

MISCELLANEOUS MATTERS ARISING OUT OF THE STATE'S ARGUMENT ON
THE 31 AREAS

In its argument on the 31 Areas, the State repeats a number of submissions. Although each area has been individually responded to, certain introductory observations are made below which together with the oral argument at Vol 450, pages 26546 and 26577 of the record are of general applicability to these areas, in addition to the detailed submissions made in respect of each one of them.

1. Throughout its argument, the State has constantly referred to various community newspapers as reflecting UDF policy. The State was anxious to portray the community newspapers such as SASPU, The Eye, Speak and Grassroots as mere mouthpieces for the UDF. This was not the evidence.

1.1. Referring to SASPU National, The Eye, Speak and Grassroots, Molefe stated that 'the UDF had no control over those newspapers. It was not part of the editorial committee of those newspapers. They remained essentially an independent project with their own editorial policies'. He went on to state that the UDF 'could negotiate and ask them to publish a particular statement of the UDF' this was 'more

or less as the procedure followed with the commercial press. It would be a subject of negotiation'.

Molefe: Vol 252 13509 line 12 - 13510 line 6

1.2. In answer to a question from the court as to why the newspapers ceased to be affiliates, Molefe answered as follows:

'There was a feeling from both sides, from the side of the newspapers that they wanted to be broad enough to cover issues that did not concern the UDF only and if they associated too closely with the UDF they might find it difficult to get news from other organisations which were not part of the UDF and that would work against their own interest. They chose that they wanted to be outside the UDF. And similarly, from the side of the UDF the feeling was that it was perhaps not proper to have small groupings like newspapers or service organisations as affiliates'.

Molefe: Vol 252 p13510 line 21 - 13511 line 1

See also: Molefe Vol 259 p13921 line 26 - 13922 line 6

1.3. In answer to the suggestion under cross-examination that these newspapers all supported UDF policy, Molefe stated:

'I do not know. I do not know if they all support the UDF policy. At the time of its launch they did. I do not know what happened after. Some of them did of course attend meetings from time to time as observers. One cannot say that they continue to support the policy of the UDF'.

Molefe: Vol 259 p13922 lines 7 - 12

Molefe: Vol 270 p14610 lines 16 - 27

- 1.4. Lekota stated that if the UDF had a press conference, press statements would be made available to everybody including the community newspapers. He was not able to say, however, who the members of the executive of SASPU National were.

Lekota: Vol 288 p15990 line 19 - 15991 line 2

- 1.5. As far as Speak was concerned, Lekota states that the UDF had 'no say in the running of the Speak'. He did not know if Morobe was on the executive of Speak and even if he was, 'he was not representing the UDF'.

Lekota: Vol 290 p16172 lines 19 - 28

- 1.6. As far as Grassroots was concerned, Lekota testified that it was 'an independent

organisation'; he was not familiar with it and 'nobody in the UDF structures, unless they were connected with it, would know what is happening in its councils'.

Lekota: Vol 292 p16285 line 29 - 16286 line 4

1.7. It was suggested to Mr Lekota that as publicity secretary he ought to have been aware of the fact that Mr Seria was secretary of Grassroots for three years and later became the chairperson. Lekota answered as follows:

'No, what is significant about that for the UDF? He can be secretary of any organisation. It is irrelevant to the UDF. Why should I know about this, that he was secretary of Grassroots? It is not our organisation, it is not our organ. It is an independent organisation. I do not understand why I should have known that as publicity secretary of the UDF. As publicity secretary of the UDF I must know the policy of the UDF.

Lekota: Vol 292 p16286 line 21 - 16287 line 1

See also: Lekota Vol 293 p16403 line 27 - 16404
line 20

1.8. Although Lekota regarded Grassroots, SASPU National, The Eye, and Speak as being 'on the whole... sympathetic to the policies of the UDF... there are a lot of things that they put forward which are not necessarily UDF policy'.

Lekota: Vol 292 p16352 lines 11 - 16

See also: Lekota Vol 294 p16426 line 10 - 16427 line 1

1.9. It was put to Lekota in cross-examination that the community newspapers 'were working hand in hand in the struggle against what you call apartheid'. Lekota sought clarification on the question and it was put that Morobe 'who is a leader in UDF is also the chairperson of Speak'. Lekota's answer is reproduced above. The general proposition put by the State was then not taken any further.

Lekota: Vol 294 p16428 lines 18 - 28

1.10. When it was put to Lekota that the community newspapers were also affiliates of the UDF, he stated:

'At some point, yes. At some point they were affiliated to the Transvaal but I also know that they ceased to be affiliated, but even whilst they were affiliated, they had independent policies, they took their own

decisions about what to do and so on. We never had a hold on them. We never had a say on how they should run their papers, or what they should include in their publication. No, nothing like that. We never - we were not entitled to sit in the meetings of their board of directors or anything of that nature'.

Lekota: Vol 294 pl6430 line 28 - 16431 line 9

This answer was not challenged.

1.11. The evidence establishes that whilst sympathetic to the UDF in the initial stages, the community newspapers were independent operations and they UDF exercised no control over their contents whatsoever.

2. An examination of the evidence in this case shows that the problems present in townships around the country were of a very similar nature.

2.1. This is not surprising. They were all the result of an attempt to impose a policy determined by the white elected government, which did not meet the aspirations of the black community on which they were to be imposed. It is also not surprising that the expression of

grievances was widespread and similar. This cannot be construed as implying that the problems were 'used' or that the grievances were imported.

2.2. It happened frequently that the grievances concerning education were the ones expressed most vigorously by the young people at the schools. Equally often, there is evidence that scholars perceived the response of the education authorities to be inadequate or sluggish. Complaint then became protest and demonstration, sometimes confined to the school premises and sometimes spilling out of the school grounds. This happened in an environment in which the ANC was active, and on the evidence, would use such occurrences to promote the unrest. Also, it occurred in an environment in which undisciplined youth (not necessarily members of any organisations) would on occasions act provocatively.

2.3. The response of the authorities typically, included the mobilisation of police and sometimes other security forces as part of a re-assertion of authority, often accompanied by an order or set of orders to the scholars.

Implicit in this would be a declaration by the authorities that they were not willing to listen to the students, or respond to their complaints.

- 2.4. This show of force would in turn often evoke an aggravated sense of resentment and perhaps a refusal to comply. One or other form of confrontation might then result with, of course, the scholars inevitably being forcibly dispersed.

The resentment however would not always be similarly dispersed. Scattered attacks on accessible buildings and/or persons identified as symbolising authority reflected a not unusual pattern of events thereafter.

The counter-vailing pattern is that where restraint and greater sensitivity were displayed by the authorities, the pattern of violent action and reaction would not be set in motion.

- 2.5. The evidence shows the violence to have been spontaneous rather than planned. There is no evidence to show planning of violence by the UDF, or to show that the unrest was initiated and promoted at the instance of the UDF.

3. From time to time in the course of evidence concerning the various areas, events at or in some way connected with funerals have come under consideration. In assessing such evidence, it is necessary to have regard to the traditions and conventions that relate to the conducting of these funerals. Authoritative evidence has been given in this connection by Bishop Buthelezi and reference is made to this evidence below.

3.1. There are differences between independent and mainline churches in that dancing, the clapping of hands and the use of colourful uniforms are deeply ingrained in the independent churches, whose congregations consist of millions of people.

Vol 401 p23350 line 15 - p23351 line 30

3.2. Some of these practices are no longer confined to the independent churches and have been assimilated to some extent into the religious practice of what are called mainline churches.

Vol 402 p23352 line 1 - p23354 line 2

3.3. In turn, it is submitted, it is clear that these customs have also influenced political meetings. For many years before the formation of the UDF, freedom songs, chanting, dancing, etc had been features of such meetings.

3.4. The tradition of singing and rhythmic dancing has now become incorporated into funerals and commemoration services. In the view of Bishop Buthelezi, it would not be possible for anybody to stop such conduct 'because of the dynamics which are operating there'.

Vol 401 p23383 lines 9 - 28

3.5. In regard to the participation by the community in funerals, regard should be had to his evidence that according to black community traditions, a funeral is a community affair and not merely a family affair.

Vol 401 p23369 line 18 - p23370 line 2

3.6. This community participation is reflected in the presence of banners of various organisations. It is in the nature of township life that there are many organisations who find it important to express solidarity; a consequence of this is that one cannot tell by the colours displayed there which organisation's symbols are being displayed because of the dimension of solidarity.

Vol 401 p23396 lines 8 - 15

- 3.7. The existence of banners have come to be accepted as a common feature in township funerals of a community nature.
Vol 401 p23391 lines 16 - 21
- 3.8. The presence of banners at funerals shows that people from the organisations concerned wish to show solidarity with the deceased. It does not mean that the organisations are in control of the funeral or that they are responsible for the behaviour of people at the funeral.
- 3.9. The slogan 'amandla, ngawethu' which is heard at funerals and commemoration services is a part of the community. The same applies to the slogan 'mayibuya iAfrika'. This too is a common slogan. They cannot be considered to be the exclusive property of the African National Congress. The same applies to songs in which the names of Tambo and Mandela come to be mentioned.
Vol 401 p23389 line 16 - p23390 line 8
- 3.10. The singing of choruses, slogans and exclamations form part of a township funeral.
Vol 401 p23381 lines 11 - 24

- 3.11. It is a matter of tradition also that the coffin should be carried shoulder high.

Vol 401 p23382 lines 15 - 29

- 3.12. Speeches are now also a common feature of such funerals, dating back as far back as the very process of urbanisation.

Vol 401 p23391 line 22 - p23392 line 11

These speeches reflect the concern people have with the events of the day, and, in particular, if the death of the deceased is somehow related to the agencies of the government like the police or death in detention, then the speeches incorporate the realities of the circumstances of the death.

Vol 401 p23393 lines 6 - 12

The bishop would understand the singing of 'Hamba Gahle Umkhonto we Sizwe' in the vicinity of the coffin at a funeral as being a complimentary reference to the deceased as 'the spear of the nation'.

Vol 401 p23376 line 13 - p23377 line 17

- 3.13. Although not part of the original tradition, it has now become part of the township culture

tradition that people and organisations other than the direct family of the deceased come to take over the funeral arrangements, although it would be regarded as a bad thing if this were done to the exclusion of the family.

Vol 401 p23428 line 9 - 23429 line 18

4. It is against this background that the evidence of the '31 Areas' should be considered.