14

16.5. There is no basis for this criticism. The reference to page 21090 does not support the State's argument. And the reference to the attitude to the police investigation of her complaint does not justify the conclusion drawn in the argument. It is clear that she would be unhappy about the fact that the police did not unearth the killers of her children. This does not mean that she is a biased witness. Moreover, in the extract cited above, she made it plain that the police fired only one rubber bullet at her home. This is not an exaggerated account at all and does not show any bias. She does not talk of any police violence at the funeral of her daughter (as one might expect a biased witness to do), nor does she talk about any police violence at all at the funeral of 4 November 1984 which she attended.

Thobela: Vol 367 p21131 lines 18 - 19

16.6. This witness is supported in relation to the use of teargas without provocation outside the graveyard by the witness Mhlambi. Mr Mhlambi says that he left the graveyard with the first group. Police fired teargas without provocation. He ran away.

Mhlambi: Vol 375 p21709

Mr Mhlambi also gives a further account of unjustified police action. He says that at the home of the deceased after the funeral of 26 February 1985 and while funeralgoers were washing their hands, the police fired teargas and ran over containers of water which were used for people to wash their hands. They came back a little later and fired teargas at the food. He says that his baby was affected by the teargas and had to be taken to the doctor.

p21707 - p21708

The State put a slightly differing version of this incident from the document AAC55 to the witness. The document was to the effect that teargas had been fired, that food had been thrown onto the ground, and that the bathtubs had been kicked. The fact that this article appeared tends to support rather than contradict the witness's version; certainly, it provides no basis for contending that her evidence on this issue is false.

17. There is no evidence of any UDF presence in the area save for the UDF pamphlet and poster and the slogan referred to in the evidence of Muller. There is no evidence of any UDF poster or presence at the funeral of 4 November 1984, the meeting of 17 February 1985, or the funeral of 18 May 1985. It is further pointed out that ABA48 which advertises a DUCA meeting does not have any UDF logo upon it.
18. There is the following undisputed defence evidence, namely:
- 18.1. Mrs Thobela said that she had never heard of the UDF nor was there received any direction from the UDF.
Thobela: Vol 366 p21082 line 24
- 18.2. Mr Mhlambi says that he was not aware of any campaign against councillors in the area nor was he aware of any presence of the UDF.
Mhlambi: Vol 375 p21710 line 22 et seq
- 18.3. Mr Tsagane says that he knew about the launch of the UDF. He says that DUCA did not affiliate to the UDF. He saw UDF T-shirts in the area but no other UDF presence was noticed by him

Tsagane: Vol 381 p22104 line 30 - p22106
line 30

19. There is also very little evidence of any COSAS involvement in Duduza.

20.

20.1. According to the State, the evidence of Muller was to the effect that there were many COSAS T-shirts 'tussen onlusmakers'.

Betoog: p374 para 1.1.2

Muller in fact says that he drove around during the period of the unrest and, whilst so driving around, he saw many COSAS T-shirts in the crowd. He did not ever say that the unrest was caused or promoted by the people who wore COSAS T-shirts.

Muller: Vol 115 p5783 line 6 et seq

In any event, the COSAS T-shirts may have been worn by non-COSAS members, including possible ANC members.

20.2. The State seems to labour under the misapprehension that the pamphlets were distributed in Duduza. In fact, there is no

evidence of distribution. The evidence of Muller was that these pamphlets were handed to him by people who said that they found them. In these circumstances his evidence is clearly hearsay.

Betoog: p375 para 1.1.6

- 20.3. The State further contends that it was Muller's evidence (acceptable evidence) that the idea that the sewerage should be installed free of charge came from DUCA.

Betoog p380 para 1.1.26

This is not what Muller said. He spoke of 'propagated'.

Muller: Vol 117 p5822 lines 25 - 27

Muller was not present at any meetings called by DUCA at which this issue was discussed and could only have been talking about what was communicated to him at meetings he had with DUCA. The evidence shows that DUCA raised this matter after having consulted the people and because of the attitude which had already been taken up. This does not establish that it was the Civic Association which initiated this idea, or that the people spoke in these

terms as a result of what DUCA said or did.

- 20.4. Mrs Thobela is criticised on a misreading of her evidence. It is said that she contradicts herself as to whether or not she is prepared to pay for services. It is clear that in the passage referred to by the State she says that she is prepared to pay for services after they have been installed. This was said in answer to a question which failed totally to distinguish between payment in respect of the installation of services and payment in respect of the maintenance of these services.

Betoog: p383/4 para 1.2.1.14

Thobela: Vol 366 p21086 lines 7 - 22

- 20.5. The criticism of Mrs Thobela in relation to the reason for forming the parents/students committee is not borne out by a reading of the passage cited at paragraph 1.2.11 (sic) of the Betoog.(page 383)

21. The Documentary Evidence Relied Upon by the State

- 21.1. The reference by the State to documents CA42 and CA46 is misplaced. The documents are not relevant to this case and have nothing whatever to do with the accused. They relate

to the NECC which is not alleged to be an active supporter or affiliate of the UDF.

Betoog: Vol 3 p385 para 1.2.1.20

21.2. Other documents referred to by the State are dealt with generally.

21.2.1. The document C99 is not relevant to this case. It does not matter if DUCA attended this workshop.

21.2.2. The State relies on W69 which is a Speak of January 1984 for the proposition that the Duduza Civic Association carried out the campaign against community councillors. In fact, W69 does not say that the campaign was carried out by the DUCA. In addition, this submission ignores the evidence to the effect that the Duduza Civic Association encouraged people to vote in the elections so that a better candidate would be elected: evidence that was not disputed.

Tsagane: Vol 381 p22103 line 17 - 22104 line

In any event, what is published in W69 cannot contradict the direct evidence of witnesses.

21.3. As far as the reference to ABA49 is concerned, it must be emphasised that there is no evidence of distribution. In addition, the pamphlet does not say anything at all about councillors being killed. It says: 'Councils to die'. This is obviously a literal translation of the words of the pamphlet. In the context in which they appear, and having regard to the fact that 'councils' are juristic bodies, they carry the meaning that councils should cease to exist. In any event, the pamphlet was distributed shortly before 16 June 1985 which is outside the indictment period and after the arrest of the accused. In such circumstances the pamphlet ABA49 is of no relevance.

21.4. The same argument applies to pamphlets ABA51 and ABA52.

22. The State's Final Submission

Vol 3 p406 para 7.7

22.1. The emphasis placed on DUCA by the State is of no assistance to it. First, there is no

allegation that the accused promoted violence through DUCA. Secondly, there is no allegation in the pleadings that DUCA was an affiliate of the UDF, nor is such a contention advanced in the argument. The emphasis on the activities of DUCA is therefore destructive rather than supportive of the State case.

22.2. The submission that 'the campaign' against the Black Local Authority elections was conducted by the Duduza Civic Association is in conflict with the undisputed evidence as pointed out earlier.

22.3. The State asks the Court to find that the witnesses spoke falsely when they said that the members of the management of the Duduza Civic Association tried to prevent people from going on the protest during February 1985. There was no witness to whom this proposition could have been put, and there is no evidence to the contrary. The minor contradictions relied upon by the State are insignificant. This has been pointed out already.

22.4. There is no evidence to support the submission by the State that COSAS mobilised the scholars against the authorities. The evidence by

Muller of events after parents/students meetings is thoroughly unconvincing, and in any event, does not show that COSAS was responsible for anything that may have happened.

22.5. The suggestion in para 7.7.5 of the State Argument that some inference needs to be drawn from the evidence of attacks on police after a certain funeral is without substance. There was no evidence of precisely who was responsible for these attacks or as to the circumstances in which they occurred. The State chose not to lead evidence as to who was responsible, and in these circumstances, it was neither necessary, nor feasible for the defence to produce any meaningful evidence in this regard.

22.6. The submission that Mrs Thobela confirms that the boycotts spread from Tembisa is clearly hearsay. She said that she read about these things in the newspaper.

22.7. The submission in para 7.7.8 that the presence of the ANC flag at a particular funeral is an indication of joint working between the ANC,

COSAS and FOSATU is unacceptable. The presence of the flag (if it was indeed an ANC flag) means no more than that the ANC had some presence in the area and might have been responsible for the violence. There is nothing to suggest that there was co-operation between these organisations and that it was this co-operation which resulted in the flag being there. Moreover, FOSATU was not an affiliate of the UDF.

22.8. Finally, the submission in para 7.7.10 needs to be dealt with. It is suggested that the accused have used false evidence of unprovoked police conduct to discredit the State on every thinkable opportunity. This is without substance. No allegations have been made without evidence to support them. In every instance the evidence relied on has been placed before the Court. That evidence has not been shown to be false, and there are no good grounds for rejecting the evidence given by the Duduza witnesses in regard to the conduct of the police.

23. The State has not shown that the UDF was responsible for the unrest in Duduza, and the allegations made in

the indictment and the further particulars have not been established.

AREA NO 8 - KWA THEMA (Betoog pages 409 - 419)

1. It is alleged at page 78 of the Further Particulars that since October 1984, COSAS organised and attacks were directed at the dwellings of police and rioting, violence and arson took place.

2. Only one witness was called by the State. W/O Nkosi testified about the events in Kwa-Thema. He testified about various incidents in this area including an attack on his house and on that of the mayor of Kwa-Thema, the stoning of buses after a meeting, his own eviction from a meeting when he was identified as a policeman, the resignation of councillors, attacks on beerhalls, and a stayaway on 5 and 6 November 1984. These events are all alleged to have taken place after October 1984 and at the time when the UDF, COSAS, AZAPO and AZASM were active in the area.

No particulars are given of the respects in which the UDF, AZAPO and AZASM were active in the area. There is a little more particularity in relation to COSAS but, as will be submitted later on, this evidence is not reliable.

3. The specific incidents are dealt with below. However, at the outset, it is submitted that the witness did

not establish any direct connection of a particular organisation or individual with any one of the incidents which he described. In fact, every incident is characterised by the absence of evidence identifying those responsible.

4. In the first place, the witness conceded under cross-examination that there were a number of other organisations which were active in the area. These were:

4.1. ERAPO but only since 1986;
Vol 122 p6103 lines 27 - 31

4.2. MAWU which was active but not more active than the other organisations.
Vol 122 p6104 lines 5 - 8

4.3. UMMAWUSA which was described as 'not much active'.
Vol 122 p6104 lines 15 - 18

4.4. FOSATU which was described as active.
Vol 122 p6104 lines 26 - 28

The witness said that FOSATU concerned itself with local issues and that both MAWU and UMMAWUSA held meetings in the area.

5. The witness stated that one Cyril Jantjies was connected with UDF, AZAPO and COSAS. Jantjies is not mentioned as a co-conspirator. The witness was unable to say what position he held in these organisations.
Vol 122 p6092 lines 25 - 30

6. Under cross-examination he stated simply that Jantjies frequents meetings of these organisations.
Vol 122 p6116

7. The witness also says that one Pepsi Mahlangu was a member of COSAS.
Vol 122 p6092 lines 19 - 21

Mahlangu is not mentioned in the indictment as a co-conspirator.

8. Evidence was given of attacks on various houses. However, he conceded that the house of Jantjies was also attacked. He thought this was in 1985.
Vol 122 p6118 lines 5 - 11

9. There was mention of a meeting on 6 January 1985 alleged to be a COSAS meeting after which buses were stoned. There was no evidence whatsoever about what was said at the meeting nor as to the cause of the stoning thereafter. The witness did state however

that the meeting was attended by students from Duduza and Tsakane. There is nothing to suggest that the stoning was a result of a campaign against the Black Local Authorities nor is there anything to suggest that this was in fact a COSAS meeting. Indeed the witness conceded in cross-examination that his evidence that it was a COSAS meeting was based on hearsay.

Vol 122 p6093 lines 28 - 29

Vol 122 p6110 line 27 - p6111 line 4

10. At a meeting of 22 January 1985, a scholar in the audience wearing a COSAS T-shirt announced that policemen were present and stated 'laat die honde uitgaan'. Witness stated that according to a pamphlet which he had seen this meeting had been called by COSAS.

Vol 122 p6094 lines 17 - 22

The pamphlet was not produced, and when it was put to him that the meeting had actually been convened by a committee of parents and scholars which had started in September 1984, the witness repeated that what he knew was as a result of information received. It is clear that his evidence as to COSAS having called the meeting is also based on hearsay. This evidence is totally unreliable.

Vol 122 p6111 lines 9 -19

11. Under cross-examination, the witness made a number of important concessions:

11.1. The meeting was a meeting of both parents and scholars although the majority present were scholars.

Vol 122 p6111 lines 20 - 29

11.2. Trade union leaders from MAWU and FOSATU attended the meeting and were on the platform.

Vol 122 p6112 lines 7 - 11

12. The evidence concerning attacks on property did not go so far as to establish who was responsible.

13. The witness assumed that Exhibit ABA64 which is an anonymous pamphlet issued in connection with the stayaway was issued by COSAS and the UDF. The exhibit does not justify this. If the witness could make a mistake of this sort, to what extent is it possible to rely on his evidence when he says that pamphlets calling for a particular meeting were issued by COSAS.

Vol 122 p6105 lines 1 - 19

14. The witness said that in Kwa-Thema, people were prevented from going to work on 5 and 6 November. Those doing the preventing allegedly hid in the veld and attacked commuters with sjamboks.

Vol 122 p6099 line 18 - p6100 line 9

In cross-examination it appeared that his evidence was concerned with one incident involving unknown people early in the morning.

Vol 122 p6115 line 19 - p 6116 line 6

15. Under cross-examination, the witness recalled an incident on 2 October when a baker's van was attacked after it had run out of control and resulted in the death of three people and injury to six more. Thereafter youth went on the rampage and attacked the Kwa-Thema Civic Centre and town council offices. Police reacted and shot. The witness did not know of any acts of violence or any attack on any home or business prior to 2 October 1984.

Vol 122 p6109 line 20 - p6110 line 18

This was clearly not 'organised violence'.

This is a good example of an incident which is completely unrelated to any political activity and which sparked off acts of violence.

The State is incorrect in its submission that Nkosi did not confirm that violence began on 2 October.

Betoog: Vol 3 p413 para 2.3.1

16. The witness also conceded that unemployment was a problem in Kwa-Thema during 1984.
17. With regard to COSAS, the witness was unable to state the extent of its membership.
18. It is submitted that Nkosi was not a good witness.
- 18.1. In the first place, there is his evidence concerning the fact that the document ABA64 is a pamphlet issued by COSAS and the UDF. The document itself does not bear him out.
- 18.2. In the second place, and in relation to the meeting of 22 January 1985, he says that this was a COSAS meeting, having got to know about this from a pamphlet. However, when it was put to him that it could be a meeting called by some other body, he says he does not know.
- 18.3. When his evidence concerning the extent to which the UDF is active in the area is tested, it turns out to be quite pathetic. He first says that Jantjies is the chairman of the UDF and then says that he says this only because he does not know which organisations Jantjies himself belongs to. He does not know the names of any of the other officials. Yet, he

regards the UDF as the organisation which was most active in this area. His evidence in regard to the activity of the UDF in the area cannot be believed. The fact that his evidence is so vague in this connection places the whole of this evidence in jeopardy.

Nkosi: Vol 122 p6102 line 1 - p6103 line 19

- 18.4. At some stage in the cross-examination, the witness says that he knows of no organisation active in Kwa-Thema other than the four he had already mentioned, namely, UDF, COSAS, AZAPO and AZASM. However, it emerges from the cross-examination later that he knows about the existence of the Metal and Allied Workers Union.

Nkosi: Vol 122 p6103 lines 20 - 26 and p6104 lines 6 - 11

- 18.5. Even later in the cross-examination, he concedes that FOSATU was active in local issues.

Vol 122 p6104 line 26 et seq

- 18.6. He contradicts himself about how he knew that the meeting of 22 January was a meeting of COSAS. He says in his evidence-in-chief that

a pamphlet was issued. Under cross-examination, he says that he knew it was a COSAS meeting because of information received.
Compare: Vol 122 p6110 line to 6111 line 19 with p6094 lines 17 - 22

19. The Court cannot rely upon this witness, standing alone. Indeed, no particulars of the organising activities carried out by COSAS is given nor is there any link between the violence that occurred at Kwa Thema and the activities of COSAS.
20. The State tries to support this evidence by a reference to certain documents.
- 20.1. The document C118 has already been dealt with. It has already been pointed out that the East Rand area committee did not function. The document does not say that the proposals are made in order to render the so-called oppressive measures ineffective. There is no basis for the suggestion that the area committee was established before September 1984.
- Betoog: Vol 3 p417 para 7.1
- 20.2. The State also relies on the document ABA49. However, this document has to do with a

meeting to be held on 16 June 1985. It can have nothing to do with the period October 1984 to April 1985 which is covered by the indictment. In the circumstances, it is irrelevant.

Betoog: Vol 3 p418 para 7.3

20.3. Reliance is placed on ABA64 and AB7 document 6.

ABA64 is not a UDF document. It is produced by a stayaway committee which is not an affiliate of the UDF. AB7 document 6 is produced by the Transvaal area committee. The UDF has no such area committee. In any event, AB7 document 6 is merely a press statement. One does not know whether it was ever issued.

Betoog: Vol 3 p419 para 7.4

21. On the assumption that the Court finds that the document C110 is a UDF document and that there is prima facie proof of the truth of the facts mentioned in the document, it is pointed out that the document does not refer to Kwa Thema at all on page 16.

Kwa Thema is mentioned on page 23. However, no

organisation is mentioned as being active there.
There is no indication from the document that any
organising work was done there.

22. The documentary evidence does not help the State.

23. The accused cannot be held liable for any of the
violence which took place in Kwa Thema.