

## HISTORICAL BACKGROUND

The exceptionally complex character of its population has been the dominating factor in the history of South Africa. It has seen wars of Blacks against Blacks, Whites against Blacks and Whites against Whites. Some were caused by lust for power, some by land hunger and some by greed for precious minerals and metals.

In 1910 the Whites owned most of the land and capital and did most of the skilled work. They were attempting to heal the wounds of the South African war between Briton and Boer and little attention was given to the political rights of the Black majority. This failure to confront and solve an obvious problem created a dilemma upon the horns of which our country is still impaled.

The attempts at solving this problem have hitherto not been successful.

On 31 May 1910 the Union of South Africa was created by the South Africa Act 1909 of the British Parliament. It united the colonies of Cape of Good Hope, Natal, Transvaal and the Orange River Colony. All White adults were eligible to vote. Blacks in the Cape Province and Coloureds in the Cape Province and Natal were on a common voters roll with Whites. Indians had no vote.

In 1912 the South African Native National Congress (since 1923 known as the African National Congress or ANC) was founded by Blacks to further their political aims. Its modus oprandi was peaceful protest and petitions. They made no significant headway.

In 1913 the Natives Land Act established scheduled native areas for exclusive Black ownership and prohibited the acquisition of land by Blacks outside those areas. The scheduled native areas were by and large the traditional (historical) locations and reserves. The scheduled native areas were small in proportion to the total area of the Union of South Africa.

When later through industrialisation of our country the Blacks migrated from the rural areas to the cities a landless Black urban proletariat came into existence. It had no political rights and officially no permanency.

In 1923 the Native (Urban Areas) Act decreed segregation and influx control. Local authorities were empowered to create locations for Blacks but the latter could not acquire ownership there. Local authorities were empowered to register service contracts and jobless Blacks could be expelled. As was to be expected the youth of the urban Blacks, better educated than their elders, would with sharpened political awareness increasingly clamour for political rights to redress their grievances.

South Africa had its periodical droughts, a Spanish flu epidemic, a depression, rebellion, strikes and two world wars. The problem of political rights for Blacks was not acute but did become an election issue in 1929.

In 1936 the Representation of Natives Act placed the names of Blacks in the Cape Province who were entitled to vote on a separate electoral roll. Henceforth they were represented by three members in the House of Assembly. The Act further provided for the election of four members of the senate to represent Blacks and for the creation of a Native Representative Council of 22 members of whom 12 were elected. It had advisory powers.

The Native Trust and Land Act 1936 added a further six million hectares to the land allotted to Blacks in 1913.

After the second world war large Black squatter camps came into existence at the fringes of the White cities, especially Johannesburg. The massive urbanisation of Blacks became the focus of White politics.

The era of apartheid started in 1948 but, as seen, segregation had deep historical roots.

The next decade saw the enactment of a number of statutes in which the unwritten apartheid tradition was now spelt out starkly in the statute books.

The Population Registration Act 1950 statutorily classified the population into various ethnic groups.

The Group Areas Act 1950 created group areas for the various population groups in South Africa.

The Separate Representation of Voters Act 1951 (which after a traumatic passage through parliament and the courts was eventually passed in 1956) removed the Coloured voters in the Cape Province from the common electoral roll and gave them separate representation in parliament.

The Prevention of Illegal Squatting Act 1951 dealt with squatters.

The Natives (Abolition of Passes and Co-ordination of Documents) Act 1952 provided that Blacks would have to be in possession of reference books which inter alia recorded contracts of employment.

Influx of Blacks into urban areas was restricted by section 10 of the Natives (Urban Areas) Consolidation Act 1945.

The Bantu Authorities Act 1951 repealed the Native Representative Council and created Black tribal regional and territorial authorities to be established with due regard to Black law and custom. These were a form of local government with advisory powers vis-à-vis the central government relating to the affairs of the inhabitants.

The Reservation of Separate Amenities Act 1953 provided for the reservation of public premises and vehicles for the exclusive use of persons of a particular race or class.

The Bantu Education Act 1953 transferred Black education to the central government.

The Natives Resettlement Act 1954 provided for the removal of Blacks from the Johannesburg area and their settlement elsewhere.

The Native Affairs Act 1959 provided for the establishment of Black local councils to do local administration in Black areas. They also had an advisory function towards the central government in respect of the general interest of the Blacks they represented.

The Promotion of Bantu Self Government Act of 1959 provided for the gradual development of self governing Black national units. It defined eight ethnic units to be led by commissioners-general to self-government. The Representation of Natives Act 1936 was repealed and Black representation in Parliament came to an end. Black self-governing territories were given the right to nominate representatives in the areas of Urban Local Authorities to liaise with that portion of the Black community there which belongs to the national unit concerned and advise the central government in matters pertaining to it.

The Urban Bantu Councils Act 1961 established urban Black councils with elected and selected members. They had advisory powers and certain limited local authority functions.

It was repealed in 1977 by the Community Councils Act 125 of 1977 which established Black Community Councils for urban residential areas. The members were elected by Black residents. Such councils had limited local administrative powers and were subject to ministerial directions. The political philosophy of the government at the time was segregation between the races, Black self-government in own areas and no political say (except at a local level) for Blacks in White areas. Officially Blacks were regarded as temporary sojourners in White areas and the view was held that the development of the Black areas would reverse the migratory flow to the White cities.

After 1948 the ANC under influence of its Youth League became more radical and militant. Its aim was to liberate Blacks from White domination by strikes, boycotts, civil disobedience and refusal to co-operate. There were several mass protest demonstrations. The South African Communist Party (SACP) was declared an unlawful organisation by the Suppression of Communism Act 1950.

Initiated by the ANC a Congress of the People was convened in 1955 in Kliptown. This congress adopted a Freedom Charter which inter alia claims equal rights for all and that South Africa belongs to all

its inhabitants. It also has certain provisions which some call socialist. It is not necessary to decide this issue here.

In 1959 the Pan African Congress (PAC) was founded as a result of an ideological rift in the ANC. Its ideology is Africa for the Africans. Its members are Black nationalists.

Instigated by the ANC and PAC 1960 saw extensive mass protests by Blacks against the pass laws which on 21 March 1960 led to violent confrontation with the police and a tragic loss of life at Sharpeville and Langa.

A state of emergency was declared and the ANC and PAC were declared unlawful organisations on 8 April 1960 by the Unlawful Organisations Act 1960. The ANC and PAC went underground and increasingly turned to violence.

1960 also saw the referendum on the Republic and in 1961 the Union became a Republic and left the Commonwealth. The new constitution created a Westminster type of parliamentary democracy. The political position of Blacks, Coloureds and Indians remained unchanged.

Nelson Mandela took the leadership of the internal underground ANC and Oliver Tambo created its external mission.

In June 1961 the ANC and SACP decided upon a campaign of violence to start on 16 December 1961. Umkhonto We Sizwe was created for the purpose of sabotage. It is now known as the military wing of the ANC.

In 1962 members of the PAC formed a terrorist organisation POQO which in that year was responsible for the Paarl riots.

In 1963 the police arrested the leaders of Umkhonto We Sizwe in Rivonia and in a subsequent trial (known as the Rivonia trial) Mandela, Sizulu and others were convicted and sentenced to life imprisonment.

The focus of armed resistance shifted to the external wing of the ANC.

In the 1960's government policy evolved to be that Black self-governing homelands could acquire total independence with their own citizenship which would not be limited to its inhabitants but extend to those Blacks with the same home language as that of the independent state, but living in the Republic of South Africa. Between 1976 and 1981 four independent Black states came into existence, Transkei, Bophuthatswana, Venda and Ciskei. These were derogatorily called Bantustans. This policy led to the loss of South African citizenship for those Blacks, who would henceforth be temporary sojourners in South Africa without permanent residency rights.



The control of White Urban Local authorities over their own Black townships (locations) was abolished in 1972 and taken over by Administration Boards. Blacks had no say in the administration of their affairs at local level.

The late 70's saw a gradual movement away from this autocratic rule. As stated, community councils were introduced in 1977. These were replaced by Town Councils created by the Black Local Authorities Act 1982. This Act provided for elected Black local government.

Meanwhile on 16 June 1976 Soweto erupted in riots. The compulsory use of Afrikaans in Black education was the tinder that set Soweto afire. Led by the Soweto Students Representative Council (SSRC) protest marches, riots, strikes and general vandalism abounded. General unrest prevailed in South Africa for a long time. A large section of the Black youth was politicized and Black education became a burning issue. A large number of people died tragically and like Sharpeville in 1960 Soweto 1976 had repercussions which still reverberate.

Coloured politics also went through troubled waters. Since 1956 the coloureds were represented by four Whites in the House of Assembly. In 1964 this was abolished by the Coloured Persons Representative Council Act 1964. A Coloured Representative Council was constituted. It had advisory powers and limited legislative powers.

After a few years the Labour Party obtained a majority and used it to wreck the proceedings of the council, which thereafter lost all credibility. Coloured political rights were in the doldrums.

In 1975 the civil war in Angola started. South Africa became embroiled in an attempt to prevent SWAPO from infiltrating South West Africa (also called Namibia). Military operations across the border commenced.

In 1980 a further constitutional change occurred. The senate was abolished by the Republic of South Africa Constitutional Fifth Amendment Act 1980 and a President's Council created. This body, which only had advisory powers, consisted of White, Coloured and Indian members. Blacks were excluded.

The beginning of the 80's saw a watershed change in government policy. The principle of exclusive White political power was abandoned by the government and the permanency of Blacks in White urban areas was recognized.

In 1982 a committee of the President's Council was instructed to advise on a new constitution. The President's Council proposals were for an executive state president and for three legislative assemblies. One each for Whites, Coloureds and Indians, the members of which were to be elected on separate electoral rolls. Blacks were not catered

for. The State President would deal with matters pertaining to the Black population.

On 2 November 1983 by referendum the White electorate expressed overwhelming support for the proposed new constitution. Though there was talk of referendums in respect of the Coloured and Indian communities they were not held.

The new constitution took effect on 3 September 1984, enacted by the Republic of South Africa Constitution Act 110 of 1983 which had been assented to on 22nd September 1983. Coloured elections were held on 22 August 1984 for the House of Representatives and Indian elections on 28 August 1984 for the House of Delegates, as the two chambers for those population groups were called. A Coloured and an Indian minister joined the cabinet. A new President's Council was constituted involving Whites, Coloureds and Indians. The control and administration of Black affairs vests in the State President.

The constitutional amendments still left Blacks out in the cold.

The period 1982 to 1984 saw the proposals of the so-called Koornhof bills. They were three in number. Two were eventually passed, the other one not. It was probably withdrawn because of great opposition thereto. They were the Black Local Authorities Act 102 of 1982, the Black Communities Development Act 4 of 1984 and the Orderly Movement and Settlement of Black Persons Bill.

The latter had stringent provisions on influx-control.

The Black Local Authorities Act 1982 created Black local authorities elected by the inhabitants of their areas. Though they were subject to ministerial control and thus did not have the same power as their White counter-parts they were a marked improvement upon the community councils. The Act was assented to in June 1982 but as it became effective on 1 August 1983 it was denigrated by some Black politicians as a substitute for meaningful political rights.

The Black Communities Development Act 1984 was passed for the purposeful development of Black communities outside the National States. The administration boards were replaced with development boards with different functions. Instead of administering, the boards would undertake development schemes. They had to promote the welfare of Black communities and of Black persons and take steps to prevent the economic and social decline of those communities.

The term Koornhof bills was by some speakers used without having a clear picture of what they meant and by others as a "blanket term for most aspects of government policy and legislation regarding African people, this includes the Bantustan Policy; the imposition of unrepresentative structures like the community councils; forced removals and influx-control". See exh C.78 p.5. When we use that term we refer only to the three pieces of legislation.

The constitutional proposals gave rise to a tide of anger in the Black community.

In January 1983 calls were made for the formation of a United Front to oppose the proposals. Civic and youth organisations were formed country-wide. In May 1983 the Transvaal and Natal regions of the United Democratic Front were launched. In July 1983 the Western Cape region came into existence and on 20 August 1983 the national launch of the UDF took place. On 4 December 1983 the Eastern Cape region, on 4 April 1984 the West Coast region and on 29 July 1984 the South Cape region were launched. The national launch took place at Cape Town. The UDF co-ordinated on a national scale the opposition to the constitutional proposals and this resistance did not abate after the passing of the Constitution Act in September 1983. The UDF then set about to influence the White referendum on 2 November 1983 and thereafter the elections to the Houses for Coloureds and Indians.

An easier target and the Achilles heel of the government's administration were the Black local authorities for which elections were held in 26 townships on 25 November 1983. The UDF and its affiliated organisations campaigned for a boycott of these elections intending to demonstrate that Blacks rejected this form of local government which was described as an intended substitute for meaningful political rights.

A low poll in these elections was claimed as a victory for the UDF. Whether this claim can be substantiated is hard to determine bearing in mind the comparable voting percentage in White Municipal elections and voter apathy in local affairs at the time.

On 22 and 28 August 1984 the Coloured and Indian elections for the two houses of parliament respectively were held amidst feverish political activity on the part of the UDF. Just prior to these elections on 21 August 1984, the UDF leadership was detained.

It is against this background that the state's case against the accused is to be viewed. The indictment can be divided into two sections. One deals with the UDF and its aims generally and the alleged effect of its actions country-wide. The other pertains to the effect of the UDF's actions in the Vaal Triangle and the activities of its affiliates and other groups active in that area. This division amounts to two separate cases held together by the spider's web of an alleged conspiracy.

It is convenient to deal with the UDF case first.

## **DELMAS TREASON TRIAL 1985-1989**

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