

ANC fight seen as just — evidence

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PRETORIA: Developments in customary and international law during the last 40 years created the impression that the struggle waged by the African National Congress was acknowledged abroad as a "just war of national liberation", Stellenbosch international relations expert Professor Gerhard Erasmus told the Supreme Court here yesterday.

He was the second of two University of Stellenbosch academics to give evidence in mitigation of sentence in the trial of senior ANC member Ebrahim Ismail Ebrahim. Ebrahim, who has already

Daily News Correspondent

served a 15-year sentence for sabotage, has been convicted of treason together with Acton Mandla Maseko. A third accused, Simon Dladla, was found guilty of terrorism. He was acquitted of treason because his South African nationality was in doubt.

All have been linked to landmine warfare in Mr Justice Daniels's judgment, delivered in November.

Ebrahim was found to have conveyed instructions on the conduct

of landmine warfare from ANC headquarters to the Transvaal military structures.

Maseko and Dladla were judged to have been personally involved in the laying of landmines in the south-eastern Transvaal in the first half of 1986.

Professor Erasmus said there were three major areas in which developments supported the conclusion that the ANC was viewed as a national liberation organisation engaged in a just war. These were:

□ Within the United Nations, where there had been repeated res-

olutions condemning South Africa's racial policies, accepting ANC and the Pan-Africanist Congress as legitimate representatives of the people of South Africa and designating ANC activities as a "just struggle".

□ In military law: in 1977 two protocols were added to the Geneva Convention. These extended humanitarian protection to combatants engaged in non-declared wars.

Wars of national liberation, waged against colonial and racist regimes, were recognised as international conflicts and participants could claim the right to prisoner-of-war status.

□ The practices of individual states in relation to South Africa.

This included their willingness to allow the ANC a presence in their countries and to adopt sanctions against South Africa.

Earlier in the day Professor Johan Degenaar told the court: "Any group of people, including the Afrikaner, would come to a similar decision (to resort to armed struggle) if they were victims of structural violence and if their non-violent strategy — pursued for decades — was ignored."

He believed all forms of political violence — State violence and revolutionary violence — were morally wrong.

"The judgment is clear. Both types of violence are morally unacceptable. But we need more than a correct judgment.

"We need a liberating narrative, a story that acknowledges the equality of all participants, allowing all to become fully fledged characters in the next chapter of the story of building a South African nation."

Professor Degenaar, whose discipline is political philosophy, said he believed everyone could play a role in developing a new "story" for South Africa, including the judge in the present trial.

Evidence in mitigation continues today.

Heunis forced to accept tough guidelines for talks

BUTHELEZI'S

THE DAILY NEWS 10 - 01 - 89

FIRM STAND



Buthelezi



Heunis

Martin Challenor
Political Reporter

MR CHRIS Heunis, Minister of Constitutional Development and Planning, had to accept the tough preconditions which Dr Mangosuthu Buthelezi had set for talks with the National Party before the Inkatha leader would sign yesterday's historic negotiation agreement, a Government source in Durban said today.

The two men agreed to set up a committee to iron out obstacles to negotiations.

The preconditions Dr Buthelezi had set for talks were that they must lead to the dismantling of apartheid; must go hand-in-hand with the release of senior political prisoners such as ANC leader Nelson Mandela; and that all real black leaders could take part in negotiations for a new Constitution.

The decision to form a joint committee indicated that Mr Heunis had accepted these points, according to the source, who also said that Dr Buthelezi would insist that the talks not be confined to KwaZulu.

Both leaders have declined to expand on their joint statement issued after the talks yesterday. It said: "In recognition of the fact that negotiations are an urgent necessity in solving the political problems of South Africa and in the acknowledgement of the fact that there are obstacles impeding the process of negotiations, we have agreed that a joint committee will be appointed by our two Governments to identify and address these obstacles as well as to formulate principles on which there is common ground.

"The committee will report back to the respective Governments, and upon the receipt of such a report a further meeting will be held between us."

Dr Buthelezi has always said that he would not get involved in a "talk shop" over negotiations.

"He is not going to back down on his preconditions now," the source said. "Dr Buthelezi was being consistent and stuck to his points at yesterday's talks.

"He would not have allowed the talks to go any further unless he were certain that his basic preconditions would be met."

Countless black leaders in South Africa have said over the years that they would talk to the Government if it led to the end of apartheid, and if all leaders were released from jail to take part in the talks and that everybody was invited.

The source said that the talks took place at Mr Heunis's initiative.

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NATAL WITNESS

'I am entitled to protect myself'

A clearly tired and distressed Mr Thanduyise "Psychology" Ndlovu, KwaZulu MP for Swayimane, yesterday spoke to CHRISTELLE DE JAGER to "put the record straight" on recent events in his area and allegations that the New Year's Eve attack on his home was linked to the forced recruitment of community members by Inkatha. The attack and ensuing gunbattle left about 15 people dead, one of them an Inkatha member who was a house guest of Mr Ndlovu's.

"I HAD been expecting an attack for some time. We thought it would happen on December 16 but it didn't materialise. Every day since then I have been waiting for it and was well-prepared. I think the crowd attacking my home was taken by surprise that I was so well-defended.

"But I am not proud that so many people, youths who were being used by their adult leaders, died. It is a tragedy and every life is valuable but I will continue to exercise the full rights of the law to defend myself, my family and my property," Mr Ndlovu said.

The man is who a member of the KwaZulu Legislative Assembly and Inkatha is a nephew of former Robbin Island prisoner and ANC leader, Mr Harry Gwala.

He said he had been brought up by Mr Gwala, who had paid for his education, and had lived with him in Pietermaritzburg from standard 2 onwards.

As a young boy he lived in Swayimane with Mr Gwala's brother, the Reverend Caiphas Gwala. It was from Caiphas that he got his nickname "Psychology".

"Caiphas was studying psychology when I was eight years old. He teasingly called me Psychology, saying that it would make me clever, and the name stuck," he said.

Mr Ndlovu has denied that the "house guests" who helped defend the house and shot at the attackers were KwaZulu policemen and that the attack was as a result of community resistance to a forced recruitment by Inkatha in the area.

"There was only one member of the KwaZulu police present. That

was my son who was visiting and was off-duty," he said.

An S.A.P. spokesman said this week that KwaZulu police were present during the attack and had been guarding Mr Ndlovu's house for some time. He was also responding to community allegations that the "house guests" were heavily-armed

KwaZulu policemen.

Wartburg falls under the jurisdiction of the S.A.P. and the KwaZulu police do not have authority in the area.

Mr Ndlovu emphatically denied yesterday that either in his personal capacity or as a member of Inkatha he had forced people to join the

organisation.

"It is political suicide to force people to join an organisation they do not want to join. You cannot count on the support of those people.

"Anybody who feels that they have been forced to join Inkatha can take the matter up with the Chief Minister or the Inkatha Central Committee.

Inkatha is an organisation for the people not against the people."

Mr Ndlovu believes that those who are making the forced recruitment allegations are trying to get political advantage in the hope of becoming the negotiators with the Government.

"It is a power struggle negotiation.

They do not want Inkatha at the negotiating table," he said.

Mr Ndlovu said during early December his life had been threatened and he had been shot at by unknown assailants.

Expecting a major attack to be launched on his home on December 16, his attorney wrote to the station commander at the Wartburg police station, requesting police protection.

Police had also earlier asked him to hand over his .303 rifle, for which he had a licence, but had to date "not given the reason for wanting the weapon", he said.

Mr Ndlovu said in the same letter his attorney had asked for details of the case for which the firearm would be required and had asked for police to provide him with protection or supply him with another weapon to protect himself if they confiscated his rifle.

"We have received no reply and the weapon has not yet been confiscated," he said.

Mr Ndlovu said he would not have been able to protect himself adequately without his rifle because the only other weapons he had were two handguns.

When asked about the several sophisticated weapons openly being displayed when a Natal Witness team visited his home last week, Mr Ndlovu remembered that a shotgun was also licenced in his name.

He said the other weapons at his home were all licensed by friends and family members, who were protecting him.

His official bodyguard, Philip Gwala (18), a "special constable" sent to guard him by the KwaZulu police, had been killed on December 21 and had not been replaced, he said.

Mr Ndlovu said it was routine for the KwaZulu police to provide KwaZulu MPs with trained bodyguards.

"I am entitled to protect myself and my family if my life is in danger. But I am also sad about the violence in my area and do not want people to die.

"It would be easy for me to be a coward and leave, but I am the democratically elected representative for the area and must be there for my people. I will not leave."



Watching for danger. Family members and friends have been protecting the home of KwaZulu MP Psychology Ndlovu since mid-December. Mr Siphon Hlope (left) and Mr Banguyise Mkhawanazi were seen on guard outside the hedge surrounding the house last week.

Ndlovu wants to meet the 'real' UDF

KWAZULU MP for Swayimane near Wartburg, Mr Psychology Ndlovu, is keen to meet United Democratic Front leaders from his area to find ways to resolve the problems.

"But they must be the real UDF leaders and the community must indicate that the people talking are the ones they support," he said.

Mr Ndlovu said yesterday the problems were being caused by UDF members who had moved to Swayimane from other areas and were instigating the local people to cause trouble and launch attacks on Inkatha members.

He said peace talks had been held on December 17 with "so-called UDF leaders" but after three days the fighting had started again.

"I now want lasting peace and stability to be established in my area and am prepared to talk again, with the real leaders."

Mr Ndlovu said he was still a target and his life was in danger.

He had been ambushed last Saturday when he was travelling to the funeral of Mr Geba Ndlovu.

He was one of the 15 people reported killed during the attack on his home last month.

Mr Ndlovu said rocks were blocking the road and when they got out of the car to move the rocks his group was fired at from a nearby bush.

They returned fire and the attackers fled. Two handguns were found and handed to police yesterday, he said.