



Apartheid Debt & Reparations Campaign Media Release

EMBARGO: 11h00 (South Africa) Tuesday, 12 November 2002

COMPLAINT SUMMARY

Khulumani et al. v. Barclays et al.

This lawsuit is based on common law principles of liability and on the Alien Tort Claims Act, 28 U.S.C. §1350, which grants U.S. courts jurisdiction over certain violations of international law, regardless of where they occur. This statute is increasingly being used to bring to justice those who commit human rights abuses. Recent successful cases under this statute include the *Doe v. Unocal* case, which upheld a lawsuit against Unocal Corporation by victims of human rights violations perpetrated by the Myanmar military in connection with an oil pipeline project. In *Unocal* the Ninth Circuit Court of Appeals held that a corporation that aided and abetted human rights violations by a foreign sovereign can be held liable for those abuses.

Extrajudicial killings, torture, and arbitrary detention are recognized violations of international law and all of these were practiced by the Apartheid regime in South Africa between 1960 and 1993. Apartheid itself was recognized as a crime against humanity and a violation of international law by the world community, as evidenced by decades of U.N. resolutions and the Rome Statute of the International Criminal Court.

The Truth and Reconciliation Commission in South Africa specifically concluded that "Business was central to the economy that sustained the South African state during the apartheid years. Certain businesses, especially the mining industry, were involved in helping to design and implement apartheid policies. Other businesses benefitted from cooperating with the security structures of the former state. Most businesses benefitted from operating in a racially structured context."

This complaint seeks to hold those businesses that aided and abetted the apartheid regime responsible for the wrongs they made possible. For example: IBM and ICL provided the computers that enabled South Africa to create the hated pass book system and to control the black South African population. Car manufacturers provided the armored vehicles that were used to patrol the townships. Arms manufacturers violated the embargoes on sales to South Africa as did the oil companies. The Banks provided the funding that enabled South Africa to expand its police and security apparatus.

Recent historical evidence demonstrates that the involvement of companies in the key industries of mining, transportation, armaments, technology, oil, and financing were not only instrumental to the implementation of the furtherance of the abuses, but were so integrally connected to the abuses themselves that apartheid would probably not have occurred in the same way without their participation.

The company's conduct satisfies the standard, common law principles of liability, including aiding and abetting liability which was first imposed on corporate participants in crimes against humanity by the Nuremburg Tribunal. At Nuremburg, the bankers that financed the Third Reich were held liable for crimes against humanity.

Apartheid was an institutionalized system of racial disenfranchisement, forced labor, and criminal domination. It sought to and did exploit and degrade the black South African population for a criminal purpose, through criminal means. The complaint seeks a measure of justice from those entities which aided or abetted the commission of this atrocity.