



South African Council of Churches

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TO WHOM IT MAY CONCERN

INTEREST OF AMICUS CURIAE

Amicus Curaie, the General Secretary of the South African Council of Churches (“SACC”), for and on behalf of the SACC submits the views of the SACC on this matter in light of the amended complaints now before the District Court and in light of the letter submitted to that Court by the South African Government on September 1, 2009. The SACC is fully in support of the South African government’s position on this litigation in light of the amended complaints.

Amicus submits this brief pursuant to F.R.A.P. 29(a) in support of Appellees. All parties have consented to its filing.

PRELIMINARY STATEMENT

The SACC wishes to express to the Court its complete concurrence with the opinions of the South African government in its September 1, 2009 letter to the District Court concerning its views on the amended complaints. As the umbrella organisation for the majority of churches in South Africa and given the prominent role that religion played in opposing apartheid, encouraging its downfall, and adopting principles of reconciliation, the SACC respectfully believes it is particularly well-placed to comment on the benefits of this litigation. While most sectors of South African society, including the church, have had to come to terms with their past and to reconcile with South African society at large – whether through the Truth and Reconciliation Commission (“TRC”) process or not – private enterprise has been notably absent from this process. This litigation provides an appropriate avenue for such reconciliation in the corporate sphere with regard to these particular Defendants because the allegations made against them in the amended complaints involve such complicity in the crimes of apartheid that, if true, there should be accountability.

DISCUSSION

The SACC fully supports the September 1, 2009 statement to the District Court regarding this litigation in light of the amended complaints.

I. THE SACC MEMBERSHIP AND EXPERIENCE MAKE IT STRONGLY ABLE TO COMMENT ON THE SOUTH AFRICAN POSITION.

The SACC is particularly well-placed to comment on the benefits of the government’s position. The SACC is an umbrella organisation for the churches of South Africa. It currently comprises 26 member denominations and one observer member together with a number of associated church-based organisations. South Africa is an extremely pious country; 75% of its citizens are affiliated with a Christian church. The SACC represents the

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major denominations. As a result the SACC represents the beliefs of a vast majority of the South African people.

In addition, the SACC has vast experience in ending apartheid and promoting reconciliation. Religion was a major sphere of activity during apartheid with pro- and anti-apartheid forces congregating around specific denominations. The SACC, itself, was a leading force in the anti-apartheid movement as evidenced by the prominent role of its former General Secretary, Archbishop Desmond Tutu, both during the anti-apartheid struggle and, later, in his role as chairman of the TRC.

II. THIS LITIGATION DOES NOT CONFLICT WITH THE ROLE AND GOALS OF THE TRC.

Defendants in this case have stated that this litigation offends against South Africa's attempts at reconciliation because it conflicts with the TRC process. That position is false. While the TRC was incredibly important to the process of reconciliation in South Africa, it was not by any means designed as the exclusive entity charged with the reconciliation effort. All segments of South African society, and indeed global society, are responsible for reconciliation. The experience of the SACC provides a perfect counterpoint to Defendants' contention.

The SACC has been leading the process of reconciliation by the engagement with the various congregations under its umbrella, teaching that all members are required individually to come to terms with the past. Religion, once a barrier to reform at its extremes, is now a principal sphere in which the ideals of a new South Africa are being realised. Moreover, under the SACC umbrella there now are churches representing all sectors of South African society, including groups that previously were in opposition to one another. The churches themselves underwent a process of reconciliation that mirrored the one needed by South African society at large. Yet this process, demanded by its constituents, was very much outside the realm of the TRC.

This process has been repeated across South Africa and in many sectors, such as the educational institutions and the trade unions. But there has yet to be a true reconciliation effort between South African society and private enterprise. When multinational enterprises are actively involved in aiding and abetting gross violations of fundamental human rights of the types noted in Minister Radebe's letter, accountability for their participation is a necessary element of reconciliation. That accountability must occur no matter where the enterprise is located. And such accountability does not run contrary to the goals of truth and reconciliation.

CONCLUSION

The SACC fully supports the September 1, 2009 statement to the District Court regarding this litigation. We respectfully request this Court to uphold the decision of the District Court and to permit this litigation to continue.

Humbly submitted,



Eddie Makue
General Secretary