

DUDUZA (NIGEL)

The state case in the further particulars to the indictment (p.77) is that after organising and mobilising by COSAS since February 1985 violence, rioting and attacks on the police occurred in Duduza.

There was a civic association in Duduza called Duduza Civic Association (DUCA) but the state did not allege that it was affiliated to the UDF or that it had a hand in the violence. We refer to it in passing to fill in the picture. It was dormant from April 1984 to November 1984 but became active thereafter. The defence did not submit that it was behind the violence which occurred. Such submission would fly in the face of the evidence it presented through Mrs Thobela.

Mention was also made of Duduza Youth Congress. There is uncertainty about its founding date. It was first heard of by Mrs Thobela in late November 1984. Tsagane testified that it was formed in 1985. At the funeral of 18 May 1985 it had a banner. It was not suggested by any defence witness or counsel that it had a hand in the violence.

There were grievances in Duduza. Long-standing promises of water, electricity and water-borne sewerage had not been kept. There were muddy roads and a housing shortage. There was a shortage of

funds for these projects. A large section of the community was not prepared to pay for these amenities.

Since 1973 the sewage problem was the main priority in Duduza. In 1982 the community council decided to install sewage. A loan was obtained and consulting engineers employed. The civic association which was formed in 1982 requested a meeting with senior officials and the community council and informed them that the inhabitants were not prepared to pay for the sewerage system. Thereafter the decision to install it was revoked. Installation had already been started and the materials bought.

A public meeting of the inhabitants with the community council ended in chaos.

There were ongoing disruptions of schools. In June 1984 there was a two week school boycott. It was followed by several blitz boycotts. In November 1984 there was a boycott of fourteen days duration. These boycotts were not about the alleged claim for SRC's as these existed at both high schools. They were sympathy boycotts with schools elsewhere according to Mrs Thobela. Yet Mhlambi's evidence of the children's demands shows that they were the general COSAS demands. The attitude of the children was also the general one. They would only return to school if their demands were met. The boycotting high school pupils disrupted the primary schools.

In February 1985 a child was shot dead by the police and a general school boycott followed. Since June 1984 there were sporadic incidents of violence involving pupils till October 1984 when the boycotts began in earnest.

At the initiative of COSAS a student parent committee was formed on 3 November 1984 for the two high schools. It was at the time of the boycott (and just before COSAS called a country-wide stay-away of 5 and 6 November 1984). Its founding meeting was called and chaired by the COSAS chairman and the secretary was the COSAS secretary. The COSAS chairman told the meeting that this committee would be a branch of a bigger committee of the whole Witwatersrand chaired by Vusi Khanyile of the executive of the Soweto Civic Association. This was necessary to co-ordinate action of all student parent committees to solve schools' problems on a national basis. The highest authority of the student parent committees was the National Education Crisis Council (NECC). It was said by COSAS that all other places had a student parent committee and Duduza should have one too. Its aim was to by-pass and replace the existing statutory school committee. It had discussions with the minister concerning the school boycott. It functioned till mid February 1985.

Riots and unrest started in October 1984 and lasted till June 1985. It is common cause that from February 1985 onwards houses were stoned and set alight, Administration Board buildings were stoned and damaged, waste buckets were emptied at the Administration Board offices, the houses of Administration Board police and South African police were damaged and set alight, private vehicles of police officials were set alight, beer depots were looted, road obstructions were set up and buses were damaged, commercial vehicles were looted and damaged and stones and bottles were thrown at police patrols.

Before February 1985 but especially since that date it was obvious that specific targets were chosen for attack. Government buildings, Development Board buildings, beerhalls, a beer depot, the house of a member of the council and his business and garage, houses of the South African police, personnel of the Development Board and prison officials. Forty-eight houses were damaged. Stones and petrolbombs were used. Amongst the vehicles set alight two buses were burnt out and many vehicles were damaged.

Slogans appeared on the walls, for example Viva ANC, MK, UDF.

On 4 November 1984 the funeral of Douglas Mshuma of FOSATU was held. Banners of FOSATU and COSAS were displayed and COSAS T-shirts were in evidence. A black, yellow and green flag draped the coffin.

The defence led the evidence of S E Mhlambi about alleged police misconduct after the funeral of Lucky Mkwanazi on 26 February 1985. This evidence stands uncontradicted. There was no suggestion that this incident led to violence. We have doubt about the credibility of Mhlambi. The relevance of this incident is not apparent and it is not necessary to make any finding in this regard.

There was a concerted campaign against councillors. They all resigned in the period February 1985 to May 1985 giving as reason intimidation of themselves and their families.

The Duduza Civic Association which had vehemently opposed the installation of the sewerage system advertised a meeting for 17 February 1985 on the issue "No to Bucket system. More houses." "Organise or be homeless." Exh ABA.48.

During the first half of 1985 the organisations COSAS and DUCA (Duduza Civic Association) were very active politically. Meetings were held. The hall of the council was used without consent. After the meetings freedom songs were sung, the Amandla salute was given and the South African police were attacked.

The UDF pamphlet urging a day of mourning on 28 March 1985 was distributed in March in Duduza (exh ABA.9):

" Apartheid is violence. The history of apartheid has been a history of violence against our people:

In Sharpeville on 21 March 1969 sixty-nine people were gunned down and 187 were injured.

In Soweto in 1976 thousands were massacred and injured.

Again in 1980 during the education boycotts students in many parts of the country were mercilessly shot down.

In the Vaal Triangle last year hundreds were killed.

And today once again apartheid is responsible for spilling the blood of yet another forty-three people in Uitenhage.

- This state exists through sucking money from the poverty stricken masses through perpetual financial taxation like the notorious GST. "

On 18 May 1985 the funeral of Patricia Tobela, secretary of COSAS, was held. The coffin was draped in black, green and yellow. A COSAS banner was prominent in the procession and many of those attending wore COSAS T-shirts. A mob of 500 broke away from the procession, petrolbombed and stoned the police and burnt down the houses of two Black policemen. Road obstructions were erected and camouflaged trenches were dug across the streets and wires suspended between poles to disable police standing on police vehicles. In the riots fourteen houses and the business of an ex-councillor were burnt down.

The UDF by pamphlet (exh ABA.49) advertised commemoration services for 16 June 1985 inter alia at Duduza. In this respect the public was requested to contact their local organisation for the venue and time. In part the pamphlet reads:

" 1976 was a year of tears, a year of blood-shed and death ...
It was the time of the truth when students stood up for
their grievances ...

Today it is no more students alone, but other bodies as well,
the youth, workers, residents and women, we see the growing
of the people's organisations, civic associations, trade
unions, community organisations, the youth and students.

" Many of these organisations come together under the organisation known as the UDF which brought together the whole struggle in schools, that of the residents in locations and that of the workers and the Government.

The united fighting of people is a good daily happening.

Our spirit of unity shall not get exhausted, let us fight on, the changes you see is because we are united, we are strong going towards freedom. The freedom is near. Long live the struggle for democracy. "

A UDF poster in remembrance of June 16, 1976 was put up (exh ABA.52):

" Today we now see a mass action not only by students but also by youth, workers, residents and women. We see hundreds of people's organisations taking root. We see civic bodies, trade unions, residents' organisations and student and youth groups. Many of these organisations have come together under the banner of the United Democratic Front - the UDF. They have united the struggles for democracy in the schools, the townships, at work and in the

" Government. United action is now the order of the day. Despite all efforts by the racist Government to fool us our suffering has not changed since 1976. Our spirit of our struggle has also not changed over this time. What has changed is that today we are organised and stronger. Today freedom is nearer. From mobilisation to organisation long live the struggle for democracy. "

Slogans were put on the walls Viva ANC, Viva MK, Viva UDF.

A COSAS pamphlet found in Duduza in June 1985 (exh ABA.51) which was issued in remembrance of 16 June refers to trigger-happy police of the apartheid regime and states that the racists daily join the killing campaign to terrify, provoke and kill unarmed and peace-loving people. COSAS, which calls itself a UDF affiliate and refers to the government as the enemy, calls for unity in action and supports Dr Boesak's call for a prayer for the downfall of the government. The pamphlet continues:

" Let us struggle forward. Let's not Mourn, Mobilise!
Until our struggles for democratic SRC's, withdrawal of SADF from our schools and townships, resignation of community councils, drop to price increase to bread are not met, we will never rest, there is no going back.

" Forever Forward! Backwards never! Victory or Death!
March forward with the Education Charter Campaign! Long live
the Freedom Charter! Amandla! Ngawethu! Power to the
People! "

In this summary we have made some factual findings based on our credibility findings of the witnesses who testified. Our comments are set out in annexure Z. We found Muller to be an impressive witness and sergeant J M van Tonder a satisfactory one. The defence witnesses Mrs Thobela, Mhlambi and Mazibuko were unreliable. The first two both retracted their own earlier evidence which put boycotting pupils in a bad light. These witnesses gave contradictory versions and much of what had been put to state witnesses was not supported by them.

The defence submitted that the incidents in May 1985 and the four documents found in June 1985 fall outside the period of the indictment and should be disregarded. In this respect reliance was placed on para 66 of the indictment read with p.77 of the further particulars, and it was submitted that the state case as pleaded is only concerned with the period February 1985 to end April 1985.

Para 66 of the indictment had (and has) as its preamble the general statement that in the period 20 August 1983 to end April 1985 the UDF and/or organisations actively supporting it and in

furtherance of its aims and execution of its campaign to mobilise the masses and incite them to violence, acted as is set out in seven paragraphs with numerous subparagraphs. The further particulars in para 27.6.5 (pp.76-81) amplify para 66(7) of the indictment, inter alia giving particulars of places and organisations involved.

On 28 February 1986 these particulars were amended in respect of some places by extending the date to end July 1985. The preamble to para 66 was not dealt with but of necessity that must then likewise be held to have been amended to read end July 1985 instead of end April 1985. That is how the case was approached after the amendment. In respect of Duduza the further particulars remained open ended. They merely state that since February 1985 COSAS organised, etc.

It is therefore not surprising that the state evidence was led and documents handed in without objection and that the defence cross-examined and also led evidence on these events. Defence counsel accepted that the period extended to July 1985. 117/5816. This defence submission is without substance.

The defence further submitted that as Muller who was the official in charge of Duduza did not personally find the pamphlets and poster that were handed in, but received them from his personnel, there is no proof that they were found in Duduza. The evidence is that many were found and stacks of these pamphlets were gathered.

They were brought to Muller by his employees in the normal course of their employment in Duduza. Most refer to coming events in Duduza. There is no evidence to the contrary. On the probabilities they were found in Duduza. The submission fails.

The state relied on exh C.99, an undated report on a civic workshop found in the UDF offices Johannesburg on 23 July 1985. It was written by an undisclosed author in 1984 or 1985. It does show DUCA's presence, but in our view it does not further the state case.

Exh W.69, a Speak of January 1984 on which the state also relied, is inadmissible for this purpose.

Exh AAC.55, a Saspu National of March 1985 (p.5) found with accused No 22 and therefore admissible, was solely relied on by the state to prove alleged false propaganda. It does not affect this chapter and is therefore disregarded.

We reach the following conclusion:

1. The state led no evidence on the contents of the speeches at the meetings of organisations and there can be no finding that the stone-throwing and attacks on the police thereafter were instigated by the speakers.

2. The rioting which followed on the dumping of night-soil at the administrative offices after the DUCA meeting of 17 February 1985 was primarily by youths and a youth was shot by the police.
3. COSAS had a prominent and important presence in Duduza. It called meetings for parents and it organised a funeral. It associated openly with the ANC as is evidenced by the use of the ANC flag on the coffin at two funerals where it played a leading role.
4. Youths played a prominent role in the rioting after the meeting of 17 February 1985 and also during the funeral of the secretary of COSAS on 18 May 1985 and thereafter. The attacks were on police and the homes of policemen and the indications are that it was a planned insurrection. This is evidenced by the size of the mob breaking away, the timing thereof, the targets and their later actions.
5. The prominent presence of COSAS in Duduza and the inflammatory nature of its pamphlet together with the open association with and use of the ANC flag, leads to the conclusion that COSAS had a hand in the violence in Duduza if it did not lead and organise it.

6. Significant is the fact that into this violent climate in which its affiliate COSAS is prominent the UDF injects its statement of full support for the struggle and calls for united mass action.

DELMAS TREASON TRIAL 1985-1989

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