

PRESS RELEASE

Hausfeld files an Amicus Brief in support of Khulumani's lawsuit endorsed by many heavyweights in the international human rights movement

September 29, 2004 Tonight, Michael Hausfeld, the human rights lawyer representing the Khulumani Support Group, filed an amicus brief -or legal opinion -in a New York court in support of Khulumani's litigation against specific foreign corporations which aided and abetted the apartheid government. "The decisions (to be) made by the court charged with deciding on this lawsuit, will shape the future of human rights litigation and will reverberate beyond the courthouse walls to the ears of officials and private (citizens) across the world", says Hausfeld. The amicus brief has been endorsed by 207 signatories, including Archbishop Desmond Tutu, Joseph Stiglitz and Charles Ogletree.

Khulumani filed their lawsuit in New York in November 2002 using the Alien Tort Claims Act 1789 – a controversial legislation which allows companies to be sued in the American courts for human rights breaches committed anywhere in the world. The reason for the timing of the present filing is the June 29 ruling by the US Supreme Court on the applicability of the Alien Tort Claims Act 1789 (the *Sosa v Alvarez-Machain* ruling) which confirmed that companies could be sued in the American courts for human rights violations committed anywhere in the world. British human rights lawyer, Martyn Day says, "This 1789 Act is considered the most progressive and prohuman-rights law on the US statute books".

Khulumani's lawsuit seeks to hold 23 multinational corporations accountable for their role in supporting an environment in which Gross violations of human rights were made possible. The case represents the strongest case yet globally for advancing the extension of fundamental human rights to include the practices of governments and foreign multinationals anywhere in the world and to obligate adherence to behaviour that respects basic human dignity and provides redress for violations of these universally recognised norms and standards. "These are rights that should be litigated in every judicial system in the world", says Hausfeld.

The only obstacle standing in the way of "an automatic acceptance" of the case is seen as the opposition of the South African Government which called on the US courts in July last year to dismiss all apartheid-related cases in US courts on the grounds that these would have the effect of setting up a surrogate government (on account of the quantity of damages being requested) and that they would undermine the contributions that "corporate South Africa are already making to(wards) the broad national goal of rehabilitating the lives of those affected by apartheid".

But, these arguments do not apply to the Khulumani lawsuit which names as defendants only those foreign corporations that refused to participate in the TRC

process and that failed to take responsibility for their involvement in the apartheid state's security apparatuses. The Khulumani lawsuit seeks to engage corporations in a dialogue in relation to what they might contribute towards repairing the damage done to individuals and communities in South Africa. The Khulumani action is likely to be the crucial test for the 1789 Act. It is certainly the most credible of the apartheid lawsuits claims and with the existing endorsements, it will be hard to ignore.

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