



CONSTITUTIONAL COURT OF SOUTH AFRICA

CASE NO: CCT 23/10

In the matter between:

THE CITIZEN 1978 (PTY) LTD

First Applicant

KEVIN KEOGH

Second Applicant

MARTIN WILLIAMS

Third Applicant

ANDREW KENNY

Fourth Applicant

and

ROBERT JOHN MCBRIDE

Respondent

DIRECTIONS DATED 3 MAY 2010

The Chief Justice has issued the following directions:

1. Ms Lara Johnstone, Member of Radical Honesty Culture and Religion, is admitted as an amicus curiae.
2. The amicus curiae must file written argument by 25 May 2010.
3. The written argument must not repeat any submissions made on behalf of the parties.
4. Further directions may be issued on whether the amicus curiae will be required to present oral argument before this Court.
5. The application to proceed in forma pauperis is not granted.


MS STANDER
SENIOR REGISTRAR: CONSTITUTIONAL COURT

TO: MS LARA JOHNSTONE

Amicus Curiae
16 Taaibos Ave
Heatherpark
George
6529
Tel: (044) 870 7239
Email: jmcswan@mweb.co.za



AND TO: WILLEM DE KLERK ATTORNEYS

Attorneys for the Applicants
PO Box 84162
Greenside
2034
Tel: (011) 717 8562/37
Fax: (011) 486 4506
Email: wdeklerk@telkomsa.net
Ref: WdeKlerk/CIT/A/0128/CCA/0177
c/o: GARRATT MBUYISA NEALE INC.
15 6th Street
Pankhurst
JOHANNESBURG
Tel: (011) 327 7781
Fax: (011) 880 3841

AND TO: MASHIANE MOODLEY MONAMA INC.

Attorneys for the Respondent
39 Wierda Road
Wierda Valley
SANDTON
Tel: (011) 303 7900
Fax: (011) 303 7999
Ref: Mr Monama/zm/M6
c/o: MTHOMBENI & ASSOCIATES ATTORNEYS
Orien House
49 Jorrisen Street
BRAAMFONTEIN
Tel: (011) 339 7396
Fax: (011) 339 2379
Ref: Ms. Lulu Ngwenya

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

Case No. CCT 23/10

In the Matter Between:

THE CITIZEN 1978 (PTY) LIMITED

First Applicant
(First Respondent in leave to cross-appeal)

KEVIN KEOGH

Second Applicant
(Second Respondent in leave to cross-appeal)

MARTIN WILLIAMS

Third Applicant
(Third Respondent in leave to cross-appeal)

ANDREW KENNEY

Fourth Applicant

And

ROBERT JOHN MCBRIDE

First Respondent
(Applicant in leave to cross-appeal)

And

LARA JOHNSTONE

First Amicus Curiae

THE FREEDOM OF EXPRESSION INSTITUTE

Second Amicus Curiae

THE S.A. NATIONAL EDITORS FORUM

Third Amicus Curiae

JOYCE SIBANYONI MBIZANA

Fourth Amicus Curiae

MBASA MXENGE

Fifth Amicus Curiae

**FILING SHEET: AMENDED¹ PRACTICE NOTE AND WRITTEN
SUBMISSIONS (HEADS OF ARGUMENT²) FOR LARA JOHNSTONE; IN
SUPPORT OF RADICAL HONESTY POPULATION POLICY COMMON
SENSE INTERPRETATION OF PROMOTION OF NATIONAL UNITY AND
RECONCILIATION ACT, 34 OF 1995**

¹ 10-07-18: 1st Amicus: HoA Condonation: Radical Honesty Interpretation of TRC Act [PDF: www.scribd.com/doc/34551198]

² 10-07-18: 1st Amicus: Heads of Argument: Radical Honesty Interpretation of TRC Act [PDF: www.scribd.com/doc/34551212]

Presented for Filing:

1. Amended Heads of Argument Written Submissions for Lara Johnstone (Radical Honesty - SA); and
2. Practice Note for Amended Heads of Argument Submissions, for Lara Johnstone (Radical Honesty - SA)



LARA JOHNSTONE
First Amicus, Pro Se
PO Box 5042, George East, 6539
16 Taaibos Ave, George, 6529
Tel: (044) 870 7239
Cel: (071) 170 1954
Email: jmcswan@mweb.co.za

TO: **REGISTRAR OF THE COURT**
Snr. Registrars Clerk: Delano Louw
Tel: (011) 359-7400 || Fax: (011) 339-5098
E-mail: louw@concourt.org.za

Served Copy on 19 July 2010³
[# 152@03:51AM]
Ack. Receipt: 19 July 2010
[# 154@07:38AM]

AND TO: **WILLEM DE KLERK ATTORNEYS**
Attorneys for the Applicants
P O box 84162, Greenside, 2034
Tel: (011) 717 8562/37 | Fax: (011) 486 4506
Email: wdeklerk@telkomsa.net
CC: Adv. W. Trengrove, S.C.
Tel: (011) 291 8600
Fax: (011) 291 8666
Cell: (082) 337 0852
Email: wimtregrove@law.co.za

Served Copy on 19 July 2010⁴
[#150@03:28AM]

AND TO: **MASHIANE MOODLEY MONAMA**
Attorneys for the Respondent
39 Wierda Road West
Wierda Valley, Sandton
JOHANNESBURG

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[#150@03:28AM]
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[#151, 157 & 158]

³ PDF: First Amicus: Transcript: Correspondence & Email Service: [PDF: www.scribd.com/doc/34064979]

⁴ PDF: First Amicus: Transcript: Correspondence & Email Service: [PDF: www.scribd.com/doc/34064979]

⁵ PDF: First Amicus: Transcript: Correspondence & Email Service: [PDF: www.scribd.com/doc/34064979]

Tel: (011) 303 7900
Fax: (011) 303 7993 / 7902
Email: monamar@m4attorneys.co.za
David Maphakela: dmaphakela@m4attorneys.co.za
CC: Adv. D.I Berger S.C.
Tel: (011) 263 8900
Fax: (011) 263 8956
Cell: (083) 455 3887
Email: diberger@chambers.co.za

AND TO: **WEBBER WENTZEL**
Attorneys for the Second, Third, Fourth & Fifth Amici
10 Fricker Road, Illovo Boulevard
JOHANNESBURG, 2196
Tel: (011) 530 5607 | Fax: (011) 530 6232
Ref: D. Milo/O Ampofo-Anti 2039305
Email: dario.milo@webberwentzel.com
Email: okyerbea.ampofo-anti@webberwentzel.com
CC: Adv. Gilbert Marcus, S.C.
Tel: 011 291 8600
Fax: 011 291 8666
Cell: 083 452 5105
Email: gjmarcus@mweb.co.za

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[#150@03:28]
Ack Receipt: 19 July 2010
[#153 & # 155]

AND TO: **THE MINISTER OF JUSTICE AND
CONSTITUTIONAL DEVELOPMENT**
c/o: THE STATE ATTORNEY
8th Floor, Bothongo Heights, 167 Andries Street
PRETORIA
Tel: (012) 309 1500 | Fax: (012) 328 2662/3
c/o STATE ATTORNEY
95 Market Street, Cnr. Kruis Street
North State Building, 11th Floor
JOHANNESBURG
Tel: (011) 330 7600 | Fax: (011) 337 6200
Email: Vdhulam@justice.gov.za
Ref: Mr. V Dhulam

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[#150@03:28]

**HONOURABLE TRANSPARENCY COPY: 'RH REFUGEE': (i) MIN. OF
CITIZENSHIP & IMMIG., CANADA: MR. KENNEY; (ii) NOBEL INST.:
NORWEGIAN NOBEL COMM.**

Ref⁸: **South Africa's Unrepresented White Refugees: High Court: WC # 19963-09: Notice of Intention:**
Application for Leave and For Judicial Review, served on (i) Min. of Citizenship and Immigration, Canada

⁶ PDF: First Amicus: Transcript: Correspondence & Email Service: [PDF: www.scribd.com/doc/34064979]

⁷ PDF: First Amicus: Transcript: Correspondence & Email Service: www.scribd.com/doc/34064979

⁸ HC-WC: # 19963-09: PDF File: www.scribd.com/my_document_collections/2333061

(Ninth Respondent), c/o UN High Comm. for Refugees: Mr. Guterres, Geneve, Suisse; served on Consul General of Switzerland: Ms. Irene Fluckiger, Capetown; delivered to Ms. Anja Munger, at 11:05 hrs on 22/09/09; (ii) Nobel Institute: Norwegian Nobel Comm. (Tenth Respondent); c/o: Royal Norwegian Consulate: HE Amb Tor Christian Hildan, Capetown; delivered to Ms. Adele Day at 10:32 hrs on 22/09/09

TO: MIN. OF CITIZENSHIP & IMMIGRATION, CANADA Served Copy on 19 July 2010
The Honourable Jason Kenney, P.C., M.P.
Ottawa, Ontario, K1A 1L1
Email: Minister@cic.gc.ca || kennej@parl.gc.ca
Per: High Commissioner Ruth Archibald
High Commission of Canada
Private Bag X13, Hatfield
0028, Pretoria, South Africa
Tel: (012) 422 3000 || Fax: (012) 422 3052
Email: pret@international.gc.ca

TO: THE NOBEL INST.: NORWEGIAN NOBEL COMM. Served Copy on 19 July 2010
Thorbjørn Jagland (Chair); Kaci Kullmann Five (Deputy Chair),
Henrik Ibsens Gate 51, No-0255 Oslo, Norway
Tel: (47) 22 12 93 00 | Fax: (47) 22 12 93 10
Email: postmaster@nobel.no
Per: H.E. Ambassador Mr Tor Christian Hildan
Royal Norwegian Consulate, Cape Town
17th Floor, Southern Life Centre, 8 Riebeeck Street
P.O. Box 4446, Cape Town 8000
Tel: +27 21 418 1276 | Fax: +27 21 418 1275
Email: embctn@telkomsa.net, emb.pretoria@mfa.no

**HONOURABLE TRANSPARENCY COPY: 'RH REFUGEE': (i) U.S. NAVY JAG, DC
(ii) INTN'L CRIMINAL COURT, THE HAGUE**

Ref⁹: October 30, 2009 Correspondence, to: *ICC Prosecutor: Info & Evidence Unit (CC: Dep. Judge Adv. Gen., US Navy JAG Office)*; from: Lara Johnstone (Johnson): US Immigration & Naturalization: # A77 177 281; CA Drivers Licence #: CA: B9644585; **Subject:** NSSM 200, NSDM 314, NSDM 46, US-SC: # 00-9587 (Graves vs. President of USA) and (Kosovo) *Security Council Resolution 1244 (1999)*: Notice of legal and political persecution and prosecution of non-violent Radical Honesty activist; 28 Oct 2009: *RE: Freedom of Speech Political & Cultural Rights, or Secession?; Foreign & Intl Law Issues*

TO: U.S. NAVY JAG Served Copy on 19 July 2010
Rear Admiral Nanette M. DeRenzi, Ref: INS: A 77 177 281
Deputy Judge Advocate General
Commander, Naval Legal Service Command
Judge Advocate General's Corps
U.S. Navy Judge Advocate General's Office
1322 Patterson Avenue, Suite 3000
Washington Navy Yard, DC, 20374-5066, USA
Per: US Ambassador in Pretoria: Mr. Donald Gips
PO Box 9536, Pretoria 0001
877 Pretorius St, Arcadia, Pretoria
Tel: (27-12) 431-4000 | Fax: (27-12) 342-2299
Email: consularjohannesburg@state.gov

⁹ 09-10-28: HC-WC In Forma Pauperis (Crimen Injuria) Review Application; RE: Freedom of Speech Political and Cultural Rights, or Secession?; Constitutional, Foreign and International Law Issues [PDF: www.scribd.com/doc/22039639]

TO: **ICC PROSECUTOR: INFO & EVIDENCE UNIT**
Head Investigations: Mr. Michel de Smedt
International Criminal Court
Office of the Prosecutor: Communications
Post Office Box 19519
2500 CM The Hague, The Netherlands.
Fax: +31 70 515 8555
Email: otp.informationdesk@icc-cpi.int

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HONOURABLE TRANSPARENCY COPY: 'RH REFUGEE': (i) MR. KEES VAN DER STAAIJ (SGP); (ii) MR. GEERT WILDERS (PVV); (iii) MIN. BUITENLANDSE SAKE, DEN HAAG

Ref¹⁰: (i) 23 April 2010 news report by Casper Naber of the Daglikse Algemeenblad, *Bange Zuid-Afrikanen smeken om Wilders' hulp* (Terrified 'S.Africans' of Dutch descent Appeal to Dutch MP for Safe Haven from Violence Targeting Whites); (ii) Correspondence: Sent: Wednesday, April 21, 2010; To: Mr. 'Geert Wilders'; Subject: *Att: Mr. Geert Wilders; Freedom Party; RE: Request Help for African White Refugees who are descendants of Dutch Citizens*; (iii) 21 March 2010: Application to Netherlands Consulate General: *Application for Dutch Citizenship/Passport as a direct descendant of Dutch citizens: Lambertus Bosman & Maria Fransz of Amsterdam, Holland*

TO: **MR. KEES VAN DER STAAIJ (SGP)**
Staatkundig Gereformeerde Partij
c/o: V.A. (Volbregt) Smit, Afdelingshoofd
Communicatie, vorming en voorlichting (CVV)
Burgemeester van Reenensingel 101, 2803 PA Gouda
T (0182) 69 69 05 / 06 || F (0182) 57 32 22
Email: voorlichting@sgp.nl | Email: vasmit@sgp.nl

Served Copy on 19 July 2010

TO: **MR. GEERT WILDERS (PVV)**
Party for Freedom (Partij voor de Vrijheid)
Email: g.wilders@tweedekamer.nl

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TO: **MIN. VAN BUITENLANDSE ZAKEN DEN HAAG,**
Foreign Affairs Minister Maxime Verhagen
Bezuidenhoutseweg 67, 2594 AC 's-Gravenhage, Nederland
c/o: Mrs. Ineke Solinas, Consular Assistant
Netherlands Consulate General
100 Strand Street, Capetown, 8001
Tel: (021) 421 5660
Email: kaa@minbuza.nl

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HONOURABLE TRANSPARENCY COPY: 'TRC FRAUD': (i) TRC COMMISSIONERS: TUTU, BORRAINE ET AL; (ii) NELSON MANDELA FOUNDATION; (iii) F.W. DE KLERK FOUNDATION

¹⁰ 10-04-23: White Refugee: Help Asseblief Graaf Wilders & Royal Familie, Nederlands: Jus Sanguinis Right of Return to Holland, for Boer-Afrikaners [PDF: <http://www.scribd.com/doc/34457887>]

Ref: (*¹¹) **Submission to TRC dated 18 January 1999:** *Submission to 'Register of Reconciliation' and donation to Presidents Fund for Reparations to assist victims of gross violations of human rights* dated 18 January 1999; (*¹²) **Email to TRC Commissioner: Dr. Gobodo-Madikizela, Associate Professor of Psychology, Univ. of Capetown,** Sun 2009/06/28: *An Eco-Psychology Guerrilla Warrior Enquiry: Was South Africa's 'Reconciliation' an Intellectual Delusion?;* (*¹³) *We've lost our pride - Tutu*, by Murray La Vita, Die Burger, 2010-05-05 (*¹⁴) **Correspondence: to SA Leadership Editor & CODESA Politician Mr. Piet Coertze:** Mr. Coertze Admits he Never Forgave AWB (*¹⁵) Corr: Nelson Mandela Foundation: Request for Comment: Freedom of Speech for Radical HonestFy White Refugee; (*¹⁶) FW de Klerk Foundation: Request for Comment: Freedom of Speech for Radical Honesty White Refugee

TO: TRUTH & RECONCILIATION COMMISSIONERS Served Copy on 19 July 2010

Archbishop Desmond Tutu & Rev. Alex Boraine; c/o
International Center for Transitional Justice
C/O Board of Directors: Mr. Kofi Appentung, Mr. Harvey P. Dale,
Mr. Vincent Mai, Mr. Ken Miller, Ms. Minna Schrag, Mr. Theodore
Sorensen, 5 Hanover Square. Floor 24, NY, NY USA 10004
Tel: +(917) 637 3800 | Fax: +1(917) 637 3900
P O Box 44329, Claremont, 7735
Email: tutum@mweb.co.za, cgarvie@ictj.org, info@ictj.org,
capetown@ictj.org, Brussels@ictj.org, Geneva@ictj.org,
kenyainfo@ictj.org, egonzalez@ictj.org,
CC: Mr. Murray La Vita, Die Burger
Email: mlavita@dieburger.com

TO: TRC COMMISSIONER: DR. GOBODO-MADIKIZELA Served Copy on 19 July 2010

Associate Professor of Psychology
Dept. of Psychology, University of Capetown
Tel: +27 (0)21 650.3427
Email: pumla.gobodo-madikizela@uct.ac.za

TO: NELSON MANDELA FOUNDATION Served Copy on 19 July 2010

Chairperson of the Board: Prof Jakes Gerwel
Exec. Personal Assistant & Spokesperson: Ms Zelda La Grange
c/o Mr. Sello Hatang, Manager: Information Communications
Private Bag X70 000, Houghton, 2041
Tel: (011) 728 1000 | Fax: (011) 728 1111
Email: nmf@nelsonmandela.org, SelloH@nelsonmandela.org;
Ms. Makano Morojele, Educ.: Makano@nelsonmandela.org; Dr
Mothomang Diaho, Memory: mothomang@nelsonmandela.org;
Verne Harris, Memory & Dialogue: verne@nelsonmandela.org;
Boniswa Qabaka, Archives: boniswa@nelsonmandela.org,

TO: F.W. DE KLERK FOUNDATION Served Copy on 19 July 2010

c/o Center for Constitutional Rights
Adv. Nikki de Havilland
163 Hendrik Verwoerd Drive, Platteklouf, Capetown
T/F: (021) 930 3622 / 3898
Email: info@cfcr.org.za, nikki@cfcr.org.za; Piet Le Roux:
piet@fwdeklerk.org; David Steward: dave@fwdeklerk.org

¹¹ Submission to 'Register of Reconciliation' and donation to Presidents Fund for Reparations to assist victims of gross violations of human rights dated 18 January 1999¹¹ [PDF: www.scribd.com/doc/16224046]

¹² 09-06-28: WR: Dr. Gobodo-Madikizela, Assoc. Prof. Psych: Eco-Psychology Guerrilla Enquiry: Was SA's TRC an intellectual delusion? [PDF: www.scribd.com/doc/34537544]

¹³ 'TRC Failed' - Tutu: 'TRC Chickens come home to roost' - SAIRR: 'Rainbow Nation Dead & Buried' - David Bullard; 'ANC violating social contract' - TAU [PDF: www.scribd.com/doc/34460267]

¹⁴ 10-04-18: WR: Codesa Politician & Leadership Mag Ed; RE: Truth and Forgiveness Leadership & Terre'Blanches Murder [PDF: www.scribd.com/doc/34537527]

¹⁵ Req: Nelson Mandela Fnd: Free Speech for Radical Honesty White Refugee [PDF: <http://www.scribd.com/doc/28224781>]

¹⁶ Req: F.W de Klerk Fnd: Free Speech for Radical Honesty White Refugee [PDF: www.scribd.com/doc/28224667]

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

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MARTIN WILLIAMS

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ANDREW KENNEY

Fourth Applicant

And

ROBERT JOHN MCBRIDE

First Respondent
(Applicant in leave to cross-appeal)

And

LARA JOHNSTONE

First Amicus Curiae

THE FREEDOM OF EXPRESSION INSTITUTE

Second Amicus Curiae

THE S.A. NATIONAL EDITORS FORUM

Third Amicus Curiae

JOYCE SIBANYONI MBIZANA

Fourth Amicus Curiae

MBASA MXENGE

Fifth Amicus Curiae

**PRACTICE NOTE FOR LARA JOHNSTONE; IN SUPPORT OF
RADICAL HONESTY POPULATION POLICY COMMON SENSE
INTERPRETATION OF PROMOTION OF NATIONAL UNITY AND
RECONCILIATION ACT, 34 OF 1995**

A. Nature of Proceedings

- a. The Applicants and Respondent are appealing and cross-appealing a judgement of the Supreme Court of Appeal ("SCA"), Case: 277/2008, regarding, among others, the interpretation of the meaning of 'amnesty' in the Promotion of National Unity and Reconciliation Act, 34 of 1995 ("TRC Act"), whose 'amnesty' mandate was provided for in The Constitution of the Republic of South Africa Act, 200 of 1993 ("Interim Constitution"), both which collectively set the 'social contract' foundation for the Constitution of the Republic of South Africa, Act 108 of 1996 ("SA Constitution"); all collectively herein after referred to as 'TRC Social Contract'.
- b. As the only member of the Radical Honesty culture and religion in South Africa, First Amici Applied to the Chief Justice to proceed as an In Forma Pauperis Amicus. First Amicus was approved to proceed as a member of the Radical Honesty Culture and Religion, on the argument that the 'TRC was a fraudulent PR publicity stunt negligently conducted by SA's political, academic, media and legal elite'.¹The Application for In Forma Pauperis council was denied.

B. The issues to be argued by Lara Johnstone / Radical Honesty - RSA

- a. Multicultural Conflict of Laws Substantive Due Process: Importance of Clarity, Impartiality: Multicultural lawmaking must avoid Mono-cultural legal hegemony and draw on legal cultural diversity.
- b. Constitutional provisions for invoking cultural law require courts to be clear about the application of choice of law rules, so that all cultural groups are adequately informed with sufficient defined precision to enable citizens and cultures to regulate their affairs with individuals from other cultures in accordance with law.²
- c. Cultural applications: Skills, competencies and practices, to the Common law Reasonableness Test, in accordance with principles principles of serving a socially useful purpose, acting in accordance with common cultural practices, and skills and competency standards. Example of Radical Honesty Political Necessity and Civil Disobedience skills and competencies.

¹ Lara Johnstone, Member Radical Honesty Culture and Religion: Application to Chief Justice to proceed as an In Forma Pauperis Amicus Curiae, ITO Rule 10 (4).; at Para 17 – 33: The Interest of the Applicant in the Main Application

² Smit NO and Others v King Goodwill Zwelithini Kabhekuzulu and Others (10237/2009) [2009] ZAKZPHC 75 (4 December 2009) [PDF: www.scribd.com/doc/34458079]

- d. Importance of Judiciary to protect the rights of discrete and insular minorities³ in political dispensations, where their voice is effectively nullified and neutralized, in accordance with Judicial Activism precedence enabling a more comprehensive and searching judicial enquiry, to search for the truth⁴.
- e. Brief overview of Ecolaw⁵, principles of Sustainability⁶, in accordance with the principle that sustainability, the environment, or ecological carrying capacity laws, are the sine qua non⁷ for all other rights⁸. Principles covered include procedural rights to access to information⁹, being a key to environmental rights, intergenerational equity and integration, to protect natural and cultural resource bases¹⁰.

C. Portions of record that are necessary for the argument of Lara Johnstone / Radical Honesty - RSA

None

D. Estimate of the duration of oral argument of Lara Johnstone / Radical Honesty - RSA:

None, unless a, or more, Justices have any questions.

E. Summary of argument

³ United States v. Carolene Products Co. , 304 U.S. 144 (1938) [PDF: www.scribd.com/doc/33092567]

⁴ Opinion of Weeramantry J in the Case Concerning the Gabcikovo-Nagymaros Project (Hungary v Slovakia) (1998) 37 International Legal Materials 162 206. [PDF: www.scribd.com/doc/34456660]. See also: Smit NO and Others v King Goodwill Zwelithini Kabhekuzulu and Others (10237/2009) [2009] ZAKZPHC 75 (4 December 2009); Article 27 of the International Covenant on Civil and Political Rights: Sandra Lovelace v. Canada, Communication No. R.6/24 (29 December 1977), U.N. Doc. Supp. No. 40 (A/36/40) at 166 (1981)

⁵ Principle 1: 'All human beings have the fundamental right to an environment adequate for their health and well-being.; Principle 2 (adopted by the UN Commission on Human Rights), provides that all persons 'have the right to a secure, healthy and ecologically sound environment.' See Proposed Legal Principles for Environmental Protection and Sustainable Development, adopted by the WCED Experts Group on Environmental Law, reproduced in WCED Our Common Future (1987) 348. See also Principle 1, Draft Principles on Human Rights and the Environment in UN Sub-Commission on Prevention of Discrimination and Protection of Minorities Human Rights and the Environment, Final Report of the Special Rapporteur, UN Doc E/CN.4.Sub2/1994 19

⁶ Reflections on Sustainability, Population Growth, and the Environment, by Albert Bartlett, Ph.D., Paper first published in Population & Environment, Vol. 16, No. 1, Sep 1994, pp. 5-35; (1998) [PDF: www.scribd.com/doc/33707684]

⁷ Opinion of Weeramantry J in the Case Concerning the Gabcikovo-Nagymaros Project (Hungary v Slovakia) (1998) 37 International Legal Materials 162 206. [PDF: www.scribd.com/doc/34456660].

⁸ See eg Lopez Ostra v Spain (1995) ECHR Ser A 303-C.

⁹ Van Huyssteen NNO v Minister of Environmental Affairs and Tourism 1995 9 BCLR 1191 (C). For a discussion, see A. Eide et al (eds) Economic, social and cultural rights: A textbook (1995) 261 et seq. The authors discuss Communication 429/1990, EW & Others v The Netherlands as an example of how this is achieved.

¹⁰ (i) Art 3(1) of the 1992 United Nations Framework Convention on Climate Change, reprinted in (1992) 31 International Legal Materials 851, which provides that 'parties should protect the climate system for the benefit of the present and future generations of humankind'. (ii) Preamble of the 1992 Biodiversity Convention, reprinted in (1992) 31 International Legal Materials 822, makes use of intergenerational equity. For earlier instruments see the Preambles of the 1968 Convention on African Nature Conservation, and the 1972 World Heritage Convention.

- a. A healthy ecological environment, with due regard for carrying capacity laws of sustainability is a sine qua non¹¹ for all other constitutional rights; similarly a psychological integrity environment of philosophical courageous truth searching honesty and sincere forgiveness is a sine qua non¹² for healthy, transparent relationships that result in the co-creation of a code of conduct that enables non-violent honest sincere resolutions to disagreements.
- b. Put differently, legislators or tribal leaders whose person to person, and tribe to nature tribal code of conduct relationships incorporate these two fundamental sine qua non precepts, can be said to have eliminated the difference between what the laws of human nature, and natural laws say and mean, and applied such knowledge in a clear code of conduct for their tribe to live in accordance to. They are social engineers who search for the truth about human nature and natural laws, and clarify and simply them for application¹³.
- c. The Radical Honesty Population Policy Common Sense Social Contract¹⁴, addresses both of these sine qua non principles: (a) a sincere and serious specific, clear and unambiguous Truth and Forgiveness Social Contract, unequivocally understood and practiced by all its cultural members to resolve disagreements and misunderstandings, which works, perhaps as a result of its inclusion of 'I am, therefore I think'¹⁵ human nature scientific realities; (b) any advocacy on behalf of peace, human rights and social justice, takes full recognition of sine qua non carrying capacity requirements for such to occur.
- d. Consequently First Amicus Radical Honesty Population Policy Common Sense Social Contract Arguments contends that:

¹¹ Opinion of Weeramantry J in the Case Concerning the Gabčíkovo-Nagymaros Project (Hungary v Slovakia) (1998) 37 International Legal Materials 162 206. [PDF: www.scribd.com/doc/34456660]

¹² Practicing Radical Honesty, by Brad Blanton [PDF: www.scribd.com/doc/33790790]

¹³ 'Lawyers are either social engineers, or they are parasites. Social Engineer Lawyers aim to eliminate the difference between what the laws say and mean, and how they are applied; whereas legal parasites aim to entrench their parasitism from the difference between what the laws say and mean, and the application of such differences to their parasitic benefit.' - Prof. Charlie Houston, Howard Law School mentor of Justice Thurgood Marshall, Simple Justice: The History of Brown v. Board of Education, the epochal Supreme Court decision that outlawed segregation, and of black America's century-long struggle for equality under law, by Richard Kluger; Random House (1975) (pp126-129)

¹⁴ Radical Honesty Population Policy Common Sense Social Contract [PDF: www.scribd.com/doc/34270511]

¹⁵ Non-Descartian/Radical Honesty (I am, therefore I think) Worldview: UA: [B.4] Sui Generis (I think, I am Unique) Meme Dream [PDF: www.scribd.com/doc/32739383]; Practicing Radical Honesty : Chapter 2: what is a Mind and How Does It Work?, Chapter 3. Dysfunctional Family University, The World-Famous School Within Which We Grew Our Minds; Chapter 8. Community and Compassion; [PDF: www.scribd.com/doc/33790790]; Waking from the Meme Dream: Who Am I? Do I Exist?; by Susan Blackmore; Paper presented: The Psychology of Awakening: International Conference on Buddhism, Science & Psychotherapy Dartington 7-10 November 1996; also The Psychology of Awakening: Buddhism, Science & Our Day-to-day Lives. Ed. G.Watson, S.Batchelor and G.Claxton; London, Rider, 2000, 112-122 [PDF: www.scribd.com/doc/33790665]; The Origin of Consciousness in the Breakdown of the Bicameral Mind, by Julian Jaynes (1976); The Computational Brain, Churchland,P.S. and Sejnowski,T.J. (1992); Cambridge, Mass. MIT Press; To Have or to Be, by Erich Fromm, published in World Perspective Series, by Harper & Row; et al

- i. Only a sincere and serious specific, clear and unambiguous Truth and Forgiveness Social Contract¹⁶, i.e. a code of conduct unequivocally understood (communication clarity by participants who cognitively understand key concepts for other tribes cultures practices) and practiced by the common man can ever contribute to sincere and serious reconciliation and the reconstruction of any violent and conflict ridden family, community, or society;
 - ii. any legislation or jurisprudence such as the TRC Social Contract, which professes to advocate on behalf of human rights, peace and social justice, while ignoring their ecological basis - a stable human population at slightly less than the eco-systems carrying capacity - is endorsing and practicing legal dishonesty and hypocrisy; i.e. fraud. It is legislation and jurisprudence deliberately indifferent to the laws of sustainability, advocating misery.
- e. The Radical Honesty Population Policy Common Sense interpretation of TRC Social Contract: The TRC's determination that Apartheid was a crime against humanity, was a falsification of history.
- i. The TRC Social Contract avoids providing key definitions, is vague and ambiguous on fundamental culturally conflicting concepts, such as 'forgiveness', 'closure', 'national unity', 'reconciliation' etc¹⁷.
 - ii. Definition and meaning of Amnesty was changed, subsequent to Interim Constitution, and prior to TRC Act, without due Process to all parties¹⁸.
 - iii. Truth and Reconciliation was not seen to be done¹⁹. The Commission was biased, skewed and not remotely interested in addressing root cause problems for better understanding, nor in rainbow struggle perspectives, ignoring blatantly obvious enquiries into population demographic causes, etc²⁰.
 - iv. The consequences of the fake TRC publicity stunt are there for all to see; clearly clarifying a principle highlighted by the Milgram studies on obedience: Conflict between conscience and authority is not wholly a

¹⁶ Radical Honesty Population Policy Common Sense Social Contract [PDF: www.scribd.com/doc/34270511]

¹⁷ Lithgow & others v. United Kingdom (1986) * EHR 329 § 110 [PDF: www.scribd.com/doc/34456270]

¹⁸ R v Sussex Justices, Ex parte McCarthy ([1924] 1 KB 256, [1923] All ER 233) [PDF: www.scribd.com/doc/34456310]

¹⁹ R v Sussex Justices, Ex parte McCarthy ([1924] 1 KB 256, [1923] All ER 233) [PDF: www.scribd.com/doc/34456310]

²⁰ Opinion of Weeramantry J in the Case Concerning the Gabcikovo-Nagymaros Project (Hungary v Slovakia) (1998). Multi-cultural Law Must draw on legal cultural diversity; Environment is sine qua non for all other rights. PDF: www.scribd.com/doc/34456660].

philosophical or moral issue. Many people intellectually share philosophical values, or convince themselves they do, because they prefer to think of themselves with that particular positive value image. However, when placed into a circumstance where they are required to make difficult decisions to demonstrate their commitment to their philosophical beliefs about themselves, they lack the skills and capabilities to transform convictions into physical action. Similarly an intellectual belief in the concept of forgiveness, is not an indication of any individual's capability to transform such belief into actual physical sensible forgiveness; i.e. to sincerely forgive.

- f. Radical Honesty Population Policy Common Sense Social Contract
Conclusion: TRC FRAUD: 'CRIME OF APARTHEID' WAS A FALSIFICATION OF HISTORY: The Truth and Reconciliation Commission was biased, skewed and had a -- perhaps unconscious, but the results provide the evidence -- pre-determined 'crime of apartheid' black-liberation-theory victimhood racial-vengeance (not truth and forgiveness) based agenda. The TRC's biased and pre-determined vengeance and censorship Recipe results are there for all -- except the Eichmann-Obedience-to-Rainbow Belief-Addicts suffering from Battered-TRC-Fraud-Syndrome -- to see: "One cannot expect to follow the recipe for roadkill stew and produce a crème brûlée". For example:
 - i. Farm Murders: A Rainbow-TRC-Peace, or a Racial-Hatred-War Reality? SA's 2080 farm murders have occurred in a country officially allegedly at peace, after having achieved alleged 'reconciliation', indicate that the "rainbow reconciled nation" is nothing but an illusion not reflected in evidentiary facts and reality on the ground. People who have forgiven each other, or are participating in such a conversation, collaborate to address and eliminate the root causes of their dispute, they don't murder, rape and torture those they allegedly forgave, in order to rob them; unless their definition for 'forgiveness' is 'murder, rape and torture'.
 - ii. Radical Honesty Culture of Forgiveness Banned in SA Multi-Culture Courts: One of the few citizens in South Africa seriously committed to sincere sensible forgiveness and reconciliation, who endorses the rule of law for all tribes, all ideologies, all cultures, is and has been legally persecuted and prosecuted for practicing Radical Honesty Population

Policy Common Sense Social Contract advocacy, for eight years, without any objections from any TRC Proudly Rainbow South African political, academic, media, or legal authorities.

- g. Relief: Recognize Radical Honesty, Implement Choice of Law Rules: Cultures who prefer to abide by a fraudulent TRC social contract, are welcome to continue to follow the recipe for roadkill stew to attempt to produce a crème brulee. Their cultural definitions for 'dignity' and practice of 'freedom of speech' should however not be assumed to be the definitions and practices for all cultures. Confirmation that Radical Honesty is a religion/culture, not a refugee status.
- i. Acknowledge that forgiveness, closure, ubuntu, amnesty, truth, reconciliation, interpreted in accordance to Radical Honesty definitions, renders the TRC social contract: A TRC Fraud: 'Crime of Apartheid' Falsification of History;
 - ii. Acknowledge that the absence of multi-cultural legal definitions (let alone choice of law rules) for many TRC social contract's foundational multi-cultural concepts -- forgiveness, closure, reconciliation, ubuntu, - - eliminates any Non-Descartian²¹ (I am, therefore I think) [and perhaps Ubuntu 'I participate, therefore I am' worldview] citizens 'right to certainty in TRC 'rainbow jurisprudence'²² administration of justice'²³.
 - iii. Issue a judgement requiring that relevant choice of law rules (where two or more conflicting legal systems aims have to be met) be implemented²⁴: to give detailed guidance to courts and citizens on the application of cultural laws; eg. where and when is a defendant to be treated as a member of a particular cultural community in which particular practices, are cultural rights and obligations obtained, allowing sufficient flexibility to cater for the peculiarities of individual cases.

F. Authorities on which particular reliance will be placed

²¹ See: Non-Descartian/Radical Honesty (I am, therefore I think) Worldview. Ibid

²² Alfred Cockrell 'Rainbow Jurisprudence' (1996) 12 SAJHR 1.

²³ Van der Vyver (1982) 15 CILSA 312-14

²⁴

- a. Opinion of Weeramantry J in the Case Concerning the Gabčíkovo-Nagymaros Project (Hungary v Slovakia) (1998).
- b. United States v. Carolene Products Co. , 304 U.S. 144 (1938)
- c. Lithgow & others v. United Kingdom (1986) * EHRR 329 § 110
- d. R v Sussex Justices, Ex parte McCarthy ([1924] 1 KB 256, [1923] All ER 233)
- e. Smit NO and Others v King Goodwill Zwelithini Kabhekuzulu and Others (10237/2009) [2009] ZAKZPHC 75 (4 December 2009)
- f. Ex parte Minister of Native Affairs: In re Yako v Beyi 1948 (1) SA 388 (A).
- g. Bolam v. Friern Hospital Management Committee [1957] 1 WLR 582; [1957] 2 All ER 118
- h. Van Huyssteen NO v Minister of Environmental Affairs and Tourism 1995 9 BCLR 1191 (C)
- i. Constitution S.12: Freedom of Security of Person & Psychological Integrity; S 15: Freedom of Religion, Belief and Opinion; S 16: Freedom of Expression; S. 24: Sustainable Environment; S 31: Cultural, Religious and Linguistic Community; S. 32: Access to Information; S.33: Just Administrative Action.

George
18 July 2010



LARA JOHNSTONE, Pro Se
Propria Persona / Litigant in Person

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

Case No. CCT 23/10

In the Matter Between:

THE CITIZEN 1978 (PTY) LIMITED

First Applicant
(First Respondent in leave to cross-appeal)

KEVIN KEOGH

Second Applicant
(Second Respondent in leave to cross-appeal)

MARTIN WILLIAMS

Third Applicant
(Third Respondent in leave to cross-appeal)

ANDREW KENNEY

Fourth Applicant

And

ROBERT JOHN MCBRIDE

First Respondent
(Applicant in leave to cross-appeal)

And

LARA JOHNSTONE

First Amicus Curiae

THE FREEDOM OF EXPRESSION INSTITUTE

Second Amicus Curiae

THE S.A. NATIONAL EDITORS FORUM

Third Amicus Curiae

JOYCE SIBANYONI MBIZANA

Fourth Amicus Curiae

MBASA MXENGE

Fifth Amicus Curiae

**HEADS OF ARGUMENT¹ FOR LARA JOHNSTONE; IN SUPPORT OF
RADICAL HONESTY POPULATION POLICY COMMON SENSE
INTERPRETATION OF PROMOTION OF NATIONAL UNITY AND
RECONCILIATION ACT, 34 OF 1995**

¹ 10-07-18: 1st Amicus: Heads of Argument: Radical Honesty Interpretation of TRC Act [PDF: www.scribd.com/doc/34551212]

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INTEREST OF FIRST AMICUS:

1. This Amicus brief (a) addresses alternative legal arguments to those of both the Applicant and Respondent, i.e. from a Radical Honesty culture/religion perspective; (b) 'argues points deemed too far reaching for emphasis by parties intent on winning their particular case'²; (c) 'apprises the court of broad-based legal, social, economic, ecological and cultural enquiry implications for its consideration to avoid unintended consequences for groups not before the court,'³ (d) informs the court of information to base its decision on a larger, more comprehensive, and more accurate reality based natural law legal framework, so that the court's final judgment shall include a fully-informed refined legal analysis, which provides equal protection to all SA's tribes⁴; and (e) provides a perspective from a culture practicing sincere sensate forgiveness.
2. First Amicus, Lara Johnstone is the only member of the Radical Honesty⁵ culture and religion, in South Africa. The Radical Honesty culture and religion are founded upon the Truth and Forgiveness Social Contract: Being Specific About Anger and Forgiveness⁶; as excerpted from: Practicing Radical Honesty⁷. Radical Honesty is a powerful process by which people can make corrections in the minds distorted and only partly conscious map of the world. Our maps of the world are distorted by our repressed anger and resentment; the greater the amount of repressed anger and resentment, the greater the distortion. The key to individuality, integrity, individual freedom, and free societies, lies in providing people with the skills and capabilities to get over their anger, and experience sincere forgiveness. It is the way the statistics from Stanley Milgram's experiments on blind obedience to authority⁸ get changed.⁹
3. Radical Honesty culture and religion was founded by Dr. Brad Blanton, who is: (1) President and CEO of Radical Honesty Enterprises Sparrowhawk Book Publishing and The Center for Radical Honesty, both dedicated to promoting honesty in the world; (2) former candidate for Congress in 2004 and 2006, on the platform of 'Honesty in Politics'¹⁰; (3) Pope of the Radical Honesty Futillitarian Church; i.e. "Dr. Truth"¹¹; and

² Luther T. Munford, When Does the Curiae Need an Amicus?, 1 J. App. Prac. & Process 279, 280 (1999).

³ Paul M. Sandler & Andrew D. Levy, Appellate Practice for the Maryland Lawyer: State and Federal: Amicus Briefs 331 (1994).

⁴ Paul M. Smith, The Sometimes Troubled Relationship Between Courts and Their "Friends", note 2, at 26 (1998).

⁵ Founded by Dr. Brad Blanton, author, psychologist and 'Honesty in Politics' Congressional Candidate: www.radicalhonesty.com

⁶ Chapter 9: Radical Honesty About Anger: PDFS: [www.scribd.com/doc/33790658] & [www.scribd.com/doc/20520279]

⁷ Practicing Radical Honesty, by Brad Blanton, Ph.D. [PDF: www.scribd.com/doc/5507662]

⁸ Great World Trials; The Adolph Eichmann Trial, 1961. pages 332-337; 1997.: Eichmann, speaking in his own defense, said he did not dispute the Holocaust facts. During the whole trial, Eichmann insisted that he was only "following orders"—the same Nuremberg Defense used by some of the Nazi war criminals during the 1945-1946 Nuremberg Trials. He explicitly declared that he had abdicated his conscience in order to follow the Führerprinzip. Eichmann claimed that he was merely a "transmitter" with very little power. He testified that: "I never did anything, great or small, without obtaining in advance express instructions from Adolf Hitler or any of my superiors."

⁹ Ibid. Ch. 8: Community and Compassion: Work of Stanley Milgram; (p81) [PDF: www.scribd.com/doc/5507662]

¹⁰ See Video Documentaries at: www.why-we-are-white-refugees.blogspot.com/p/honesty-in-politics.html

(4) author of (a) Radical Honesty: How To Transform your Life by Telling the Truth; (b) Practicing Radical Honesty: How to Complete the Past, Stay in the Present and Build a Future with a Little Help from Your Friends, (c) Honest to God: A Change of Heart that Can Change the World, with Neale Donald Walsh (Conversations with God series); (d) Radical Parenting: Seven Steps to a Functional Family in a Dysfunctional World; (e) The Truth-tellers: Stories of Success by Radically Honest People and (f) Beyond Good and Evil: The Eternal Split-Second-Sound-Light-Being; (g) Some New Kind of Trailer Trash. Dr. Blanton, has filed a Radical Honesty / Futilitarian Church statement in support of this Amicus.¹²

4. Rainbow Rule-of-Law Freedom of Speech Search for Truth Culture¹³ Credibility: First Amicus supports the maxim of the non-violent anti-slavery publication the North Star, whose Republican editor, Frederick Douglass was fond of saying: "I would unite with anybody to do right and with nobody to do wrong." As a rule-of-law political activist, she endorses the rule-of-law for all, rich, poor, white, black, left and right, religious or atheist. She filed her submission to the TRC¹⁴ on 18 January 1999, wherein she detailed her willingness to donate her entire inheritance to facilitate sincere Truth and Forgiveness. She is separated (filed for divorce) from Demian Emile Johnson, who is, and has been, incarcerated in California Dept. of Corrections, for the entire duration of their marriage¹⁵. In addition to Radical Honesty she has been involved in non-violent civil disobedience actions on behalf of her former husband¹⁶, Greenpeace¹⁷, Amnesty Int'l, Pacific Inst. for Criminal Justice¹⁸, Jericho 98¹⁹, Crack the CIA²⁰, The Disclosure Project²¹, New Abolitionist²², Justice for Timothy McVeigh²³, Alliance for Democracy²⁴,

¹¹ See Center for Radical Honesty at: www.radicalhonesty.com

¹² Written Statement of Consent by Brad Blanton, Ph.D, to testify as expert witness to: Practicing Radical Honesty, Futilitarianism; i.e. Radical Honesty about Anger & Forgiveness; Paradigms & Contexts: Revolution of Consciousness [PDF: www.scribd.com/doc/31989814]

¹³ In Ex Parte Minister of Native Affairs in re: Yako v Beyi 1948 (1) SA 388 (A) Schreiner J.A. said lifestyle of is a choice of law factor. "Aside from an express choice of laws all connecting factors with conflict of personal laws are designed to determine, in an objective manner, the cultural orientation of the parties. Because the laws involved are conceived in terms of culture the connecting factors must be conceived in like terms. The most direct access to a person's cultural leanings would clearly be his or her lifestyle."

¹⁴ Submission to 'Register of Reconciliation' and donation to Presidents Fund for Reparations to assist victims of gross violations of human rights dated 18 January 1999¹⁴ [PDF: www.scribd.com/doc/16224046]

¹⁵ 98-05-31: Sun Times: US convict wins love and support in SA town, [PDF: www.scribd.com/doc/5503257]; 98-09-24: YOU & Huisgenoot: Volkruist FarmGirl Doomed Love for Black Convict, by Frans Kemp [PDF: www.scribd.com/doc/13270097]

¹⁶ RSA OVERSEAS: South African on hunger strike in California, by Ilda Jacobs

¹⁷ In Easter 1993, she was arrested with a few dozen Greenpeace activists in a Save Our Seas anti-nuclear demonstration at Sellafield, Nuclear Power station, in Scotland, for trespassing. She was neither charged nor prosecuted. See: Greenpeace's Campaign Against Ocean Dumping of Radio-Active Waste, 1978 - 1998 (www.greenpeace.org).

¹⁸ 98-07-04 Miami Herald: Police action harms image as protectors [PDF: www.scribd.com/doc/5503636]

¹⁹ Jericho 98 is the movement to Free America's Political Prisoners. She participated in Jericho 98, wrote to President Mandela to request his support for the many Anti-Apartheid Activists whom the ANC conveniently forgot, rotting away in America's prisons: Marilyn Buck, Jaan Laaman, Tom Manning, etc. She visited Marilyn Buck in prison a few times, helped where she could.

²⁰ 99-03-16: San Francisco Chronicle: CIA Class Action Suit For Not Reporting Drug Trade [PDF: www.scribd.com/doc/28391760]

²¹ Presidential UFO: George W. Bush's UFO Mail: Are You Ready for the Revolution? [PDF: www.scribd.com/doc/33838621]

²² New Abolitionist: Race Traitor: Zero Tolerance [PDF: www.scribd.com/doc/5503955]

²³ April 2001: New Abolitionist: Tim McVeigh and Me [PDF: www.scribd.com/doc/5508338]

²⁴ In 2000, she was arrested & detained for 3 hours, with Brad Blanton, Ronny Dugger (founding editor of Texas Observer and Alliance for Democracy), & others in the Wash, DC, Capital of the Rotunda. Issue: Campaign Finance Reform. District Attorney declined to Prosecute.

Boycott 2010 World Cup²⁵, Right of Return for African White Refugees²⁶, et al²⁷. She is 43 years old, has never been on welfare, has used an IUD as contraception since the age of 19, and hence has never been pregnant, nor had an abortion. She has lived an ecological small footprint life; to avoid aggravating overpopulation, resource wars; materialist consumerism and resource depletion.²⁸

5. Radical Honesty Population Policy Common Sense Social Contract Beliefs: (A) Only a sincere and serious specific, clear and unambiguous Truth and Forgiveness Social Contract²⁹, or similar, unequivocally understood and practiced by the common man can ever contribute to sincere and serious reconciliation and the reconstruction of any violent and conflict ridden family, community, or society; (B) any legislation or jurisprudence such as the TRC Social Contract, which professes to advocate on behalf of human rights, peace and social justice, while ignoring their ecological basis - a stable human population at slightly less than the eco-systems carrying capacity - is endorsing and practicing legal dishonesty and hypocrisy; i.e. fraud. It is legislation and jurisprudence deliberately indifferent to the laws of sustainability, advocating misery.
6. Radical Honesty in SA: A Culture and Religion, or a Refugee Status Enquiry: The results of a Multi-Culti Rainbow Little Eichmanns³⁰ social science experiment whereby First Amicus provided Applicants, 2nd and 3rd Amicus (incl. other political and academic SA elite) the opportunity to 'search for the truth' regarding the relationship between freedom of speech, sincere forgiveness, Stanley Milgrams studies on blind obedience to authority and the common law reasonableness test - i.e. their unequivocal endorsement of the rule of law; their response was "Deliberate Indifference"³¹
7. Equity will not allow a statute to be used as a cloak for fraud: Mainstream Access-to-Discourse-Gatekeeper Editors censorship³² of nonviolent political grievances and

²⁵ 09-12-17: IOL Tech.: Anti-SA Smear Campaign on Facebook [PDF: www.scribd.com/doc/24312359]

²⁶ 10-04-23: Algemene Dagblad: Zuid Afrikanen Smeken Om Wilders Hulp [PDF: www.scribd.com/doc/31036819] ; 10-04-25: Sunday Argus: SA family seeks repatriation to Netherlands [PDF: www.scribd.com/doc/31036819]; 10-04-30: Mail & Guardian: Persecuted Afrikaners Talk of Returning Home [PDF: www.scribd.com/doc/31036798]; 10-05-17: Christian Science Monitor: White South Africans use Facebook in Campaign to Return to Holland [PDF: www.scribd.com/doc/33839485]

²⁷ On 17 Dec 1998, she was arrested at Oakland Federal Building, with anti-war protestors, who shut down the Federal Building for two hours. She was detained by Oakland Police for an hour, before being released. Alameda Co. District Attorney declined to prosecute. 1998-12-19 Beeld: SA 'plaasmeisie' vas in VSA oor Golf-protes [PDF: www.scribd.com/doc/5504269]

²⁸ The ecological footprint is a measure of human demand on the Earth's ecosystems. It compares human demand with planet Earth's ecological capacity to regenerate. It represents the amount of biologically productive land and sea area needed to regenerate the resources a human population consumes and to absorb and render harmless the corresponding waste. Using this assessment, it is possible to estimate how much of the Earth (or # of Earths) it would take to support humanity if everybody lived a given lifestyle. All we do, buy and breed has ecological consequences. Ecological Footprint, excluding 'Child-Free' factor (www.myfootprint.org/en/) is 13.16 gha.

²⁹ Radical Honesty Population Policy Common Sense Social Contract [PDF: www.scribd.com/doc/34270511]

³⁰ Little Eichmanns: phrase used to describe the complicity of participants in destructive and immoral systems in a way that, although on an individual scale may seem indirect, when taken collectively have an Eichmann Milgram Obedience to Authority effect.

³¹ HC-WC 19963-09: 140 SA Elite Deliberate Indifference to Rule of Law [PDF: www.scribd.com/doc/34274197]

³² "The moderate blacks were not selling the papers. We were presenting a non-violent strategy, that did not say 'Burn, baby Burn'. A strategy that said people must come together and sit down around a negotiating table. And this is not sensational stuff; it does not sell the papers." - Rev. John Gogotya, ANC: VIP's of Violence, documentary; "For revolutionary groups, the more murderous the deed, the more

problem solving activism facilitate a pressure cooker socio-political reality for their 'If it Bleeds, it Leads' corporate propaganda profits, in knowledge application of:

1. 'As long as there is some possibility of getting results by political means, the chances that any political group or individual will turn violent are truly radically small, or maybe vanishingly small'³³;
2. 'The exposure in the media is what gets people's attention. People follow what is happening in the news, not what is happening in the courts'³⁴;
3. '[Editors] abuse of media power, by means of strategies whereby they abuse public discourse/free speech resources; by providing certain parties with preferential and special access to such public discourse, and severely restricting or denying others any access to such public discourse'³⁵;
4. Mainstream media avoid addressing or enquiring into root causes of problems as reported in *How and Why Journalists Avoid Population - Environment connection*³⁶; and censor non-violent root-cause problem solving activism³⁷.

I. LEGAL PRINCIPLES ADDRESSED AND RELIED UPON:

'Lawyers are either social engineers, or they are parasites. Social Engineer Lawyers aim to eliminate the difference between what the laws say and mean, and how they are applied; whereas legal parasites aim to entrench their parasitism from the difference between what the laws say and mean, and the application of such differences to their parasitic benefit.' - Prof. Charlie Houston, Howard Law School mentor of Justice Thurgood Marshall, *Simple Justice: The History of Brown v. Board of Education*³⁸

A. Multi-Cultural Conflict of Laws Substantive Due Process: Clarity & Impartiality:

8. Multi-cultural Law Must (a) avoid Mono-cultural legal Hegemony, (b) draw on legal cultural diversity: Opinion of Weeramantry J in Case Concerning the Gabcikovo-Nagymaros Project (Hungary v Slovakia)³⁹, clarifies multi-culti lawmaking:

The need for International law to draw upon Worlds Diversity of Cultures in Harmonizing Development and Environmental Protection

certain the media coverage." -- Nicholas Partridge, Presenter, ANC: VIP's of Violence. See: Transcript of ANC: VIP's of Violence at: UA: [C. 6] 'If it Bleeds, It Leads,' Editorial Maxim [PDF: www.scribd.com/doc/32739403]

³³ Clark McCauley, Ph.D, Prof. of Psychology at Bryn Mawr College, in *When Does Political Anger Turn to Violence?*, by Benedict Carey, New York Times, March 26, 2010 [PDF: www.scribd.com/doc/34271993]

³⁴ Jean Pierre Mean, Group General Counsel and Chief Compliance Officer, SGS Group, In *Confronting Corruption: The Business Case for an Effective Anti-Corruption Programme*, by PricewaterhouseCoopers Intl [PDF: www.pwc.com/anti-corruption]

³⁵ (I) *Power and the news media*, Teun A. van Dijk, Univ. of Amsterdam, D. Paletz (Ed.), *Political Communication & Action*. (pp. 9-36). Cresskill, NJ: Hampton Press, 1995 [PDF: www.scribd.com/doc/34271955]; (II) *Ubuntu Amicus (UA)*: [C] Right to 'Free Speech' Propaganda Profits Deception [PDF: www.scribd.com/doc/32739403]

³⁶ CCT 23-10: Statement of Consent by Dr. T. Michael Maher [PDF: www.scribd.com/doc/31373074]; *How and Why Journalists Avoid Population-Environment Connection*, by T. Michael Maher, Ph.D. [PDF: www.scribd.com/doc/33694415]

³⁷ HC-WC 19963-09: 140 SA Elite Deliberate Indifference to Rule of Law [PDF: www.scribd.com/doc/34274197]

³⁸ *Simple Justice: The History of Brown v. Board of Education*, the epochal Supreme Court decision that outlawed segregation, and of black America's century-long struggle for equality under law, by Richard Kluger; Random House (1975) (pp126-129)

³⁹ Opinion of Weeramantry J in the Case Concerning the Gabcikovo-Nagymaros Project (Hungary v Slovakia) (1998) 37 International Legal Materials 162 206. [PDF: www.scribd.com/doc/34456660]. See also: *Smit NO and Others v King Goodwill Zwelithini Kabhekuzulu and Others* (10237/2009) [2009] ZAKZPHC 75 (4 December 2009); Article 27 of the International Covenant on Civil and Political Rights; *Sandra Lovelace v. Canada*, Communication No. R.6/24 (29 December 1977), U.N. Doc. Supp. No. 40 (A/36/40) at 166 (1981)

In drawing into international law the benefits of the insights available from other cultures, and in looking to the past for inspiration, international environmental law would not be departing from traditional methods of international law, but would, in fact, be following in the path charted out by Grotius. Rather than laying down a set of principles a priori for the new discipline of international law, he sought them also a posteriori from the experience of the past, searching through a whole range of cultures available to him for this purpose⁴⁰. From them he drew the durable principles which had weathered the ages, on which to build the new international order of the future. Environmental law is now in a formative stage, not unlike international law in its early stages. A wealth of past experience from a variety of cultures is available to it. It would be pity indeed if it were left untapped merely because of attitudes of formalism which see such approaches as not being entirely *de rigueur*.

I cite in this connection an observation of Sir Robert Jennings that, in taking note of different legal traditions and cultures, the International Court (as it did in the Western Sahara) case:

“was asserting, not negating, the Grotian subjection of the totality of international relations to international law. It seems to the writer, indeed, that at the present juncture in the development of the international legal system it may be more important to stress the imperative need to develop international law to comprehend within itself the rich diversity of cultures, civilizations and legal traditions....”⁴¹

Moreover, especially at the frontiers of the discipline of international law, it needs to be multi-disciplinary, drawing from other disciplines such as history, sociology, anthropology, and psychology such wisdom as may be relevant for its purpose. On the need for the international law of the future to be disciplinary, I refer to another recent extra-judicial observation of distinguished former President of the Court that:

“there should be a much greater, and a practical, recognition by international lawyers that the rule of law in international affairs, and the establishment of international justice, are inter-disciplinary subjects⁴².”

Especially where this Court is concerned, “the essence of true universality” of the institution is captured in the language of Article 9 of the Statute of the International Court of Justice which requires the “representation of the main forms of civilization and of the principle legal systems of the world.” (emphasis added)... I see the Court as being charged with a duty to draw upon the wisdom of the worlds several civilizations, where such a course can enrich its insights into the matter before it. The Court cannot afford to be monocultural, especially where it is entering newly developing areas of law.

9. The Constitution provides an entitlement for invoking⁴³ cultural law⁴⁴ in S. 15 (3), 30, 31, and 185, which require the application of choice of law rules. Constitutional Law of South Africa, Freedom and Security of the Person⁴⁵ states: “By substantive due process, the courts and commentators of the time meant that a law could be found

⁴⁰ Julius Stone, *Human Law and Human Justice*, 1965, p.66: “It was for this reason that Grotius added to his theoretical deductions such a mass of concrete examples from history.”

⁴¹ Sir Robert Y. Jennings, *Universal International Law in a Multicultural World*, in *International Law and the Grotian Heritage: A Commemorative Colloquium on the Occasion of the Fourth Centenary of the Birth of Hugo Grotius*, edited and published by the T.M.C. Asser Institute, The Hague, 1985, p. 195.

⁴² *International Lawyers and the Progressive Development of International Law, Theory of International Law at the Threshold of the 21st Century*, Jerzy Makarczyk (ed), 1996, p 423.

⁴³ *Ex parte Minister of Native Affairs: In re Yako v Beyi* 1948 (1) SA 388 (A) at 397: Appellate Division held that neither common nor customary law was *prima facie* applicable. Courts had to consider all the circumstances of a case, and, without any preconceived view about the applicability of one or other legal system, select the appropriate law on the basis of its inquiry.

⁴⁴ SALC, Sept 1999: Report on Conflicts of law: P.22: ‘1.58. The Constitution now provides an entitlement for invoking customary law in legal suits. Because ss 30 and 31 specifically guarantee an individual and a group's right to pursue a culture of choice, it could be argued that application of customary law has become a constitutional right. Previously, the state had assumed complete discretion in deciding whether and to what extent customary law should be recognized, an attitude typical of colonial thinking, for Africans were subject to whatever policies the conquering state chose to impose on them. Now, however, the state has a duty to allow people to participate in the culture they choose, implicit in this duty is a responsibility to uphold the institutions on which that culture is based.’

⁴⁵ I Currie & S. Woolman, *Freedom and Security of the Person*, in M Chaskalson et al (eds) *Constitutional Law of SA* (1998)

unconstitutional as a violation of due process if "it exceeded all bounds of the social compact."⁴⁶ The doctrine of Substantive Due Process⁴⁷ requires that "due process," that is, basic procedural rights be applied, but it also protects basic substantive rights. "Substantive" rights are those general rights that reserve to the individual the power to possess or to do certain things, despite the government's desire to the contrary. These are rights like freedom of speech and religion. "Procedural" rights are special rights that, instead, dictate how the government can lawfully go about taking away a person's freedom or property or life, when the law gives them such power. But the State has to use sufficiently fair and just legal 'due process' procedures to lawfully deny any right. Substantive due process guarantee not only due process (just procedures), but also that these rights cannot be taken away without reasonable governmental justification, regardless of the procedures used to do the taking.

10. In *Lithgow & others v. United Kingdom*⁴⁸, the European Court of Human Rights held that the rule of law requires provisions of legislation to be adequately accessible and sufficiently precise to enable people to regulate their affairs in accord with the law:

"As regards the phrase "subject to the conditions provided for by law", it requires in the first place the existence of and compliance with adequately accessible and sufficiently precise domestic legal provisions (see, amongst other authorities, the alone judgment of 2 August 1984, Series A no. 82, pp. 31-33, paras. 66-68)."

11. *R v Sussex Justices, Ex parte McCarthy*⁴⁹ established the principle that the mere appearance of bias -- in that case a conflict of interest, on the part of the judicial officer -- is sufficient to overturn a judicial decision. A person who makes a decision should be unbiased and act in good faith, cannot be a party in the case, nor an interest in the outcome: "no man is permitted to be judge in his own cause". In the Kings Bench Judicial Review case, Lord Chief Justice Hewart found that:

".... a long line of cases shows that it is not merely of some importance but is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done. Nothing is to be done which creates even a suspicion that there has been an improper interference with the course of justice.

B. Bolam Test: Common Law Reasonableness Test: Skill & Competencies:

⁴⁶ R Rotunda & J Novak *Treatise on Constitutional Law* vol 2 (1992) at 380.

⁴⁷ See: 'Judicial Activism... Search for Truth': The substantive due process right to (a) free speech; and (b) the rights of "discrete and insular minorities" originated in *United States v. Carolene Products Co.*, 304 U.S. 144 (1938), footnote 4. If the court establishes that the right being violated is a fundamental right, it applies strict scrutiny. This test inquires into whether there is a compelling state interest being furthered by the violation of the right, and whether the law in question is narrowly tailored to address the state interest.

⁴⁸ *Lithgow & others v. United Kingdom* (1986) * EHRR 329 § 110 [PDF: www.scribd.com/doc/34456270]

⁴⁹ *R v Sussex Justices, Ex parte McCarthy* ([1924] 1 KB 256, [1923] All ER 233) [PDF: www.scribd.com/doc/34456310]

12. First Amicus alleges that the common law principle of the ordinary (Clapham Omnibus⁵⁰), reasonable⁵¹, fair-minded citizen is an illusion⁵², an approximate 9.2% miniscule minority in all cultures⁵³. The majority ordinary and elite are ignorant, prejudiced, unreasonable⁵⁴ citizens, frequently psychologically insecure⁵⁵, and desperate for anyone with an 'air of authority/credibility'⁵⁶ to provide them with the public relations⁵⁷ certainty -- although an illusion⁵⁸ -- their herd mentality / politically correct⁵⁹ beliefs are 'absolutely right/superior'⁶⁰.
13. According to the Common law Reasonable Man Test, if the defendants actions served a socially useful purpose then he may be justified in taking greater risks; and if she acted in accordance with the common practice of others, this is considered strong evidence, with special standards being appropriate to professionals⁶¹. In *Bolam v. Friern Hospital Management Committee*⁶², Judge McNair's judgement dealt with the application of the common law reasonableness test in regards to negligence, where the 'reasonableness test' circumstance involved a special skill or competence.

⁵⁰ 'The man on the Clapham omnibus', is in legal speak, 'the reasonable person'. This is a phrase that was first used by Sir Charles Bowen, QC (later Lord Bowen). (Brewer's Dictionary of Phrase & Fable, 16th Edition, 1995) The man on the Clapham omnibus / the man in the street means the average ordinary English person (Oxford Guide to British & American Culture, 1999)

⁵¹ Zimbardo, P.G. (2007). *The Lucifer Effect: Understanding How Good People Turn Evil*. New York: Random House.

⁵² Milgram, Stanley (1963). "Behavioral Study of Obedience". *Journal of Abnormal and Social Psychology* 67: 371-378. Blass, Thomas. (2002), "The Man Who Shocked the World", *Psychology Today*, 35:(2), Mar/Apr 2002. [PDF: www.scribd.com/doc/34496359]; The Milgram Paradigm after 35 Years: Some Things We Now Know about Obedience to Authority, by Thomas Blass, University of Maryland, Baltimore County: "If a system of death camps were set up in the United States of the sort we had seen in Nazi Germany, one would be able to find sufficient personnel for those camps in any medium-sized American town." Stanley Milgram, [PDF: www.scribd.com/doc/34496532]

⁵³ Blanton, Brad Ph.D: Reasonableness Test Radical Honesty Skills & Competencies Affidavit [PDF: www.scribd.com/doc/33790671]

⁵⁴ Solomon Asch, *Opinions and Social Pressure* (1955): "In the 1950s the social psychologist Solomon Asch conducted a famous experiment that highlighted the fragility of the person in a mass society when he is confronted with the contrary opinion of a majority, and the tendency to conform even if this means to go against the person's basic perceptions. This is a chilling text that should be carefully read and remembered whenever we think we are swayed by the mass, against our deepest feelings and convictions. At that moment we should be on the alert, re-examining all positions (ours included) and then taking decisions as free, mature and fully responsible human beings, whatever the direction taken by the mass or by a majority." [PDF: www.scribd.com/doc/34292822]

⁵⁵ McElvaine, R: *Eve's Seed: Masculine Insecurity, Metaphor and the Shaping of History* [PDF: www.scribd.com/doc/34104187]

⁵⁶ Hundreds of Federal Agents Fall Victim to Ponzi Scheme, AOLNews, July 8, 2010. [PDF: www.scribd.com/doc/34292821].

⁵⁷ Propaganda by Edward Bernays [PDF: www.scribd.com/doc/34292992]

⁵⁸ Non-Descartian/Radical Honesty (I am, therefore I think) Worldview: See: *Practicing Radical Honesty : Chapter 2: What is a Mind and How Does It Work?*, Chapter 3. *Dysfunctional Family University, The World-Famous School Within Which We Grew Our Minds*; Chapter 8. *Community and Compassion*; [PDF: <http://www.scribd.com/doc/33790790>]; *Waking from the Meme Dream: Who Am I? Do I Exist?*; by Susan Blackmore; Paper presented: *The Psychology of Awakening: International Conference on Buddhism, Science & Psychotherapy Dartington 7-10 November 1996*; also *The Psychology of Awakening: Buddhism, Science & Our Day-to-day Lives*. Ed. G. Watson, S. Batchelor and G. Claxton; London, Rider, 2000, 112-122 [PDF: www.scribd.com/doc/33790665]; *The Origin of Consciousness in the Breakdown of the Bicameral Mind*, by Julian Jaynes (1976); *The Computational Brain*, Churchland, P.S. and Sejnowski, T.J. (1992); Cambridge, Mass. MIT Press; *To Have or to Be*, by Erich Fromm, *World Perspective Series*, by Harper & Row; et al; [PDF: www.scribd.com/doc/32739383]

⁵⁹ Asch, S. E. (1951). Effects of group pressure upon the modification and distortion of judgment. In H. Guetzkow (ed.) *Groups, leadership and men*. Pittsburgh, PA: Carnegie Press; Asch, S. E. (1956). Studies of independence and conformity: A minority of one against a unanimous majority. *Psychological Monographs*, 70 (Whole no. 416); Bond, R., & Smith, P. (1996). Culture and conformity: A meta-analysis of studies using Asch's (1952b, 1956) line judgment task. *Psychological Bulletin*, 119, 111-137.

⁶⁰ *Charleston v News Group Newspapers Ltd* 1995] 2 AC 65, [1995] UKHL 6, [1995] 2 WLR 450, [1995] 2 All ER 313: "Everyone outside a court of law recognises that words are imprecise instruments for communicating the thoughts of one man to another. The same words may be understood by one man in a different meaning from that in which they are understood by another and both meanings may be different from that which the author of the words intended to convey. But the notion that the same words should bear different meanings to different men and that more than one meaning should be 'right' conflicts with the whole training of a lawyer. Words are the tools of his trade. He uses them to define legal rights and duties. They do not achieve that purpose unless there can be attributed to them a single meaning as the 'right' meaning. And so the argument between lawyers as to the meaning of words starts with the unexpressed major premise that any particular combination of words has one meaning which is not necessarily the same as that intended by him who published them or understood by any of those who read them but is capable of ascertainment as being the 'right' meaning by the adjudicator to whom the law confides the responsibility of determining it. ... [PDF: www.scribd.com/doc/34456692]

⁶¹ *Daborn v. Bath Tramways* [1946] 2 All ER 333; and *Watt v Hertfordshire County Council* [1954] 2 All ER 368; *Gray v Stead* [1999] 2 Lloyd's Rep 559; *Phillips v William Whiteley* [1938] 1 All ER 566

⁶² *Bolam v. Friern Hospital Management Committee* [1957] 1 WLR 582; [1957] 2 All ER 118 [PDF: www.scribd.com/doc/33092633]

But, where you get a situation which involves the use of some special skill or competence, then the test whether there has been negligence or not is not the test of the man on the top of a Clapham omnibus, because he has not got this special skill. The test is the standard of the ordinary skilled man exercising and professing to have that special skill. A man need not possess the highest skill at the risk of being found negligent. It is well established law that it is sufficient if he exercises the ordinary skill of an ordinary competent man exercising that particular art.

14. Similarly, the common law reasonableness test has cultural applications, similar to that of a professional skill application. Where the 'reasonableness' of an act is questioned that involves the skills or common practices within a particular culture/tribe, then the skills and practices of that particular tribe needs to be applied to determine the cultural/tribal 'reasonableness' of the individual's circumstances⁶³.

C. Political Necessity: Freedom of Speech and Civil Disobedience

15. In *Civil Disobedience and the Necessity Defence*⁶⁴, John Alan Cohan describes the Civil Disobedience Free Speech Necessity Defence as follows:

Freedom of expression in a free society includes freewheeling public dissent on controversial political issues of the day. Civil disobedience is a form of protest that, while usually peaceful, involves violating the law—usually by trespassing on government property, blocking access to buildings, or engaging in disorderly conduct. Civil disobedience has been called “the deliberate violation of law for a vital social purpose.”⁶⁵ In their day in court, civil disobedients have at times sought to interpose the necessity defense to justify their conduct. The necessity defense asserts that breaking the law was justified in order to avert a greater harm that would occur as a result of the government policy the offender was protesting.

Protestors will seek to invoke the necessity defense not so much to gain acquittal from the relatively minor charges, but to advance the more important objective of publicly airing the moral and political issues that inspired their act of civil disobedience. There is the hope of gaining notoriety for a cause by discussing it in court, and “educating” the jury about political grievances or other social harms. The strategy is meant to appeal to a higher principle than the law being violated—the necessity of stopping objectionable government policies—and to let the jury have an opportunity to weigh their technically illegal actions on the scales of justice. Acquittal is of course hoped for in the end but may be quite low on the protestors' list of priorities.

The necessity defense is attractive to reformers who practice civil disobedience because it allows them to deny guilt without renouncing their socially driven acts. It offers a means to discuss political issues in the courtroom, a forum in which reformers can demand equal time and, perhaps, respect. Moreover, its elements allow civil disobedients to describe their political motivations. In proving the imminence of the harm, they can demonstrate the urgency of the social problem. In showing the relative severity of the harms, they can show the seriousness of the social evil they seek to avert. In establishing the lack of reasonable alternatives, they can assault the unresponsiveness of those in power in dealing with the problem and prod them to action. And in presenting evidence of a causal relationship, they can argue the importance of individual action in reforming society. Thus, the elements of

⁶³*Smit NO and Others v King Goodwill Zwelithini Kabhekuzulu and Others* (10237/2009) [2009] ZAKZPHC 75 (4 December 2009); *S v Zuma* (JPV325/05, JPV325/05) [2006] ZAGPHC 45; 2006 (2) SACR 191 (W); 2006 (7) BCLR 790 (W) (8 May 2006), at: p.98; *Sandra Lovelace v. Canada*, Communication No. R.6/24 (29 December 1977), U.N. Doc. Supp. No. 40 (A/36/40) at 166 (1981).

⁶⁴ *Civil Disobedience and the Necessity Defense*, by John Alan Cohan, J.D. Loyola Law School; B.A. University of Southern California; *Pierce Law Review*. [PDF: www.scribd.com/doc/33149485]

⁶⁵ Howard Zinn, *Disobedience and Democracy: Nine Falacies on Law and Order* 39 (1968)

the necessity defense provide an excellent structure for publicizing and debating political issues in the judicial forum.⁶⁶

The goal of describing their political motivations to the jury, and implicitly to the media, is subject to numerous hurdles inherent in the necessity defense. In most instances, as we will see, courts will rule as a matter of law that the actors have failed in the offer of proof regarding the elements of the necessity defense so that the jury rarely is given the chance to weigh in on the matter. On the other hand, if the defense is allowed, the jury is called upon to weigh controversial political issues and to function as the “conscience of the community.” “Reflected in the jury’s decision is a judgment of whether, under all the circumstances of the event and in the light of all known about the defendant, the prohibited act, if committed, deserves condemnation by the law.” In cases where judges have been persuaded to allow the necessity defense, juries have, often enough, delivered not guilty verdicts

Definition of Civil Disobedience

John Rawls defines civil disobedience as “a public, nonviolent, conscientious yet political act contrary to law usually done with the aim of bringing about a change in the law or policies of the government.”⁶⁷ A more comprehensive definition of civil disobedience is:

Civil disobedience is an act of protest, deliberately unlawful, conscientiously and publicly performed. It may have as its object the laws or policies of some governmental body, or those of some private corporate body whose decisions have serious public consequences; but in either case the disobedient protest is almost invariably nonviolent in character.⁶⁸

Broadly construed, civil disobedience may be directed toward a law or policy of the government, or toward a corporate entity whose policy is the subject of protest. Civil disobedients hope that their conduct makes a dramatic appeal to the conscience of the community, affects public awareness of a particular social issue, and motivates citizens to demand change in certain policies.

Civil disobedience is a singular hallmark of a free country:

We must recognize that civil disobedience in various forms, used without violent acts against others, is engrained in our society and the moral correctness of political protestors’ views has on occasion served to change and better our society. Civil disobedience has been prevalent throughout this nation’s history extending from the Boston Tea Party and the signing of the Declaration of Independence, to the freeing of the slaves by operation of the Underground Railroad in the mid-1880’s....

Civil disobedience differs from other forms of peaceful protest in that there is a technical violation of the law such as trespass, blocking of public access, or disorderly conduct; and the violation is part of the effort to garner public attention to the cause.

Historic Instances of Civil Disobedience

Of course, civil disobedience is something of a democratic tradition. As early as 1635, American colonists were persecuted for direct civil disobedience in refusing to obey certain laws by reason of conscience.⁶⁹.... In 1846, Henry David Thoreau wrote his famous and influential essay, *On the Duty of Civil Disobedience*, in which he gave a cogent argument on the necessity of direct civil disobedience.

⁶⁶ Steven M. Bauer & Peter J. Eckerstrom, *The State Made Me Do It: The Applicability of the Necessity Defense to Civil Disobedience*, 39 *STAN. L. REV.* 1173, 1176 (1987).

⁶⁷ John Rawls, *A Theory of Justice* 364 (1971)

⁶⁸ Carl Cohen, *Civil Disobedience: Conscience, Tactics, and the Law* 39-40 (1971) (emphasis omitted); see *Blacks Law Dictionary* 223 (5th ed. 1979) (defining civil disobedience as “a form of lawbreaking employed to demonstrate the injustice or unfairness of a particular law and indulged in deliberately to focus attention on the allegedly undesirable law”).

⁶⁹ William P. Quigley, *The Necessity Defense in Civil Disobedience Cases: Bring in the Jury*, 38 *NEW ENG. L. REV.* 3, 18 (2003) Quigley, *supra* note 10, at 21; see, e.g., *Power of the People: Active Nonviolence in the United States* 15 (Robert Cooney & Helen Michalowski eds., 1977). In 1635, the General Court of Massachusetts banished Roger Williams for criticizing the Puritan clergy’s persecution of people of conscience and for insisting that the land still belonged to Native Americans. See *id.* Anne Hutchinson was banished in 1638 for publicly insisting that conscience was a higher authority than law. See *id.* At 15-16. The Society of Friends, a pacifist group, was banned from Massachusetts from 1654 to 1661; a law in 1657 imposed a fine of 100 pounds on anyone who brought a Quaker into the territory. See *id.* In 1658, a Quaker named Richard Keene was fined and beaten for refusing to be trained as a soldier. See *id.* at 18.

D. Judicial Activism: A More Searching Judicial Enquiry⁷⁰: Search for Truth

16. In The Living U.S. Constitution⁷¹, Padover and Landynski write:

How to reconcile judicial review with majority rule has been a basic issue, at times a critical one, in our polity. In 1938 Justice Stone, in the famous footnote 4 to *U.S. v. Carolene Products*⁷², articulated a justification for judicial activism in the field of individual rights when he suggested that, unlike challenges to “ordinary commercial transactions,” “there may be narrower scopes for operation of the presumption of constitutionality when legislation appears on its face to be within specific prohibition of the Constitution... The same were true with regard to “legislation which restricts [the] political processes” or is directed at “discrete and insular” (i.e. vulnerable) minority groups; these situations might call for a “more searching judicial enquiry.”

In other words, ordinarily the political system is adequate to defend individual liberties. When it is not, the Courts role must be redefined to allow for broader judicial review as a substitute for the political review, which these groups are unable to effectively obtain. In effect the court, should appoint itself as a surrogate legislature, judicially awarding the legislative bargains it believes these groups would themselves have struck were they politically influential.

In such circumstances, judicial activism becomes defensible as a safeguard for democratic principles, for the Court can be seen as aiding democracy rather than blocking it, as giving expression to the political process rather than negating it.

17. In Judicial Activism in South Africa’s Constitutional Court: Minority Protection or Judicial Illegitimacy?, Anthony Chima Diala⁷³ writes:

In South Africa, the ANC enjoys an overwhelming political dominance which has practically neutralized significant parliamentary opposition. In the absence of strong opposition, the duty of protecting ‘discrete and insular minorities’⁷⁴ falls on the Constitutional Court. To do otherwise in a country with a remarkable history of injustice might make such minorities not only ‘perpetual losers,’ but also ‘scapegoats in political struggles’⁷⁵

18. In the context of a religious⁷⁶ enquiry (search for truth) of the relationship between: (i) freedom of speech, (ii) sincere forgiveness, (iii) Stanley Milgrams studies on obedience, and (iv) and the common law reasonableness test; First Amicus reiterates:

“...freedom of expression is an essential process for advancing knowledge and discovering truth. An individual who seeks knowledge and truth must hear all sides of the question, consider all alternatives, test his judgment by exposing it to opposition, and make full use of different minds. Discussion must be kept open no matter how certainly true an accepted opinion may seem to be; many of the most widely acknowledged truths have turned out to be erroneous. Conversely, the same principles applies no matter how false or pernicious the new opinion appears to be; for the unaccepted opinion may be true or partially true and,

⁷⁰ Ubuntu Amicus (“UA”) : Ubuntu Brief of Amicus Curiae Lara Johnstone, Bushido Dischordian Futillitarian In Support Of: Radical Honesty Common Sense Population Policy Social Contract Interpretations of Promotion of National Unity & Reconciliation Act, 34 of 1995: [A.12] Judicial Enquiry: Simple Justice Tribal Consciousness [PDF: www.scribd.com/doc/32739370]

⁷¹ The Living U.S. Constitution, by Saul K. Padover; Revised by Jacob W. Landynski; Third Revised Edition (Pg 64)

⁷² *United States v. Carolene Products Co.*, 304 U.S. 144 (1938) [PDF: www.scribd.com/doc/33092567]

⁷³ Submitted in partial fulfilment of requirements for an LL.M. (Human Rights and Democratisation in Africa) degree of the Centre for Human rights, University of Pretoria, 29 October 2007

⁷⁴ *United States v. Carolene Products Co.* 304 U.S. 144, 152-53 (1938), FN 4 para 4 [PDF: www.scribd.com/doc/33092567]

⁷⁵ R.M. Cover, *The Origins of Judicial Activism in the Protection of Minorities*, (1982), Yale Law School, vol 91, No 7, p 1287. It has been noted that: ‘(w)ith little meaningful institutional separation of powers between the executive and legislative branches, South Africa’s judiciary is central to prospects for accountable government.’ See R. Alence, ‘South Africa after Apartheid: The First Decade’ (2004), *Journal for Democracy*, vol 15, No 3, p 87-89.

⁷⁶ Fromm, Erich, *To Have or To Be* (Continuum 2000: p135-136) [See: Radical Honesty: Religion & Culture; or Refugee Status?]

even if wholly false, its presentation and open discussion compel a re-thinking and re-testing of the accepted opinion. The reasons which make open discussion essential for an intelligent individual judgment likewise make it imperative for rational social judgment."

T Emerson, *The System of Freedom of Expression* at 6-7 (1970)

'If you have no doubt of your premises or your power and want a certain result with all your heart, you naturally express your wishes in law and sweep away all opposition. But when men have realised that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas - that the best test of truth is the power of the thought to get itself accepted in the competition of the market; and that truth is the only ground upon which their wishes safely can be carried out.'

Abrams v United States 250 US 616 (1919) at 630

E. EcoLaw 101: Laws of Sustainability: Ecological Social Contract

19. Sustainability, i.e. environmental or ecological rights and responsibilities are the sine qua non⁷⁷ foundation for all other rights⁷⁸. However adding "sustainable" to our legal vocabulary, is not sufficient to ensure that our society becomes sustainable, unless the definition of sustainable is sufficiently precise⁷⁹ to enable sustainable living.
20. In *Socio-Economic Rights in South Africa: International and Constitutional Law*⁸⁰: Environmental Rights, Feris and Tladi, detail three main approaches to the environment. The first, as a right in an of itself as represented in the Proposed Legal Principles for Environment Protection and Sustainable Development, adopted by the World Commission on Environment and Development (WCED) Experts Group on Environmental Law⁸¹. The second, under existing recognized rights, as a violation of life, health and dignity. An example is found in Principle 1 of the Declaration of the United Nations Conference on Human Environment (Stockholm Declaration), which provides that humans have 'the fundamental right to freedom... in an environment of a quality that permits a life of dignity'. This approach is supported by the European Court of Human Rights⁸² and the opinion of Weeramantry J in *Case Concerning the Gabcikovo-*

⁷⁷ Opinion of Weeramantry J in the *Case Concerning the Gabcikovo-Nagymaros Project* (Hungary v Slovakia) (1998) 37 *International Legal Materials* 162 206. [PDF: www.scribd.com/doc/34456660]

⁷⁸ *Democracy Cannot Survive Overpopulation*, Al Bartlett, Ph.D., *Population & Environment*, Vol. 22, No. 1, Sep 2000, pgs. 63-71 [PDF: www.scribd.com/doc/34102633]

⁷⁹ *Lithgow & others v. United Kingdom* (1986) * EHR 329 § 110 [PDF: www.scribd.com/doc/34456270]

⁸⁰ *Socio-Economic Rights in South Africa: International and Constitutional Law*, by Danie Brand & Christof Heyns (eds), CHR

⁸¹ Principle 1: 'All human beings have the fundamental right to an environment adequate for their health and well-being.; Principle 2 (adopted by the UN Commission on Human Rights), provides that all persons 'have the right to a secure, healthy and ecologically sound environment.' See Proposed Legal Principles for Environmental Protection and Sustainable Development, adopted by the WCED Experts Group on Environmental Law, reproduced in *WCED Our Common Future* (1987) 348. See also Principle 1, *Draft Principles on Human Rights and the Environment* in UN Sub-Commission on Prevention of Discrimination and Protection of Minorities Human Rights and the Environment, Final Report of the Special Rapporteur, UN Doc E/CN.4.Sub2/1994 19

⁸² See eg *Lopez Ostra v Spain* (1995) ECHR Ser A 303-C.

Nagymaros Project (Hungary v Slovakia), where the Judged ruled that the protection of the environment is a 'sine qua non for numerous human rights'⁸³:

Environmental Protection as a Principle of International Law

The protection of the environment is likewise a vital part of contemporary human rights doctrine, for it is a sine qua non for numerous human rights such as the right to health and the right to life itself. It is scarcely necessary to elaborate on this, as damage to the environment can impair and undermine all the human rights spoken of in the Universal Declaration and other human rights instruments.

....

Thus Arthur C. Clarke, the noted futurist, with that vision which has enabled him to bring high science to the service of humanity, put his finger on the precise legal problem we are considering when he observed: "the small Indian ocean island.. provides textbook examples of many modern dilemmas: development versus environment"⁸⁴, and proceeds immediately to recapitulate the famous sermon... relating to the trusteeship of the land, observing, "For as King Devanampiya Tissa was told three centuries before the birth of Christ, we are its guardians - not its owners."

The task of the law is to convert such wisdom into practical terms - and the law has often lagged behind other disciplines in so doing.

21. The third approach involves the use of procedural rights, such as access to information, as ruled in *Van Huyssteen NO v Minister of Environmental Affairs and Tourism*⁸⁵ where the court held that opponents to a proposed development had both locus standi and the right to access to information. This approach is 'said to be the key to environmental rights', since the "idea is that if principles of democratic governance such as openness, accountability and civic participation are adhered to, then environmental standards will be maintained, or at least improved."
22. Additional international instruments on sustainability, including the principles of intergenerational equity and integration, as made famous by Edith Brown Weiss. It imposes an obligation to conserve natural and cultural resource base for future generations⁸⁶, in binding⁸⁷ and nonbinding modern international instruments.

⁸³ Opinion of Weeramantry J in the Case Concerning the Gabcikovo-Nagymaros Project (Hungary v Slovakia) (1998) 37 International Legal Materials 162 206. [PDF: www.scribd.com/doc/34456660]

⁸⁴ Arthur C. Clarke, Sri Lankas Wildlife Heritage, National Geographic, August 1983, No. 2, p 254; emphasis added

⁸⁵ *Van Huyssteen NNO v Minister of Environmental Affairs and Tourism* 1995 9 BCLR 1191 (C). For a discussion, see A. Eide et al (eds) *Economic, social and cultural rights: A textbook* (1995) 261 et seq. The authors discuss *Communication 429/1990, EW & Others v The Netherlands* as an example of how this is achieved.

⁸⁶ (i) EB Weiss *In fairness to future generations: International law, common patrimony and intergenerational equity*, in P Hayden (ed) *The Philosophy of human rights* (2001) 618; (ii) EB Weiss *The planetary trust: Conservation and intergenerational equity* (1984) *Ecology Law Quarterly* 495; (iii) EB Weiss *Our rights and obligations to future generations for the environment* (1990) 84 *American Journal of International Law* 198; (iv) L Gundling, *Our responsibility to future generations* (1990) 84 *American Journal of International Law* 207; (v) *Judgement of Davide J in Minors Oposa v Secretary of Department of Environment and Natural Resources Supreme Court of Philippines* (reproduced in (1994) 83 *International Legal Materials* 173) in which the Court granted the petitioners claim to a right to a balanced ecology, for themselves, and also for future Filipino's.

⁸⁷ (i) Art 3(1) of the 1992 United Nations Framework Convention on Climate Change, reprinted in (1992) 31 *International Legal Materials* 851, which provides that 'parties should protect the climate system for the benefit of the present and future generations of humankind'. (ii) Preamble of the 1992 Biodiversity Convention, reprinted in (1992) 31 *International Legal Materials* 822, makes use of intergenerational equity. For earlier instruments see the Preambles of the 1968 Convention on African Nature Conservation, and the 1972 World Heritage Convention.

23. SA's environmental rights is guaranteed in Section 24 of the Constitution, leaving no question whatsoever as to the existence of this distinct environmental right.

24. In Constitutional Law of SA: Environmental Law and Rights⁸⁸, Gutto, writes:

In three main cases dealing directly with environmental law in light of the interim Constitution civil cases have been successful against 'environmentally harmful activities' of private persons and corporations.⁸⁹ 'Environment rights' are also not new; the Environment Conservation Act, 73 of 1989, was considered by the Department and Ministry of Environmental Affairs⁹⁰ as 'the most important environmental statute in SA'⁹¹ Many acts preceded it⁹², as identified by the Department of Environmental Affairs, as forming part of the major legislation on the environment⁹³.

The common-law source of environmental rights is well established in several branches of delict... The development of environmental norms and principles through the tort/delict of nuisance is a general feature of common-law legal systems and is not unique to South Africa The origin of the constitutional provision in environmental rights is partly rooted in these 'sources' and not in some abstract notions of rights without history or relevance to reality of life in society.' [Finally the] right or freedom to engage in economic activities (s 26) is limited, to ensure that such ensure conformity to environmental rights requirements.

25. The 18 Laws of Sustainability were authored by Dr. Albert Bartlett⁹⁴, in Reflections on Sustainability, Population Growth and the Environment⁹⁵, republished in The Essential Exponential! For the Future of our Planet⁹⁶, which documents his assertion that, "[T]he greatest shortcoming of the human race is our inability to understand the exponential function." The laws detailed descriptions, and the Hypothesis, Observations and Predictions to define the term 'sustainability'. The 18 laws are believed to hold rigorously, with few exceptions:

1. Population growth and / or growth in the rates of consumption of resources cannot be sustained.

⁸⁸ SBO Gutto 'Environmental law and Rights' in M Chaskalson et al (eds) Constitutional Law of South Africa (1998)

⁸⁹ Van Huyssteen & others NNO v Minister of Environmental Affairs and Tourism and others 1996 (1) SA 283 (C); Wildlife Society of Southern Africa & others v. Minister of Environmental Affairs and Tourism of the Republic of South Africa & others 1996 (3) SA 1096 (TK); Minister of Health and Wealth v. Woodcarb (Pty) & another 1996 (3) SA 155 (N).

⁹⁰ Dept. of Environmental Affairs General Environment Policy (Jan 1994); 'Mission Statement 1992' in (Mar/Apr 1992) SA Panorama 4.

⁹¹ Andre Rabie 'The Environment Conservation Act and its Implementation (Jan 1994) 1 SA Journal of Environmental Law and Policy 113

⁹² The Atmospheric Pollution Prevention Act 45 of 1965, the Water Act 54 of 1956, the Minerals Act 50 of 1991, the Conservation of Agricultural Resources Act 43 of 1983, and the Health Act 63 of 1977.

⁹³ Department of Environmental Affairs Statutory Obligations and Responsibilities (January 1994) 16-17. Other statutes identified as major environmental legislation by the Department include the Agricultural Pests Act 36 of 1983, the Animal Diseases Act 35 of 1984, the Animal Protection Act 71 of 1962 (now repealed by act 139 of 1992), the Common Pasture Management Act 82 of 1977, the Forest Act 122 of 1984, the Medicines and Related Substances Control Act 101 of 1965, the Mountain Catchments Areas Act 63 of 1970, the National Parks Act 57 of 1976, the Sea Fishery Act 12 of 1998, the Physical Planning Act 125 of 1991, the Sea-Shore Act 21 of 1935, the Territorial Waters Act 87 of 1963, the Housing Act of 1966, the Dumping at Sea Control Act 73 of 1980, the Hazardous Substances Act 52 of 1951, the Slums Act 76 of 1979, the Less Formal Township Establishment Act 113 of 1991, and the State Land Disposal Act 48 of 1961. See also Department of Environmental Affairs (Teurinigs (ed) Guide to Legislation Concerning: (1) Natural Environment; (2) Pollution; (3) Built Environment; (4) Cultural Environment (February 1993).

⁹⁴ www.albartlett.org: Albert Bartlett is Professor Emeritus at Colorado University at Boulder, and been a faculty member since 1950. He was President of the American Association of Physics Teachers in 1978, and in 1981 received the Associations Robert A. Millikan Award for outstanding scholarly contributions to physics education. He is a fellow of the American Physical Society, and of the American Association for the Advancement of Science. In 2001 he testified before the US Congress on energy policy. He has given his celebrated lecture, Arithmetic, Population and Energy over 1,600 times since September 1969.

⁹⁵ Reflections on Sustainability, Population Growth, and the Environment, by Albert Bartlett, Ph.D., Paper first published in Population & Environment, Vol. 16, No. 1, Sep 1994, pp. 5-35; (1998) [PDF: www.scribd.com/doc/33707684]

⁹⁶ Reprints of Dr. Bartlett's papers have been published by the University of Nebraska at Lincoln in the book The Essential Exponential! For the Future of Our Planet, compiled by University of Nebraska physicists, features articles from scholars on exponential human population growth and increasing rate of natural resource consumption. [PDF: www.scribd.com/doc/34456952]

2. In a society with a growing population and / or growing rates of consumption of resources, the larger the population, and / or the larger the rates of consumption of resources, the more difficult it will be to transform the society to the condition of sustainability.
3. The response time of populations to changes in the human fertility rate is the average length of a human life, or approximately 70 years.
4. The size of population that can be sustained (the carrying capacity) and the sustainable average standard of living of the population are inversely related to one another.
5. Sustainability requires that the size of the population be less than or equal to the carrying capacity of the ecosystem for the desired standard of living.
6. (The lesson of "The Tragedy of the Commons") (Hardin 1968): The benefits of population growth and of growth in the rates of consumption of resources accrue to a few; the costs of population growth and growth in the rates of consumption of resources are borne by all of society.
7. Growth in the rate of consumption of a non-renewable resource, such as a fossil fuel, causes a dramatic decrease in the life-expectancy of the resource.
8. The time of expiration of non-renewable resources can be postponed, possibly for a very long time.
9. When large efforts are made to improve the efficiency with which resources are used, the resulting savings are easily and completely wiped out by the added resources consumed as a consequence of modest increases in population.
10. The benefits of large efforts to preserve the environment are easily cancelled by the added demands on the environment that result from small increases in human population.
11. (Second Law of Thermodynamics) When rates of pollution exceed the natural cleansing capacity of the environment, it is easier to pollute than it is to clean up the environment.
12. The chief cause of problems is solutions. (Sevareid 1970)
13. Humans will always be dependent on agriculture.
14. If, for whatever reason, humans fail to stop population growth and growth in the rates of consumption of resources, Nature will stop these growths.
15. In every local situation, creating jobs increases the number of people locally who are out of work.
16. Starving people don't care about sustainability.
17. The addition of the word "sustainable" to our vocabulary, to our reports, programs, and papers, to the names of our academic institutes and research programs, and to our community initiatives, is not sufficient to ensure that our society becomes sustainable.
18. Extinction is forever.

II. TRUTH AND FORGIVENESS SOCIAL CONTRACT PRINCIPLES

"The struggle to establish a human rights culture in Africa cannot be won unless Africans address the causes of massive human rights violations⁹⁷... Africa must re-examine its priorities if it has to come out of the culture of conflict and poverty.⁹⁸"

⁹⁷ Nelson Mandela Foundation, SAHRC and Office of the High Comm. for Human Rights, Dignity and Justice for All of Us, Reflecting on Human Rights in Africa Today, Human Rights Lecture and Roundtable Discussion, 10 Dec 2007 (p.12)

⁹⁸ N. Mandela Foundation, SAHRC & UNHCHR, Ibid (p.13)

A. Radical Honesty Overview: Being Specific About Anger and Forgiveness

26. In Practicing Radical Honesty⁹⁹, Dr. Blanton qualifies the conflict between intellectual fairness and sensate forgiveness:

Many of us are concerned about fairness and use the principle of fairness as our primary rationalization for withholding anger. Advanced instruction in this principle creates lawyers who are miserable people. Divorces handled by lawyers often result in children shot back and forth like missiles between hostile camps. If you force yourself to be fair while still angry, you are a fool, and any agreements you make in such a state won't work for you. Judges and lawyers ignore this fact. Judges and lawyers exist for people who can't handle their anger. A judge tells you what to do, based on what he or she thinks is fair, whether you like it or not, because you haven't been able to work things out on your own.

27. The Radical Honesty Methodology or Process or definition of Sincere Sensate Forgiveness is explained in depth in Practicing Radical Honesty¹⁰⁰, also referred to as the Truth and Forgiveness Social Contract¹⁰¹, with the six minimal requirements, none of which may be skipped, being:

1. You have to tell the truth about the specific behavior you resent, to the person, face-to-face;
2. You have to be verbally and vocally unrestrained with regard to volume and propriety;
3. You have to pay attention to the feelings and sensations in your body and to the other person as you speak;
4. You have to express any appreciations for the person that come up in the process, with the same attention to your feelings and to the other person as when you are expressing resentments;
5. You have to stay with any feelings that emerge in the process, like tears or laughter, regardless of any evaluations you may have about how it makes you look; and let the tears or laughter or pain or anger not be interrupted by your mind until they go naturally to completion;
6. You have to stay with the discussion until you no longer feel resentful of the other person.

28. Dr. Blanton -- the worlds expert on sincere sensate forgiveness -- concludes, with great emphasis, that is not to be contradicted by any lawyer, priest, psychotherapist, diplomat, bureaucrat, democrat, labour leader, company executive, head of government or any other patrolman, that: "Then, and only then, are you ready to talk about the future, make arrangements for the future, or make any agreements."

B. Stanley Milgram Studies on Obedience: Legal, Socio-Political Implications

29. In Affidavit of Brad Blanton, Ph.D, evidencing the legal, psychological, and socio-political 'citizens privilege', Nuremberg Principles skills and competencies of

⁹⁹ Practicing Radical Honesty, by Brad Blanton [PDF: www.scribd.com/doc/33790790]

¹⁰⁰ Practicing Radical Honesty: Chapter 9: Radical Honesty About Anger [PDF: www.scribd.com/doc/33790658]

¹⁰¹ UB: [A.11] Being Specific About Anger and Methodology of Forgiveness [PDF: www.scribd.com/doc/32739370]

Individual Responsibility, required for acts of civil disobedience to perceived illegitimate authority; and their application to the common law 'reasonableness test'¹⁰² filed as Expert Witness Affidavit in High Court, W.C. # 19963-09; Dr. Blanton explains what happens in cultures of obedience; how and why studies show that 92% of citizens lack the psychological and emotional skills for non-violent disobedience.

Brief Description of the Milgram Experiment:

[19.] The Milgram experiment was a series of social psychology experiments conducted by Yale University psychologist Stanley Milgram, which measured the willingness of study participants to obey an authority figure who instructed them to perform acts that conflicted with their personal conscience.

[20.] Milgram devised the experiments in response to the question raised by Hannah Arendt, in her coverage of the war crimes trial of Adolf Eichmann. Eichmann's defence was that he should not be held personally responsible for a crime against mankind because he was doing his duty in the social system of which he was a part. His lawyers said a court might judge the social system as criminal, but not the person doing their duty within that social system. This argument was rejected. Eichmann's adjudicators concluded that he was individually responsible for the crimes he committed, regardless of the social system of which he was a part, and he was executed.

[21.] Arendt then raised the question which fascinated Milgram: Was Adolf Eichmann some unusual deviant, some sadistic exception to common humanity, or was he just a bureaucrat? What he actually did was shuffle papers in an office and make phone calls and give orders. Was he normal?

[22.] The Milgram experiment was designed to simulate the conditions in which Eichmann operated, and to determine how many individuals would - like Eichmann - follow orders and be obedient to the system in which they operated; and how many would practice civil disobedience and refuse to be obedient to perceived illegal authority. Milgram's experiment revealed that a significant majority of the population - 65%, like Eichmann's millions of accomplices - merely follow orders, irrespective whether the orders violate their deepest moral beliefs; only 35 % possessed the skills and competencies for civil disobedience.

[23.] Furthermore, when individuals could share the responsibility or blame, with just one other person, 92% of individuals would, like Eichmann, cooperate with authority; and refrain from civil disobedience; and only 8% possessed the skills and competencies for civil disobedience.

[25.] The relevant questions then become, what are the resources: the emotional, psychological, and socio-political skills and competencies, that:

- A. the 37% possess, when individually confronting perceived illegal authority; and
- B. the 8% possess, refusing the given opportunity, from an ideological or social peer, to share the blame, with them; and individually confront perceived illegal authority.

[27] The results of the Stanley Milgram Tests on Obedience (which have since been replicated by other social-scientists with the same results) clearly show that acts of civil disobedience are acts that the man on the Clapham omnibus are emotionally, psychologically and socio-politically incapable of. Put differently they are acts that require the use of special emotional, psychological and socio-political skills and competencies.

[28] To apply the man on the Clapham omnibus reasonableness test, to someone consciously and deliberately committing an act of civil disobedience to perceived illegal authority; would be the same as applying the man on the Clapham omnibus reasonableness test, to determine whether a heart surgeon's decisions and actions made during open-heart surgery, were negligent or unreasonable; or asking a clown, whether an astronaut's decisions during lift-off, were 'reasonable' or not.

¹⁰² Blanton, Brad Ph.D: Reasonableness Test Radical Honesty Skills & Competencies Affidavit [PDF: www.scribd.com/doc/33790671]

[29]. Consequently, the reasonableness test that should be applied to cases of civil disobedience, are not those of the man on the Clapham omnibus; because he does not have these special skills and competencies. The reasonableness test that should be applied, is the standard of the ordinary skilled person, exercising and professing to have that special skill.

C. Common Law Reasonableness Test: Skills and Competencies

30. In Dr. Blanton's Radical Honesty skills and capabilities forgiveness expert witness affidavit¹⁰³ he confirms that "[Johnstone] is being ridiculously prosecuted, and her defence is justified and accurate and her opinion that there is a significant difference between posed forgiveness and real forgiveness is entirely accurate and, so far, almost always avoided by politicians."

[D] There is a difference between posed, fake intellectual forgiveness, and sincere, sensate being forgiveness:

Forgiveness occurs through telling the truth and then staying there to experience the sensations in the body and the emotional response of the person speaking the truth. Staying present to the experience requires a broadening of attention, a widening of focus from the narrower focus on right and wrong, admitting lies, admitting crimes, reporting what really happened in the past. The shift from primary attention to the intellectual domain of judging right and wrong, to giving primary attention to the bodily experience that comes with telling the truth, is so that the person can feel their way through, rather than think their way around, the experience triggered by the report about the past.

Forgiveness is required for reconciliation. And the process of reconciliation is forgiveness squared. Because, as the one who initiates telling the truth, whether it is confessing what you have done or reporting on what others have done, you have to stay present to the persons who responds to your words, and to your feeling response and verbal response to them, and they must do the same in response to you...and this must go on for however long it takes for all the parties to be moved in their emotions, in their bodies and at the level of sensations experienced in the body, so that the sensations can increase, persist for a while, decrease, and then recede and go away. It is this bodily sensation of a change of heart that is the criterion for forgiveness that creates the possibility of reconciliation. If this process goes on honestly and is supported by those who give the invitation to reconciliation, sometimes former enemies become allies and friends out of mutual respect for each other's willingness to go through the process of telling the truth and experiencing and sharing their honest heartfelt, bodyfelt response. Sometimes, many times, the truth never gets told.

Sometimes, many times, even if the truth is told, reconciliation does not occur. Sometimes truth and reconciliation happens. When it does, new people make a new beginning."

D. Rule of Law and Forgiveness: Individuality, Independence, Integrity

31. In Practicing Radical Honesty, Dr. Blanton describes the importance of sincere forgiveness to changing the statistics of the Stanley Milgram studies of Obedience, which proved that 92% of humans are as culturally, racially, ideologically or religiously obedient, and unquestioning to their beliefs as Adolf Eichmann was to Nazism:

¹⁰³ Blanton, Brad Ph.D: Reasonableness Test Radical Honesty Skills & Competencies Affidavit [PDF: www.scribd.com/doc/33790671]

The key to individuality, integrity, and individual freedom has something to do with forgiveness, which involves getting over anger. That is done in the public domain, in community, and it is the pathway to freedom for individuals and the key to free societies. It is the way the statistics from Stanley Milgram's experiments get changed. Learning forgiveness, as an individual skill, by practice in getting over anger in the context of a community of friends, is an absolutely necessary prerequisite to creating a world that works for everyone. To be an individual who operates independently of authority and according to compassion, you need to learn the fundamental skills of getting mad and getting over it. Once you gain experience of getting mad and sincere forgiveness, you learn skills of noticing. You learn to notice even your mind. You notice that 'I think, therefore I am' is erroneous; and you begin to know "I am, therefore I think". You notice yourself thinking. Your thoughts are just thoughts, not 'me'. You become a being with a mind (I am, therefore I think) rather than a mind with a being (I think, therefore I am) as your culture has taught you all your life.

32. In Obedience to Authority, Stanley Milgram describes the perils of blind obedience to authority, as described in An Essay on Proudly South African Hypocrisy¹⁰⁴:

Nothing unites a community or builds national-unity easier than a common enemy, where the 'unity' is often of superiority. Usually systematic intense devaluation of the enemy prior to action against him provides a measure of psychological justification for his brutal treatment. Once having acted against the enemy, these individuals often find it necessary to view the enemy as an unworthy individual, whose punishment was made inevitable by his own deficiencies of intellect and character.

Building national unity by drawing people together in a common unified posture of anger and indignation (at the 'criminal' enemy), is the use of political policy to redefine the meaning of the situation. Control the manner in which a man -- in South Africa, America or wherever -- interprets his world, and you go a long way toward controlling his behaviour, because there is a propensity for people to accept definitions and interpretations of action, situations and behaviour provided to them by individuals whom they consider to be legitimate authority. That is why governments invest heavily in ideological propaganda, which constitutes the official manner of interpreting events.

Additionally every situation also possesses a kind of ideology, which is called the "definition of the situation," and which is the interpretation of the meaning of the particular social occasion. It provides the perspective through which the elements of a situation gain coherence and clarity. An act viewed in one perspective may seem heinous; the same action viewed in another perspective seems fully warranted.

When people accept definitions of action provided by legitimate authority, although the individual performs the action, he allows authority to define its meaning. It is this ideological abrogation to the authority that constitutes the principal cognitive basis of obedience. If, after all, the world, event, job, or the particular situation is as the authority defines and describes it, a certain set of actions follows logically. Because the individual conforms and without critical analysis accepts the authority's definition of the situation, obedient action follows willingly, often enthusiastically.

33. In Perils of Obedience, Dr. Stanley Milgram summarised 'Eichmann' Obedience as:

The legal and philosophic aspects of obedience are of enormous importance, but they say very little about how most people behave in concrete situations. I set up a simple experiment at Yale University to test how much pain an ordinary citizen would inflict on another person simply because he was ordered to by an experimental scientist. Stark authority was pitted against the subjects [participants] strongest moral imperatives against hurting others, and, with the subjects [participants] ears ringing with the screams of the victims, authority won more often than not. The extreme willingness of adults to go to almost any lengths on the command of an authority constitutes the chief finding of the study

¹⁰⁴ 04-06-11: Proudly SA Parasite Hypocrisy: Fraudulent Rehabilitation Boomerang [PDF: www.scribd.com/doc/34104187]

and the fact most urgently demanding explanation. Ordinary people, simply doing their jobs, and without any particular hostility on their part, can become agents in a terrible destructive process. Moreover, even when the destructive effects of their work become patently clear and they are asked to carry out actions incompatible with fundamental standards of morality, relatively few people have the resources needed to resist authority.

III. POPULATION POLICY COMMON SENSE PRINCIPLES

“Are we really going to be able to give these extra people jobs, homes, health care and education?” -- Official in Uganda’s Ministry of Finance, August 25, 2006¹⁰⁵

A. Thou Shalt Not Transgress Carrying Capacity Prophets:

34. One of the most commonly used words In the Bible, Tsedeq¹⁰⁶ -- found in Psalm 72, 85, etc; -- in its fullest sense, meant “world in balance” both ecologically and politically¹⁰⁷. This was not only the responsibility for the Gods, but also kings and people, and when this carrying capacity law was ignored or violated, Prophets Isaiah, Habakkuk, Joel, Hosea and Nahum warned of pestilence, war, famine and death.

35. In the The Ostrich Factor: Our Population Myopia¹⁰⁸, Garrett Hardin writes that Tertullian, a Father of the Christian church shocked many traditionalists over the centuries, by asking why is the human population so vast [perhaps 150 million then] that we are a burden to the earth, which can scarcely provide for our needs?

What most frequently meets our view (and occasions complaint), is our teeming population: our numbers are burdensome to the world, which can hardly supply us from its natural elements; our wants grow more and more keen, and our complaints more bitter in all mouths, whilst Nature fails in affording us her usual sustenance. In very deed, pestilence, and famine, and wars, and earthquakes have to be regarded as a remedy for nations, as the means of pruning the luxuriance of the human race....

36. The Reverend Thomas Robert Malthus FRS, was an Anglican clergyman who thought that the dangers of population growth would preclude endless progress towards a utopian society. Malthus saw this situation as divinely imposed to teach virtuous behaviour, as did Rev. Martin Luther King¹⁰⁹, and the Public Affairs Commission of the Anglican General Synod of Australia, Key Issues for Australia’s future in the global context

¹⁰⁵ Population Explosion Threatens to Trap Africa in Cycle of Poverty, The Guardian, 25 August; Rice, X. 2006 [PDF: www.scribd.com/doc/33281151]; High birthrate threatens to trap Africa in Cycle of Poverty, Guardian, UK; 1 September 2006, by Xan Rice [PDF: www.scribd.com/doc/33281181] See also: UB: [A.8] Exponential Functions, Carrying Capacity Limits & the Laws of Sustainability [PDF: www.scribd.com/doc/32739370]

¹⁰⁶ Stairway to Nowhere, by Yakov Rabinovich: “Tsedeq comes from a Semitic word meaning to be firm, straight, “like steel,” a determined integrity that goes to one’s core. In Arabic, this means that one is fully developed, balanced and mature. Although tsedeq is often translated to mean “judgment,” this does not mean evil retribution or a legal judgment, but justice and righteousness, incorporating right living.” [PDF: www.scribd.com/doc/34342563]

¹⁰⁷ UB: [A.9] Lysistrata Tsedeq: Eco-Law 101: Laws of Sustainability [PDF: www.scribd.com/doc/32739370]

¹⁰⁸ Hardin, Garrett: The Ostrich Factor: Our Population Myopia [PDF: www.scribd.com/doc/34463595]

¹⁰⁹ “Unlike plagues of the dark ages or contemporary diseases we do not understand, the modern plague of overpopulation is soluble by means we have discovered and with resources we possess. What is lacking is not sufficient knowledge of the solution but universal consciousness of the gravity of the problem and education of the billions who are its victim.” ML King, May 5, 1966

and actions for us to take¹¹⁰, they argue the relationship between 'Though shalt not steal' to 'Though shalt not breed'¹¹¹.

37. According to Robert McNamara, Former World Bank President: "Short of nuclear war itself, population growth is the gravest issue the world faces. If we do not act, the problem will be solved by famine, riots, insurrection and war;" and President Nixon:

"We must help break the link between spiralling population growth and poverty. ...Where they have been tried, family planning programs have largely worked. ...Many pro-life advocates ...contend that to condone abortion even implicitly is morally unconscionable. Their view is morally short-sighted. ...if we provide funds for birth control ...we will prevent the conception of millions of babies who would be doomed to the devastation of poverty in the underdeveloped world." ¹¹²

38. In World Scientists Warning to Humanity, Issued November 18, 1992, signed by 1700 leading scientists from 70 countries, including 102 Nobel Prize laureates in Science; Union of Concerned Scientists¹¹³; they warned:

The earth is finite. Its ability to absorb wastes and destructive effluent is finite. Its ability to provide food and energy is finite. Its ability to provide for growing numbers of people is finite. And we are fast approaching many of the earth's limits. Current economic practices which damage the environment, in both developed and underdeveloped nations, cannot be continued without the risk that vital global systems will be damaged beyond repair. Pressures resulting from unrestrained population growth put demands on the natural world that can overwhelm any efforts to achieve a sustainable future. If we are to halt the destruction of our environment, we must accept limits to that growth.

B. Eco-Numeracy: Exponential Functions and Carrying Capacity

39. In various Arithmetic of Growth and Living within Limits articles¹¹⁴ Professors Al Bartlett and Garrett Hardin, explain the basic principles of exponential functions, which can be applied to population, fiat currency, resource depletion, etc. An exponential function describes the size of anything that is growing steadily, over a fixed period of time: eg. 5% per year. To calculate the doubling time, i.e. how long it would take to grow 100%; you take the number 70, divide it by the percent growth per unit time: $70 \div 5$; and you find the doubling time: 14 years.
40. Adverse economic factors which generally result from rapid population growth include:
- * reduced family savings and domestic investment;
 - * increased need for large amounts

¹¹⁰ Key Issues for Australia's future in the global context and actions for us to take, A discussion paper prepared by the Public Affairs Commission of the Anglican General Synod of Australia, February 2009 [PDF: www.scribd.com/doc/34102510]

¹¹¹ Thou Shalt Not Breed: Anglicans, by Josh Gordon, The Age, Australia, May 9, 2010 [PDF: www.scribd.com/doc/33281239]

¹¹² Richard M. Nixon, Seize the Moment (Simon & Schuster, 1992); In National Security Study Memorandum 200: World Population Growth and U.S. Security, by Stephen D. Mumford; The Social Contract, Winter 1992 - 93 [PDF: www.scribd.com/doc/34181013]

¹¹³ World Scientists Warning to Humanity, issued 18 November 1992 [PDF: www.scribd.com/doc/33707614] A World Scientists Warning Briefing Book is available from Union of Concerned Scientists, which provides the citations to support their WARNING.

¹¹⁴ * Arithmetic of Growth: Methods of Calculation I, by Al Bartlett, [PDF: www.scribd.com/doc/34102577]; * Arithmetic of Growth: Methods of Calculation II, [PDF: www.scribd.com/doc/34102614]; * Arithmetic, Population and Energy: Sustainability 101 [PDF: www.scribd.com/doc/33707649]; (iv) Living within Limits: Ecology, Economics, and Population Taboos: Growth: Real and Spurious, by Garrett Hardin [PDF: www.scribd.com/doc/34102737]

of foreign exchange for food imports; * intensification of severe unemployment and underemployment; * the need for large expenditures for services such as dependency support, * education, and health which would be used for more productive investment; * the concentration of developmental resources on increasing food production to ensure survival for a larger population, rather than on improving living conditions for smaller total numbers.¹¹⁵

41. In Ethical Implications of Carrying Capacity¹¹⁶, Garrett Hardin defines carrying capacity of a particular area as “the maximum number of a species that can be supported indefinitely by a particular habitat, allowing for seasonal and random changes, without degradation of the environment and without diminishing carrying capacity in the future”. In From Shortage to Longage: Forty Years in the Population Vineyards¹¹⁷, he further clarifies the total impact equation of carrying capacity on a particular area: “Impacts of a population on the environment are of two sorts: the reduction of wanted resources and the addition of unwanted wastes. The fundamental equation connecting the variables can be expressed in simple words: Total impact = (per capita impact) x (population size).
42. Carrying Capacity is an absolute necessity for honest bottom line of ecological accounting.¹¹⁸ According to Hardin: (a) a laissez-faire birth control (B.C.) policy + No Social Welfare, would provide for an equilibrium carrying capacity; whereas laissez-faire (B.C.) within a welfare state, results in Runaway Growth, and ultimately greater misery. Legislators can have either, but not both; if welfare policies are too precious to be abandoned; they will have to introduce limits to the right to breed¹¹⁹.

C. Tragedy of the Commons: Limited World, Limited Rights

43. In Tragedy of the Commons¹²⁰ Garrett Hardin refers to a Limited World, Limited Rights¹²¹ legal dilemma in which multiple individuals, acting independently and solely and rationally consulting their own self-interest, will ultimately deplete a shared limited resource even when it is clear that it is not in anyone's long-term interest for

¹¹⁵ National Security Council, NSSM 200: Implications of Worldwide Population Growth for U.S. Security and Overseas Interests, Washington, DC December 10, 1974 [PDF: www.scribd.com/doc/33114194]

¹¹⁶ Ethical Implications of Carrying Capacity, by Garrett Hardin, 1977 [PDF: www.scribd.com/doc/33707704]

¹¹⁷ From Shortage to Longage: Forty Years in the Population Vineyards, by Garrett Hardin, Population and Environment, Vol. 12, No. 3. Spring 1991 [PDF: www.scribd.com/doc/33707732]

¹¹⁸ Perpetual Growth: The Next Dragon Facing Biology Teachers, by Garrett Hardin, National Association of Biology Teachers Address on 10 November, 1990 [PDF: www.scribd.com/doc/34102744]

¹¹⁹ From Shortage to Longage: Forty Years in the Population Vineyards, by Garrett Hardin, Population and Environment, Vol. 12, No. 3. Spring 1991 [PDF: www.scribd.com/doc/33707732]

¹²⁰ Tragedy of the Commons, by Garret Hardin, Science, 1968 [PDF: www.scribd.com/doc/33707732]

¹²¹ Limited World, Limited Rights, by Garrett Hardin, 17 May/June 1980 [PDF: www.scribd.com/doc/33707719]

this to happen. Hardin predicts that the tragic problem of human population growth's overuse of the carrying capacity of the commons can only be solved with a change in human values or ideas of morality. He accuses the legal and political nanny welfare state of providing financial incentives to procreate poverty stricken voting cannon-fodder for the power-greedy welfare parasite elite: "If each human family were dependent only on its own resources; if the children of improvident parents starved to death; if, thus, overbreeding brought its own "punishment" to the germ line--then there would be no public interest in controlling the breeding of families." Hardin also refers to Lifeboat Ethics¹²² as another metaphor for the application of the logic of the commons.¹²³ The problem of the commons has been evaded in the exploitation of all from fisheries to rain-forests to the question of human populations. "Both require for their rational resolution a clear understanding of the concept of carrying capacity and a willingness to fashion laws that take this concept into account."¹²⁴

D. Overpopulation: Resources Scarcity and Resource War Violence:

44. In Environmental Change and Violent Conflict¹²⁵ Scientific American authors document how the predictions of NSSM 200 were already occurring around the world:

Within the next 50 years, the human population is likely to exceed nine billion, and global economic output may quintuple. Largely as a result of these trends, scarcities of renewable resources may increase sharply. The total area of highly productive agricultural land will drop, as will the extent of forests and the number of species they sustain. Future generations will also experience the ongoing depletion and degradation of aquifers, rivers and other bodies of water, the decline of fisheries, further stratospheric ozone loss and, perhaps, significant climatic change. As such environmental problems become more severe, they may precipitate civil or international strife."

To examine whether these problems are currently causing civil or international strife, the authors assembled a team of 30 researchers to review a set of specific cases.

[Their findings were then summarized] The evidence that they gathered points to a disturbing conclusion: scarcities of renewable resources are already contributing to violent conflicts in many parts of the developing world. These conflicts may foreshadow a surge of similar violence in coming decades..."

45. Other studies on Overpopulation, Resource Scarcity and Violence include:
1. The Demography of Armed Conflict, edited by CSCW researcher Henrik Urdal
 2. The Devil in the Demographics: The Effect of Youth Bulges on Domestic Armed Conflict, 1950-2000; Urdal, Henrik, 2004
 3. Population Dynamics and Local Conflict: A Cross National Study of Population and War, by Nazli Choucri, Massachusetts Institute of Technology¹²⁶

¹²² Lifeboat Ethics: the Case Against Helping the Poor, by Garrett Hardin [PDF: www.scribd.com/doc/33707714]

¹²³ Carrying Capacity: As an Ethical Concept, by Garrett Hardin, [PDF: www.scribd.com/doc/34102726]

¹²⁴ Ethical Implications of Carrying Capacity, by Garrett Hardin, 1977 [PDF: www.scribd.com/doc/33707704]

¹²⁵ Environmental Change and Violent Conflict, by Thomas F. Homer-Dixon, Jeffrey H. Boutwell & George W. Rathjens; Scientific American, Feb 1993 [PDF: www.scribd.com/doc/34102682]; The Life and Death of NSSM 200 [PDF: www.scribd.com/doc/33707613]

4. Population and Conflict: New Dimensions of Population Dynamics, by Nazli Choucri, United Nations Fund for Population Activities¹²⁷
5. The Security Demographic - Population and Civil Conflict After the Cold War, by Cincotta, Engelman and Anastasion, Population Action International, 2003

E. Demographics and Violence: Youth Bulges

46. Numerous reports provide details how population age structures have significant impacts on a countries stability, governance, economic development and social well-being. Put differently, countries with large populations of idle young men, known as youth bulges, account for 70 - 90 percent of all civil conflicts. Additionally a wealth of historical studies indicates that cycles of rebellion and military campaigns in the early modern and modern world tended to coincide with periods when young adults comprised an unusually large proportion of the population. Youth Bulge Reports:

1. The Shape of Things to Come: Why Age Structure Matters to a Safer More Equitable World¹²⁸, by Population Action International
2. YouthQuake: Population, fertility and environment in the 21st Century¹²⁹, by Optimum Population Trust

F. Population Pressures, Resource Wars, Terrorism and National Security

47. The Kissinger Report, also known as National Security Study Memorandum 200: Implications for Worldwide Population Growth for U.S. Security and Overseas Interests¹³⁰, commissioned by President Nixon, and undertaken by the National Security Council, the CIA, the Defense, Agriculture and State Departments, and the Agency for International Development. It was authorized into law by President Gerald Ford, in NSC, National Security Decision Memorandum 314¹³¹ on November 26, 1975, detailing the sense of national security emergency:

There is a major risk of severe damage [caused by continued rapid population growth] to world economic, political, and ecological systems and, as these systems begin to fail, to our humanitarian values [Executive Summary].¹³²

...world population growth is widely recognized within the government as a current danger of the highest magnitude calling for urgent measures [Page 194]. ...it is of the utmost

¹²⁶ Choucri, Nazli: Population Dynamics and Local Conflict [PDF: www.scribd.com/doc/34102721]

¹²⁷ Choucri, Nazli: Population and Conflict: New Dimensions of Population Dynamics [PDF: www.scribd.com/doc/34464029]

¹²⁸ The Shape of Things to Come: Why Age Structure Matters to a Safer More Equitable World; by E. Leahy with R. Engelman, C. Gibb Vogel, S. Haddock and T. Preston, Population Action International [PDF: www.scribd.com/doc/34180717]

¹²⁹ YouthQuake: Population, fertility and environment in the 21st Century, by John Guillebaud, Optimum Population Trust, 2007 [PDF: www.scribd.com/doc/34180625]

¹³⁰ National Security Study Memorandum 200: Implications for Worldwide Population Growth for U.S. Security and Overseas Interests, [PDF: www.scribd.com/doc/33114194] Pres. Nixon's Cover Letter [PDF: www.scribd.com/doc/34464123]

¹³¹ National Security Council, National Security Decision Memorandum 314, Washington, DC, November 26, 1975. 4 pp. [Ch. 4: The Life and Death of NSSM 200, by S. Mumford] [PDF: www.scribd.com/doc/33707613]

¹³² National Security Study Memorandum 200: World Population Growth and U.S. Security, by Stephen D. Mumford; The Social Contract, Winter 1992 - 93 [PDF: www.scribd.com/doc/34181013]

urgency that governments now recognize the facts and implications of population growth, determine the ultimate population sizes that make sense for their countries and start vigorous programs at once to achieve their desired goals [Page 15].

The threat to security briefly summarized, ...population factors are indeed critical in, and often determinants of, violent conflict in developing areas. Segmental (religious, social, racial) differences, migration, rapid population growth, differential levels of knowledge and skills, rural/urban differences, population pressure and the spatial location of population in relation to resources — in this rough order of importance — all appear to be important contributions to conflict and violence... Clearly, conflicts which are regarded in primarily political terms often have demographic roots. Recognition of these relationships appears crucial to any understanding or prevention of such hostilities [Page 66].

Where population size is greater than available resources, or is expanding more rapidly than the available resources, there is a tendency toward internal disorders and violence and, sometimes, disruptive international policies or violence [Page 69].

48. Other executive actions by President Nixon included Public Law 91-213: An Act to establish a Commission on Population Growth and the American Future¹³³; 91st Congress, S. 2701; March 16, 1970; and consequently Population and the American Future: The Report of the Commission on Population Growth and the American Future¹³⁴; John D. Rockefeller 3rd, March 27, 1972. In The Life and Death of NSSM 200: How the Destruction of Political Will Doomed a U.S. Population Policy¹³⁵, Dr. Stephen Mumford, details the in-depth role of the Vatican to scuttle America's population policies. Additionally Life and Death of NSSM 200 summarizes and discusses one of the most important population documents ever written The World Population Plan of Action¹³⁶ adopted at the UN World Population Conference at Bucharest in Aug, 1974.
49. The Public Report of the Vice Presidents Task Force on Combatting Terrorism¹³⁷ concludes that a fundamental root cause of terrorism is the collision of youth bulge overpopulation with scarce, depleted and finite resources; namely too many idle young men fighting over too few and depleting resources.
50. In 2000, a Nightline documentary by Ted Koppel, detailed the CIA & Pentagon's Perspective on Overpopulation & Resource Wars; warning about future wars over water, as a result of lack of political will to address population growth factors.

G. How and Why Journalists Avoid the Population - Environment Connection

¹³³ Act to Establish a Commission on Population Growth and American Future [PDF: www.scribd.com/doc/33707613]

¹³⁴ US Rockefeller Report: The Report Of The Commission On Population Growth: [PDF: www.scribd.com/doc/33114078]

¹³⁵ The Life and Death of NSSM 200: How the Destruction of Political Will Doomed a U.S. Population Policy, by Stephen D. Mumford; Center for Research on Population and Security, 1996 [PDF: www.scribd.com/doc/33707613]

¹³⁶ World Population Plan of Action was adopted at the UN World Population Conference at Bucharest in August, 1974; Appendix 1 to Life and Death of NSSM 200 [PDF: www.scribd.com/doc/33114086]

¹³⁷ Public Report of the Vice-President's Task Force on Combatting Terrorism, February 1986. [PDF: www.scribd.com/doc/34192907]

51. In How and Why Journalists Avoid the Population-Environment Connection¹³⁸ Dr. Michael T. Maher, concludes his study as follows:

"As we have seen, both land development economists and environmental experts acknowledge population growth as a key source of environmental change. But journalists frame environmental causality differently.

Why? Communication theory offers several possibilities. First is the hegemony-theory interpretation: reporters omit any implication that population growth might produce negative effects, in order to purvey the ideology of elites who make money from population growth. As Molotch and Lester (1974) put it, media content can be viewed as reflecting "the practices of those having the power to determine the experience of others" (p. 120). Since real estate, construction and banking interests directly support the media through advertising purchases, this interpretation seems plausible. A number of media critics (e.g., Gandy, 1982; Altschull, 1984; Bennett, 1988) have suggested that media messages reflect the values of powerful political and commercial interests. Burd (1972), Kaniss (1991) and others have pointed out that newspapers have traditionally promoted population growth in their cities through civic boosterism. Molotch (1976) even suggested that cities can best be understood as entities competing for population growth, with the city newspaper as chief cheerleader.

Certainly most reporters would be incensed at the suggestion that they shade their reporting to placate commercial interests. But Breed's classic study of social control in the newsroom (1955) showed that news managers' values are transmissible to journalists through a variety of pressures: salaries, story assignments, layout treatment, editing, and a variety of other strategies that effectively shape news stories in ways acceptable to management.

Another possible explanation for why journalists omit population growth from their story frame is simple ignorance of other explanations. Journalists who cover environmental issues may not be aware of any other possible ways to frame these stories, thus they derive their framing from other journalists. Journalists frequently read each other's work and take cues for coverage from other reporters, particularly from the elite media (Reese & Danielian, 1989). Perhaps the pervasive predictability of the story frames examined in Part I is another example of intermedia influence. On the other hand, it seems difficult to believe that journalists could be ignorant of the role population growth plays in environmental issues, because media coverage frequently ties population growth to housing starts and business expansion. Furthermore, "Why" is one of the five "W's" taught in every Journalism 101 course. A public affairs reporting textbook, *Interpreting Public Issues* (Griffin, Molen, Schoenfeld, & Scotton, 1991), admonishes journalists: "A common journalistic mistake is simply to cover events—real or staged—and ignore underlying issues" (p. 320). The book identified population trends as one of the "big trouble spots," and listed world population as the first of its "forefront issues in the '90s" (p. 320). Hence, we cannot say that reporting basic causality is beyond the role that journalists ascribe for themselves. Indeed a panel at the 1994 Society of Environmental Journalists discussed "Covering Population as a Local Story" (Wheeler, 1994). But ignorance remains a possible reason, for not all reporters have training in environmental issues.

A third possible explanation comes from the "spiral of silence" theory by German scholar Elisabeth Noelle-Neumann (1984):

The fear of isolation seems to be the force that sets the spiral of silence in motion. To run with the pack is a relatively happy state of affairs; but if you can't, because you won't share publicly in what seems to be a universally acclaimed conviction, you can at least remain silent, as a second choice, so that others can put up with you.

According to Noelle-Neumann, "the media influence the individual perception of what can be said or done without danger of isolation". Media coverage legitimates a given perspective. Lack of media coverage—omitting a perspective consistently from media stories—makes the expression of that perspective socially dangerous. Noelle-Neumann also

¹³⁸ How and Why Journalists Avoid the Population-Environment Connection, by T. Michael Maher, University of Southwestern Louisiana, Population and Environment, Volume 18, Number 4, March 1977. [PDF: www.scribd.com/doc/33694415]

suggested that the media serve an articulation function: "The media provide people with the words and phrases they can use to defend a point of view. If people find no current, frequently repeated expressions for their point of view, they lapse into silence; they become effectively mute".

IV: TRC FRAUD: 'CRIME OF APARTHEID' FALSIFICATION OF HISTORY

"The commission also said that there could be no healing without truth, that half-truths and denial were no basis for building the new South Africa, that reconciliation based on falsehood would not last, and that selective recollection of past violence would easily provide the mobilisation for further conflict in the future. If these are its criteria for the role of truth in promoting reconciliation, it has failed to meet them."

-- John Kane-Berman, The Truth About the Truth Commission

A. Negligent or Intentional Avoidance of Key Concept Definitions?

52. Conflict of Laws Definitions: Fundamental Concepts Not Defined¹³⁹: The TRC, perhaps intentionally¹⁴⁰, ignored the importance of providing clear definitions: In the TRC Report they repeatedly accuse the Apartheid government of maintaining its alleged legal oppressive regime, by means of definitions that are vague and ambiguous¹⁴¹. The TRC social contract Acts proceed to provide no definition for 'ubuntu', 'closure', 'reconciliation', 'dignity' and 'national unity': which are socially, culturally, religiously, psychologically, and racially important terms; which have multiple different meanings for different cultures, religions, etc.
53. This circumvents the European Court of Human Rights principle that rule of law requires that provisions of legislation must be adequately accessible and sufficiently precise to enable people to regulate their affairs in accordance with the law.¹⁴²

B. Amnesty Meaning Changed Without Due Process?

54. Did 'Amnesty' mean Amnesty, or was the meaning changed?¹⁴³: Did the ANC, change the requirements for Amnesty principles of the original agreement (Interim

¹³⁹ UA: [E. 2]: Definitions: Fundamental Concepts Not Defined [PDF: www.scribd.com/doc/32739548]

¹⁴⁰ SALC Project 90: Report on Conflicts of Law, September 1999, p.22 "1.57: Blending two very different legal systems in a synthetic code is an immense undertaking, however, which has been accomplished in very few African countries and then largely at the expense of customary law. At a social level, it may be questioned whether everyone in the country either wants or is prepared for a single law. Are the peoples of South Africa willing to compromise their cultural traditions in a homogenized legal system? In any event, it must be appreciated that, for the immediate future at least, social and legal differences will remain, and, if that is the case, the conflict of laws will have an important role to play in selecting appropriate laws in particular cases."

¹⁴¹ Truth and Reconciliation Report: Vol I. page 30; para 26; 27 ; page 32 para 32; page 38, para 59; Vol II; page 274, para 453

¹⁴² The European Court of Human Rights has held that the rule of law requires that provisions of legislation must be adequately accessible and sufficiently precise to enable people to regulate their affairs in accordance with the law." *Lithgow & others v. United Kingdom* (1986) * EHRR 329 § 110: "As regards the phrase "subject to the conditions provided for by law", it requires in the first place the existence of and compliance with adequately accessible and sufficiently precise domestic legal provisions (see, amongst other authorities, the *Malone* judgment of 2 August 1984, Series A no. 82, pp. 31-33, paras. 66-68). "

¹⁴³ UA: [E.3] Did 'Amnesty' mean Amnesty, or was the meaning changed? [PDF: www.scribd.com/doc/32739548]

Constitution), but avoided any such consultation (as required by Interim Constitution S. 233 (3) and (4)) with relevant parties, such as the IFP, the SADF, etc¹⁴⁴.

C. Was Truth and Reconciliation Seen to Be Done?

55. In Assessment of the probable results of activities of the Truth and Reconciliation Commission (TRC) as perceived by former Chiefs of the SADF IRO the SADF¹⁴⁵, by Generals Malan, Viljoen, Geldenhuys and Liebenberg, they write:

Although we stand sympathetic towards the objectives of the TRC..... we have serious reservations as to whether the TRC can make an optimum contribution towards reconciliation and national unity.

Our reservations are shared, amongst others, by the historian Hermann Giliomee in the Leader Page article in the Cape Times of 9 October 1997. "Writing as a historian, I have always felt that the greatest problem with the commission was not so much what it has set out to do, but its hopelessly skewed composition. Unlike Chile, where half the commissioners appointed to a similar body was roughly associated with the old regime and the other half with the new, the score in our case is roughly nine to one in favour of the anti - regime side".

In the case of South Africa, strange as it may sound, there is more than one past. If the position of the TRC's past is accepted, an analysis such as this becomes irrelevant. If society is perceived as an interaction between oppressor and oppressed, as a clear-cut distinction between evil and good, the TRC's investigation is not really necessary - even before the start of the hearings, the outcome would have been predetermined.

56. The TRC Foundation: Impartial Truth or Selective Truth (Bias)¹⁴⁶: In The Truth about the Truth Commission¹⁴⁷, Anthea Jeffery details how the TRC did not live upto its mandate to contextualise the gross violations, including the perspectives and motives of the perpetrators, as well as any antecedent factors contributing to violations. It contextualised the actions of the ANC, and provided no context for the IFP or State, simply depicting it as a criminal state, totally disregarding the State's perspective, about the importance of law and order; or the IFP's perspectives and motives. The TRC deliberately ignored the People's War, TRC findings were frequently unexplained, "its investigation and research appears ... one-sided". It concentrated on the States Security Council, while ignoring its ANC equivalent the 'Political-Military Council of the ANC'. The TRC further failed to verify evidence before it, or to take all relevant information into account. It expressed reservations about audi Alteram partem and giving alleged perpetrators sufficient notice, and conducted many of its hearings behind closed doors. It failed to give reasons for many of its findings, or to explain the

¹⁴⁴ The Conflict of the Past: A Factual Review, by General Johan van der Merwe: "From the very beginning the TRC-process was characterised by a one-sided approach in which members of the Security Branch were often harshly discriminated against....." [PDF: www.scribd.com/doc/32954067]

¹⁴⁵ February 1998, Letter: Assessment of the Probable Results of Activities of the Truth and Reconciliation Commission (TRC) as perceived by former Chiefs of the SADF IRO the SADF, by Generals Malan, Viljoen, Liebenburg and Geldenhuys, to Chairman of the Truth and Reconciliation Commission [PDF: www.scribd.com/doc/34381488]

¹⁴⁶ UA: [E.4] Was Truth and Reconciliation Seen to be Done? [PDF: www.scribd.com/doc/32739548]

¹⁴⁷ The Truth About The Truth Commission, Anthea Jeffery, SA Inst. Race Relations (SAIRR), 1999 [PDF: www.scribd.com/doc/32954016]

basis of its conclusions, particularly findings of accountability on a balance of probability. It repudiated various judicial rulings without citing evidence or reasons to justify this. On the importance of Truth to the TRC, she states that it is clear the TRC are aware of the importance of the need for impartial truth, but that they appear to sorely lack the will to put actions behind their words.

57. Further complaints of TRC bias¹⁴⁸, conflicts of interest, censorship or omission, etc:

1. The Conflict of the Past: A Factual Review¹⁴⁹, by General Johan van der Merwe;
2. Complaints to Public Protector of TRC Handling of SADF¹⁵⁰, by Gen. J.J. Geldenhuys, SSA, SD, SOE, SM; Genl A.J. Liebenberg, SSA, SD, SOE, MMM; Genl M.A. de M. Malan, SSA, OMSG, SD, SM; and Gen C.L. Viljoen, SSA, SD, SOE, SM; January 1998. They also refer to the TRC's lack of enquiry into among others the: The Stuart Commission's Report¹⁵¹; The Douglas Commission's Report¹⁵²; The Motsuenyane Commission¹⁵³; The Skweyiya Commission¹⁵⁴; Amnesty International Report¹⁵⁵; Mbokodo: Inside the MK: A soldiers Story, by Mwezi Twala¹⁵⁶; the book: Marching to Slavery: SA's Descent into Communism; and The Denton Hearings, by Jeremiah Denton, Chairman of the Subcommittee on Security and Terrorism of the Committee on the Judiciary¹⁵⁷. They also filed a further submission to the TRC: Assessment of the Probable Results of

¹⁴⁸ UA: [E.5] Rainbow Truths: Were contextual Struggle Violence Truths Told? [PDF: www.scribd.com/doc/32739548]

¹⁴⁹ The Conflict of the Past: A Factual Review, by General Johan van der Merwe [PDF: www.scribd.com/doc/32954067]

¹⁵⁰ Complaints to Public Protector of TRC Handling of SADF, submitted by Generals J.J. Geldenhuys; A.J. Liebenberg; M.A. de M. Malan; and C.L. Viljoen; January 1998 [PDF: www.scribd.com/doc/32954024]

¹⁵¹ Stuart Comm. Report: of Inquiry into Recent Developments in People's Rep. of Angola, Mar 14, 1984: "Despite the report of the Stuart Comm. by Hermanus Loots (alias James Stuart) after being appointed by the ANC's NEC to inquire into the Pongo mutiny among ANC combatants: "Some of those punished have been maimed for the life and there have been deaths..... The aim of the punishment seems to be to destroy, demoralise and humiliate comrades and not correct and build." He listed gruesome punishments and the "shocking corruption of fear" in the camps, listed the names of people who died as a result of these punishments and noted that others had committed suicide or had deserted. It added that the ANC/SACP security department had done things that would "shock our people against the movement". Although presented to Oliver Tambo, Alfred Nzo and others, the Stuart Comm. Report sank without trace. This was apparently not the stuff the politicians behind fighters wanted the world to know about." [PDF: www.scribd.com/doc/32956936]

¹⁵² "The Douglas Commission's Report. Based on the evidence from some 100 witnesses and depositions from some 60, including some 40 survivors of ANC camps in Angola, Uganda, Mozambique, Tanzania and Zambia, it found that the cruelties amounted to a "litany of unbridled and sustained horror". This Durban based State's council mentioned various prominent SACP/ANC leaders as being directly or indirectly responsible for serious human rights abuses."

¹⁵³ ANC - Commission of Enquiry into Certain Allegations of Cruelty and Human Rights Abuse Against ANC Prisoners and Detainees by ANC Members (Motsuenyane Commission) - August 20, 1993 [PDF: www.scribd.com/doc/32957187]: "This Commission, the ANC's own, recommended that those responsible for the atrocities should be identified and banned from holding high positions of authority."

¹⁵⁴ Skweyiya Commission Report, Report of the Commission of Enquiry into Complaints by Former African National Congress Prisoners and Detainees, 1992 [PDF: www.scribd.com/doc/32956941]

¹⁵⁵ South Africa: Torture, ill-treatment and executions in African National Congress Camps, Amnesty International, 2 December 1992, AI Index AFR 53/27/92 [PDF: www.scribd.com/doc/32957163]

¹⁵⁶ See also: (i) What Happened in the ANC Camps?, Focus: ANC Camps, WIP, No. 82, Page 14-18; June 1992.; (ii) Women in the ANC and SWAPO: sexual abuse of young women in the ANC camps, by Olefile Samuel Mngqibisa, October 1993, Searchlight South Africa, No 11, Pages 11-16 (ISSN 0954-3384) [PDF: www.scribd.com/doc/32956931]; (iii) A Miscarriage of Democracy: The ANC Security Department in the 1984 Mutiny in Umkhonto We Sizwe, Bandile Ketelo, Amos Maxongo, Zamxolo Tshona, Ronnie Massango and Luvo Mbengo: Searchlight South Africa, Vol. 2, No.1, July 1990, Pages: 35-41. [PDF: www.scribd.com/doc/32957159]; (iv) An Open Letter to Nelson Mandela from Ex-ANC Detainees, Searchlight South Africa Number 5 July 1990, pages 66 to 68 [PDF: www.scribd.com/doc/32957184]; (v) The ANC Conference: From Kabwe to Johannesburg, Letter to the Editors, Searchlight South Africa, Vol 2, No.2 January 1991 [PDF: www.scribd.com/doc/32957358]; (vi) A Death in South Africa: The Killing of Sipho Phungulwa, by Paul Trwhela, The Killing Fields of South Africa, Searchlight South Africa, Vol 2, No 2, 6 January 1991; Pg 11 - 25; ISSN 0954-3384 [PDF: www.scribd.com/doc/32957565]; (vii) The Case of Samuel Mngzibisa (Eity Mhlekezi); Resignation from ANC, 07/02/1991 [PDF: www.scribd.com/doc/32957409]; (viii) Inside Quadro: End of an Era, by Paul Trehwela, Searchlight South Africa, No. 5 in July 1990. [PDF: www.scribd.com/doc/32957573]; (ix) The ANC Prison Camps: An Audit of Three Years, 1990 - 1993, by Paul Trehwela, Searchlight South Africa [PDF: www.scribd.com/doc/32957712]; (x) The Dilemma of Albie Sachs: ANC Constitutionalism and the Death of Thami Zulu, by Paul Trehwela, Searchlight South Africa [PDF: www.scribd.com/doc/32957509]

¹⁵⁷ (i) The Denton Hearings. This report by Jeremiah Denton, Chairman of the Subcommittee on Security and Terrorism of the Committee on the Judiciary, U.S. Senate, states in the Letter of Transmittal: "I feel that a review and analysis of the material which has been compiled will be of substantial assistance to those who desire to have a fuller understanding of the part that the Soviet Union and its proxy states play in international terrorism and national liberation movements such as SWAPO and the ANC".; (ii) The Aida Parker Newsletter: Issue No. 200: October 1996: "Prisoners dealt with the 1982 hearings scheduled in Washington by one-time Republican Senator Jeremiah Denton of Alabama. Testimony heard before the Denton Committee on security and terrorism in SA disclosed the existence of a strategy to seize power by force and terror. The first tactic, of course, was to kill Black South Africans who disagreed with the ANC strategy of revolution."

Activities of the Truth and Reconciliation Commission (TRC) as perceived by Former Chiefs of the SADF IRO the SADF¹⁵⁸.

D. Did 'Evil Apartheid' raise Black living standards to Highest in Africa?

"Most people overseas were still under the impression that the policy of separate development was aimed at keeping the Bantu down. They did not realise that the policy was aimed at uplifting them." - R.J. Stratford, Former Opposition MP,¹⁵⁹

"Until I have found an alternative policy which would do greater justice to all concerned - and I cannot - I do not propose to criticise South Africa's policy." - Sir Carl Berendsen, former New Zealand Ambassador, after a two months tour of South Africa¹⁶⁰

"Apartheid is conceived of by the government of South Africa as a 'separate and parallel' development, and to implement it the government is creating Bantu states, where complete self-government will be not only permitted but encouraged, after a period of transition. The ultimate objective will be a dual commonwealth in which the Bantustans will be constituent units... Self government is to be developed on the basis of tribal traditions, the objective being full democracy, but in the form most readily assimilated by the African..." - Clarence B. Randall, advisor to President Kennedy¹⁶¹

58. Yosef Lapide, a journalist for the Tel Aviv newspaper Ma'Ariv's wrote:

Well, the so called liberated African states are, with a few exceptions, a bad joke and an insult to human dignity. They are run by a bunch of corrupt rulers, some of whom, Like Idi Amin of Uganda, are mad according to all the rules of psychiatry. I feel unburdened when I say this; I wanted to say this all these years, and all these years I had the feeling that we fool the public when, for reasons of diplomacy, we do not tell them that the majority of black African states are one nauseating mess.

The lowliest of Negroes in South Africa has more civil rights than the greatest Soviet author. The most oppressed negro in South Africa has more to eat than millions of Africans in "Liberated" countries. The people advocating "progress", who were so worried about the rights of the majority in South Africa, have never raised their voices for the majority in Hungary or in Cuba, in Red China or in Egypt. In half a dozen states-including Ethiopia-thousands of persons die every day of hunger, while the rulers travel by Cadillac and steal food that is being sent to aid their subjects.

Only in the sick minds of "progressives" do the babies die of starvation with a smile on their lips, because the ruler who starves them to death has a black skin.¹⁶²

59. Although Verwoerd's Apartheid "launched the greatest programme of socio-economic upliftment for non-whites that South Africa had ever seen,"¹⁶³ which raised poor blacks living standards to the highest in Africa¹⁶⁴, granting them greater self-determination

¹⁵⁸ Assessment of the Probable Results of Activities of the Truth and Reconciliation Commission (TRC) as perceived by Former Chiefs of the SADF IRO the SADF, by SA Defence Force Contact Bureau [PDF: www.scribd.com/doc/34381488]

¹⁵⁹ 1964-01-10: ICJ: Counter-Memorial of Gov. of SA (Book I-IV), p 493: The Pretoria News, 1963, p.1; from: SOUTH-WEST AFRICA (Ethiopia v. South Africa; Liberia v. South Africa) [ICJ: www.icj-cij.org/docket/index.php?p1=3&p2=3&k=f2&case=46]

¹⁶⁰ 1964-01-10: ICJ: (Book I-IV), p. 494: The Evening Post (New Zealand), 4 Dec 1962; Ibid (www.icj-cij.org)

¹⁶¹ 1964-01-10: ICJ: (Book I-IV), p. 494: South Africa Needs Time, Atlantic Monthly, May 1963 Ibid (www.icj-cij.org)

¹⁶² History in the Making: World Conflict in the Twentieth Century, S.M. Harrison, 1987; as quoted in Opening Pandora's Apartheid Box - Part 18 - Hypocrisy at The United Nations, Mike Smith Political Commentary Blog (www.mspoliticalcommentary.blogspot.com)

¹⁶³ Open Letter from Jaap Marais, Leader of the HNP, to President Clinton, the Whitehouse, 14 January 1999: "This is a picture of the country which under Verwoerd had the second highest economic growth rate in the world (7,9% per year), an average inflation rate of 2 per cent, was accommodating new labour in the formal sector at 73,6 per cent per year, and enabled the living standards of Blacks in the industrial sector to rise at 5,3 per cent per year as against those of Whites at 3,9 per cent per year. The Financial Mail published a special survey entitled "The fabulous years: 1961-66". Jan Botha wrote, Verwoerd "had launched the greatest programme of socio-economic upliftment for the non-Whites that South Africa had ever seen". [PDF: www.scribd.com/doc/34463257]

¹⁶⁴ Was Apartheid Really The Most Evil Regime In The World?, by Albert Bremmer, 10/08/2007: "Did you know that the life expectancy of black South Africans nearly equaled that of Europeans during the last decade of Apartheid? Did you know that the black population nearly

under Afrikaners¹⁶⁵, than other minority black tribes in Africa enjoyed under majority black rule. This did not sit well with the OAU, who founded the OAU Liberation Committee, to assist in “forging an international consensus against apartheid.”¹⁶⁶ It claims it was devoted to eradicating all traces of colonialism to benefit Africans ‘self determination’; but it “rejected post-independence claims to self-determination in Biafra, Katanga, southern Sudan, Shaba and Eritrea”¹⁶⁷, and the Sahrawi people’s right to self determination¹⁶⁸. The OAU’s collective effort to rid Africa of apartheid meant it “played an influential role in the UN to ensure an arms embargo, economic sanctions, condemnation of South Africa’s main trade partners and the non-recognition of the “homelands” .”¹⁶⁹ (own emphasis)

60. In 1961, then foreign minister of SA, Eric Louw presented to the UN a factual comparison of the living conditions of blacks in South Africa compared to other African states. He proved that Blacks in SA had a higher per capita income, better educational opportunities¹⁷⁰, far superior medical and social services and altogether a higher standard of living than anywhere in Africa. In response, the OAU engineered a motion of censure against him (first of its kind) and his speech was struck from the record. Even “The Washington Post”, who regularly criticized South Africa, noted:

“Nothing that South Africa has done and nothing that its representatives said, justified the mob-like censure which the United Nations visited upon that country and its Foreign Minister, Mr Eric Louw.”

61. By 1978, “Soweto alone had more cars, taxis, schools, churches and sport facilities than most independent countries in Africa. The Blacks of South Africa had more private vehicles than the entire white population of the USSR at the time.”¹⁷¹

trebled during Apartheid? Did you know that black South Africans had the highest per capita income and education levels in Africa during Apartheid?” [PDF: www.scribd.com/doc/34381274]

¹⁶⁵ Salute the bravery and vision of SA’s founders, Meshack Mabogoane, Business Day, 2010/05/05: “Undoubtedly, racial inequity existed and full democracy was absent. But social, health and material provisions — the best in Africa — existed for black people. Long before 1994, blacks had voted directly, at least, for urban and rural councils and executives — izibonda and bungas. Now all races don’t even vote for central and provincial legislators but for mere party representatives.” [PDF: www.scribd.com/doc/34463315]

¹⁶⁶ Cervenka, Z; The unfinished quest for unity: Africa and the OAU , New York, Africana Publishing Company (1977) p.45

¹⁶⁷ Eritrea won its independence in 1991, despite the OAU’s lack of support for the application of the principle of self determination in its case. Blay SKN Changing African perspectives on the right of self-determination in the wake of the Banjul Charter on Human and People’s Rights; 29 Journal of African Law (1985) p 152-153.

¹⁶⁸ Naldi, GJ, The Organisation of African Unity and the Saharan Arab Democratic Republic; 26 Journal of African Law (1982) p 152-157

¹⁶⁹ Andemicael Berhanykun The OAU & the UN: Relations between The Organization of African Unity and the United Nations (New York & London: Africana Publishing Company, 1976, 352 pp. (1976) 133-173; and Foltz & Widner in El-Ayouty & Zartman (eds) 1984) p. 263 - 269

¹⁷⁰ Opening Pandora’s Apartheid Box - Part 11- Bantu Education under Apartheid, by Mike Smith.; “Since 1970 the budget for black education was raised by about 30% per year every year. More than any other government department. In the period 1955 -1984 the amount of black school students increased 31 times from 35,000 to 1,096 000. 65% of black South African children were at school compared to Egypt 64%, Nigeria 57%, Ghana52%, Tanzania50% and Ethiopia 29%. Amongst the adults of South Africa, 71% could read and write (80% between the ages 12 and 22). Compare this to Kenya 47%, Egypt 38%, Nigeria 34% and Mozambique at 26%. In South Africa, the whites built 15 new classrooms for blacks every working day, every year. At 40 children per class it meant space for an additional 600 black students every day!!!” (www.mspoliticalcommentary.blogspot.com)

¹⁷¹ Opening Pandora’s Apartheid Box - Part 9 - The lies about the Townships, Mike Smith Political Commentary: “At the height of Apartheid in 1978 Soweto had 115 Football fields, 3 Rugby fields, 4 athletic tracks, 11 Cricket fields, 2 Golf courses, 47 Tennis courts, 7 swimming pools built to Olympic standards, 5 Bowling alleys, 81 Netball fields, 39 children play parks, and countless civic halls, movie houses and clubhouses. In addition to this, Soweto had 300 churches, 365 schools, 2 Technical Colleges, 8 clinics, 63 child day care centres, 11 Post

62. According to British political commentator Simon Jenkins, writing in the London Spectator, on 07 May 1994 (reprinted Aida Parker Newsletter # 208):

For the Blacks.. apartheid will be the Great Excuse. White rule may have been nasty and brutish, but it disciplined the SA economy and made it rich. SA has for 20 years out-performed every 'liberated' state in Africa. Politically correct academics claim White rule held SA back by stifling Black education and advancement. I don't believe it. Apartheid may have been crude and cruel, but it was no more than an elite entrenching its economic power. The 'trickle-down' worked.

"The incomes of Blacks were well above those elsewhere on the continent, which explained the heavy migration of Blacks into SA throughout the apartheid period. As Third World economies go, SA was a thundering success. The massive redistribution of wealth promised by the ANC threatens that success. So a reason for incipient failure must be found in advance.

Mr Mandela is human. He cannot admit that in African terms White rule was an economic success..... If a school is ill-equipped, a housing estate without sewerage, a mob unemployed, it will be 'the legacy of apartheid.' Every inequality of income, every injustice detected by trade unionist or ... journalist will be put down to apartheid.

Apartheid was horrible. It acknowledged, albeit crudely, the racial distinctions ordinary people acknowledge. It made the implicit explicit. There was no pretence at a melting pot. Now the explicit must be suppressed, but the legacy of racial frankness will not disappear just because legal apartheid is dead. The new SA is not a raceless community, any more than Britain is a classless one. It will still be run mostly by Whites, and Blacks will still be at the bottom of the ladder. Democracy will give a new tilt to the conflict. But all South Africans will be glad to have in their knapsack the Great Excuse. Apartheid will be a marvellous friend in need."

E. Apartheid: Crime Against Humanity; or Just War for Demographic Survival?

63. Can 'Just War' Principles be Applied to Apartheid v. Liberation Struggle Conflict?: In Just War Theory¹⁷², Alexander Moseley, explains that the doctrine of just war only holds for cultures who practice cultural equivalent codes of military honour¹⁷³:

Historically, the just war tradition—a set of mutually agreed rules of combat—may be said to commonly evolve between two culturally similar enemies. That is, when an array of values are shared between two warring peoples, we often find that they implicitly or explicitly agree upon limits to their warfare. But when enemies differ greatly because of different religious beliefs, race, or language, and as such they see each other as "less than human", war conventions are rarely applied.

Offices, & its own fruit and vegetable market. There were 2300 registered companies that belonged to black businessmen, about 1000 private taxi companies. 3% of the 50,000 vehicle owners in 1978 were Mercedes Benz owners. Soweto alone had more cars, taxis, schools, churches and sport facilities than most independent countries in Africa. The Blacks of South Africa had more private vehicles than the entire white population of the USSR at the time." (www.mspoliticalcommentary.blogspot.com)

¹⁷² Just War Theory, by Alexander Moseley [PDF: www.scribd.com/doc/34462302]

¹⁷³ Rain Liivoja. 2010. Chivalry without a Horse: Military Honour and the Modern Law of Armed Conflict submitted to the Proceedings of the Estonian National Defence College. Available at: http://works.bepress.com/rain_liivoja/15: "If we strip chivalry of its romantic overtones and literary hyperbole, we find a code of conduct that held currency among the military elite of the era. At the core of this code stood an ideal that was certainly not characteristic to the Middle Ages alone: '[c]hivalry was often no more, and no less, than the sentiment of honour in its medieval guise.' Thus, to speak of chivalry is to speak of a military code of honour.... Honour, moreover, has played a key role in military thinking over millennia, so it does not seem out of place to talk about it with reference to modern warfare. There is also another, in some sense more concrete, link between chivalry and the modern law of armed conflict. The law that might be called 'modern' began life in the second half of the 19th century with the adoption of a number of important documents -- the Lieber Code in 1861, the Brussels Declaration in 1874, the Oxford Manual in 1880, and the Hague Regulations in 1899. ... The basic rules of armed conflict were not invented in the late 19th century: one of their most significant sources was the medieval code of chivalry."

64. However, the ANC and TRC ignore the huge differences in cultural concepts of military honour, insist on their 'Just War', of the 'crime of apartheid'. In 1962 Liberia and Ethiopia brought 'crimes of apartheid' charges against S. Africa for practicing the crime of apartheid in South West Africa¹⁷⁴. SA delivered a written presentation of 3000 pages, called 15 expert witnesses who testified that fifty countries practiced a form of apartheid between groups, classes or races forty of them members of the UN at the time, including Ethiopia and Liberia. The petitioners refused to appear in person to testify and be cross examined, even though S. Africa offered to pay all their expenses. S. Africa was found not guilty of practicing the 'crime of apartheid' in Namibia.

"It was specified in Article 22 of the Covenant that the "best method of giving practical effect to [the] principle" that the "well-being and development" of those peoples in former enemy colonies "not yet able to stand by themselves"... was that "the tutelage of such peoples should be entrusted to advanced nations . . . who are willing to accept it."¹⁷⁵

65. Irrespective ten years to the day of the ICJ ruling, the UN issued their Convention on the Suppression and Punishment of the Crime of Apartheid¹⁷⁶:

The Apartheid Convention was the ultimate step in the condemnation of apartheid as it not only declared that apartheid was unlawful because it violated the Charter of the United Nations, but in addition it declared apartheid to be criminal. The Apartheid Convention was adopted by the General Assembly on 30 November 1973, by 91 votes in favour, four against (Portugal, South Africa, the United Kingdom and the United States) and 26 abstentions. It came into force on 18 July 1976.

As of August 2008, it has been ratified by 107 States. Although consideration was given in 1980 to the establishment of a special international criminal court to try persons for the crime of apartheid (E/CN.4/1426 (1981)), no such court was established.

No one was prosecuted for the crime of apartheid while apartheid lasted in South Africa. And no one has since been prosecuted for the crime.

66. No Apartheid Official has ever been convicted of the 'crime of apartheid'¹⁷⁷, a fact ignored by the falsify-facts 'point at a deer and call it a horse'¹⁷⁸ political and media et al elite. Consider in comparison how billions are ignorant - thanks to media censorship - of the fact that according to a 24 June 2010 statement from the Zug Swiss Prosecutors Office 'Senior FIFA Officials were centrally involved in the biggest and most spectacular bribery scandal in Olympic history', involving CHF 138 million¹⁷⁹. A half-truth

¹⁷⁴ 1964-01-10: ICJ: Ibid (www.icj-cij.org): Application Instituting Proceedings, 4 November 1960

¹⁷⁵ 1964-01-10: ICJ: Ibid (www.icj-cij.org): Summary of the Summary of the Judgment of 18 July 1966

¹⁷⁶ Dugard, John: Convention on the Suppression and Punishment of the Crime of Apartheid, Professor of International Law, Department of Public Law, Faculty of Law, University of Leiden [PDF: www.scribd.com/doc/34462304]

¹⁷⁷ Dugard, John, Ibid

¹⁷⁸ The Asch conformity experiments are also known as the "Asch Paradigm". The Asch experiments may provide some vivid empirical evidence relevant to some of the ideas raised in George Orwell's Nineteen Eighty-Four (see 2 + 2 = 5). This also helps illustrate the concept of "point at a deer and call it a horse". [PDF: www.scribd.com/doc/34292822]

¹⁷⁹ Prosecutor's office links FIFA officials to bribery scandal: Senior FIFA Officials were centrally involved in the biggest and most spectacular bribery scandal in Olympic history, Swiss prosecutor's office confirms, 24 June 2010, by Jens Weinreich, Play the Game; Zug Canton: Zuger Polizei: Verfahren nach Wiedergutmachung eingestellt (Statement from the Zug Prosecutor's Office) , Do, 24.06.2010; The ISL bribery system: 138 million CHF for senior officials in the Olympic world, by Jens Weinreich, 16 Juni 2009; Is FIFA an Organised Crime Family?, by Andrew Jennings, Transparency in Sport [PDF: www.scribd.com/doc/34464210]

propagandized, a fact censored: The media power to 'manufacture our social and political world'¹⁸⁰, to worship corrupt Pharisees and scapegoat honest prophets.

67. 'Crime of Apartheid' TRC Commissioners lacked cultural equivalent code of military honour¹⁸¹ or philosophical courage¹⁸², to impartially enquire into demographic motives of Apartheid; unable to "accept that, irrespective of the methods used, both sides performed their duties bona fide, in what they perceived to be service to their respective political masters,"¹⁸³ that "no single side in the conflict of the past has a monopoly of virtue or should bear responsibility for all the abuses that occurred"¹⁸⁴.

F. Nature & Causes of Apartheid: A Just War for Demographic Survival?:

68. In response to questions from the TRC about the motives for apartheid, FW de Klerk¹⁸⁵ clarified the Afrikaners very rational demographic 'swart gevaar' motives and fears:

As far as relations with the other peoples of South Africa were concerned, the National Party believed initially that its interests could be best served by following a policy of "separateness" - or apartheid. It felt that, only in this manner, would the whites in general - and Afrikaners in particular - avoid being overwhelmed by the numerical superiority of the black peoples of our country. Only in this manner would they be able to maintain their own identity and their right to rule themselves. It persuaded itself that such a policy was morally defensible and in the interest of the other peoples of South Africa, because any other course would inevitably lead to inter-racial conflict. (own emphasis)

69. Verwoerd described the motives, practices and policies for apartheid, aka separate development, or Harmonious Multi-Community Development¹⁸⁶, and Live and Let Live¹⁸⁷ in depth, in the submissions to the ICJ on S.W. Africa, about the 'superiority of numbers of the Natives'¹⁸⁸. As declared by Dr. Malan's National Party in 1947¹⁸⁹:

¹⁸⁰ Ben Bagdikian, *The New Media Monopoly* (Boston, Beacon, 2004), 4, 9.: "No imperial ruler in past history had multiple media channels that included television and satellite channels that can permeate entire societies with controlled sights and sounds. ...Big media corporations] control every means by which the population learns of its society. ...media products are unique in one vital respect. They do not manufacture nuts and bolts: they manufacture a social and political world."

¹⁸¹ Rain Liivoja. 2010. *Chivalry without a Horse: Military Honour & Modern Law of Armed Conflict* Ibid

¹⁸² The Role of Philosophical Courage in Philosophical Counseling, by Hakam Al-Shawi: "...I suggest that this transformational process requires at least one necessary ingredient without which philosophical counseling would not be possible. Whether implicitly or explicitly, both counselor and client need the virtue of courage in its form as "philosophical courage" in order for the counseling to be successful. Moreover, the degree of such courage in both client and counselor will determine the extent to which issues are brought into question..... there is another form of courage—philosophical courage—required of individuals in dealing with their most fundamental beliefs and values. I believe the best way to demarcate roughly the different forms of courage, is through an analysis of the cost involved with each form of the virtue.... First, with physical courage, the possible cost involved, at the extreme, is the physical loss of life.... Second, with moral courage, the possible cost is social rejection and isolation and/or a loss of "ethical integrity or authenticity. Third, with "psychological courage," the possible cost perceived by the individual is "psychic death." And fourth, with "philosophical courage" the possible cost is philosophical instability where one's most fundamental beliefs and values are brought into doubt. ... it demands of the individual a confrontation with fundamental beliefs and values" [PDF: www.scribd.com/doc/34457982]

¹⁸³ Submission to the Truth and Reconciliation Comm. by SADF General Magnus Malan [PDF: www.scribd.com/doc/34462172]

¹⁸⁴ Submission to the Truth and Reconciliation Comm. by Mr. F.W de Klerk, National Party [PDF: www.scribd.com/doc/34462184]

¹⁸⁵ Second Submission of the National Party to the Truth and Reconciliation Commission [PDF: www.scribd.com/doc/34462184]

¹⁸⁶ Dr. Eiselen, W.W.M., "Harmonious Multi-Community Development", in *Optima*, Mar. 1959, p.1. Dr. Eiselen was at that time Secretary for Bantu Administration and Development.

¹⁸⁷ Address by the South African Prime Minister, Dr. H.F. Verwoerd, address to the SA Club, London, in *Fact Paper 91*, Apr. 1961, p.14

¹⁸⁸ 1964-01-10: ICJ: Ibid (www.icj-cij.org): Counter-Memorial filed by Gov. of the Rep. of S. Africa (Books I-IV), p.463

¹⁸⁹ 1964-01-10: ICJ: Ibid (www.icj-cij.org): Counter-Memorial filed by Gov. of the Rep. of S. Africa (Books I-IV), p.473

It [apartheid] is a policy which sets itself the task of preserving and safeguarding the racial identity of the White population of the country, of likewise preserving and safeguarding the identity of the indigenous people's as separate racial groups, with opportunities to develop into self-governing national units; of fostering the inculcation of national consciousness, self-esteem and mutual regard among the various races of the country.

The choice before us is one of these two divergent courses: either that of integration, which would in the long run amount to national suicide on the part of the Whites; or that of apartheid, which professes to preserve the identity and safeguard the future of every race, with complete scope for everyone to develop within its own sphere while maintaining its distinctive national character.

70. SAIRR Surveys, repeatedly document Apartheid authorities concerns with rapid black population growth as causal factors for socio-economic and political realities:

In the 1989 SAIRR Race Relations Report¹⁹⁰, we are informed that the Chairman of the Council for Population Development, Professor JP de Lange, claimed that population growth was South Africa's 'ticking time bomb', and South Africa within two decades South Africa would find itself in a dilemma where its resources and socio-economic capabilities would be insufficient for its population, which would give rise to total social disintegration, unemployment, poverty, and misery which would become unmanageable, even in the best of constitutional dispensations. He urgently urged a birth rate of 2.1 or less children per woman per year. The Population Development Program recognized that a direct relationship existed between standard of living, an effective family planning and population growth.

In a 1992/93 Race Relations Survey¹⁹¹ by the South African Institute of Race Relations (SAIRR), we are told that the high population growth is the cause of growth in poverty, unemployment and squatter camps, and most of the serious problems in South Africa; Population pressures are destroying the environment; the IFP and FRD call for ethics of 2 children per family as urgent population control priority; Population Growth outstrips Economic Growth for many years, and blacks avoid participation in family planning programs.¹⁹²

71. Strategic Demographic 'Swart Gevaar' & 'Friction Theory' Motivations for Apartheid: In *Outcast Cape Town*¹⁹³, social geographer, John Western writes:

Outcast Cape Town investigates how Apartheid came to be, the roots of apartheid, traced back to Cape Town's establishment in the mid-seventeenth century, and the many social, geopolitical, demographic, political, racial, etc. factors which contributed to Apartheid. For Apartheid was not inevitable. Had certain demographic factors been different, it may not have occurred. Had it managed to avoid its massive problems of demographic surges and attendant unemployment, these different factors and sequences of events might have brought more similar societal results to other parts of the world, with similar factors. Even once apartheid was legislated, the 'Nationalists with all their Sowetos could hardly keep up with the Black demographic realities of rural-urban migration and absolute population increase. At immense cost, they as it were ran as fast as they could, only to stay in the same place.' (p.xix)

It could be anticipated that, if a White power-holding minority were to enact segregative laws for urban areas through a motive of fear for its future security, it would first enact them against those whom it perceived to be the greatest threat. These would be the Black Africans - the swart gevaar - who are not only those who greatly outnumber the Whites in the land, but are also those who have seemed most culturally dissimilar.... (p.45)

¹⁹⁰ Cooper C, et.al, Race Relations Survey 1989/90, (Jhb: SAIRR) 1990. [PDF: www.scribd.com/doc/33820505]

¹⁹¹ Cooper, C et. al., Race Relations Survey 1992/93, (Jhb: SAIRR) 1993. [PDF: www.scribd.com/doc/33820596]

¹⁹² UA: F.1. Population Explosion Concerns during Apartheid [PDF: www.scribd.com/doc/32739548]

¹⁹³ *Outcast Cape Town*, by John Western, University of California Press (June 1, 1997); See also: *The Lie of Apartheid*, by Arthur Kemp, Lulu.com (December 28, 2008): (Chapter 1, of *The Lie of Apartheid and other true stories from Southern Africa*)

The Strategic Motive:

There are, then, more profound reasons for group areas than the minister of community development chose to advance. The outnumbering of Whites by Nonwhites in the country as a whole and in the cities in particular continues to grow more marked. A parallel can be drawn with the fears of the upper, ruling classes of Britain when they were confronted with that totally novel and therefore unpredictable phenomenon, the great industrial city as epitomized by Manchester. Of this city in 1842 W. Cooke Taylor wrote (p.6):

"[One] cannot contemplate those "crowded hives" without feelings of anxiety and apprehension almost amounting to dismay. The population is hourly increasing in breadth and strength. It is an aggregate of masses, our conceptions of which clothe themselves in terms that express something portentous and fearful....."

As a description of the White South African's widespread fear of the urban swart gevaar, this passage can hardly be bettered. Then years, earlier, another commentator viewing Manchester had warned of

"the evils of poverty and pestilence among the working classes of the close alleys, ... where pauperism and disease congregate round the source of social discontent and political disorder in the centre of our large towns."

Here is the strategic motive, which is indeed one of the two primary underpinnings of the group areas conception. (Pg 74)

Of twentieth-century South Africa, van den Berghe (1966, p 411) is firm in his agreement:

"The older non-white shanty towns with their maze of narrow, tortuous alleys were often located close to White residential or business districts; they are now systematically being razed as a major military hazard... The new ghetto's are typically situated several miles from the White towns, with a buffer zone inbetween. (Pg 74)

Adam (1971, p. 123) also considered that,

"since the widespread unrest of the early sixties, white rule is efficiently prepared for internal conflicts. The design and location of African townships has been planned on the basis of strategic considerations. Within a short time such a location could be cordoned off, and in its open streets any resistance could be easily smashed." (p.75)

Surely no more striking proof of this can be found than the expressed opinions of the government minister in charge of the security system within South Africa. Jimmy Kruger, minister of justice, when interviewed by the Financial Gazette, on the possibilities of urban guerrilla warfare,

said he did not think an organized campaign would get off the ground. One of the big advantages was that the residential areas were segregated. Overseas, urban terrorism was largely sparked off by a mixture of mutually antagonistic groups within a limited geographical area, and this was often accentuated by overcrowding. "We have fortunately managed to avoid this here," said Mr. Kruger (South African Digest, 2 September 1977).

Whether or not we agree with his analysis of the causes of urban guerrilla warfare, which predictably leans on the so-called "friction theory" (see p.85), the strategic motive for group areas segregation has been made crystal clear.

Leo Kuper (1956) commented:

"The danger is in numerical preponderance of the non-whites. It is a threat, however, only if the non-whites are united... The Group Areas Act (1950) gives the Governor-General [now the state president] the necessary power to subdivide Coloureds and Natives but not whites..." (p77)

... A central justification for [Apartheid's racial residential segregation] viewpoint, that segregation is in the interest of all, is enshrined in the "friction theory." The belief is simply that any contact between the races inevitably produces conflict. Thus, the minister of the interior, introducing the group areas bill to Parliament on 14 June 1950, stated:

Now this, as I say, is designed to eliminate friction between the races in the Union because we believe, and believe strongly, that points of contact - all unnecessary points of contact - between the races must be avoided. If you reduce the number of points of contact to the minimum, you reduce the possibility of friction... The result of putting people of different races together is to cause racial trouble.

... The friction theory has some measure of sense to it, as may be illustrated by once again returning to the work of Robert Sommer (1969, pp 12, 14 and 15), who wrote:

[Animal studies] show that both territoriality and dominance behaviour are ways of maintaining social order, and when one system cannot function, the other takes over... Group territories keep individual groups apart and thereby preserve the integrity of the troop, whereas dominance is the basis for intragroup relationships... Group territoriality is expressed in national and local boundaries, a segregation into defined areas that reduces conflict.

Epilogue

In the new South Africa one might think that managing the population surge is now delinked from political pressures. That is, we no longer deal with a White minority government fearful of demographic swamping by an ever-growing Black African majority. The whites have now been "swamped"... There's no more looming swart gevaar - for it has already arrived... So, surely, the population surge is simply a technical problem for the well-intentioned technocrat? (p. 333)

The Double Drawbridge

In June 1996, however, one politically connected Capetonian opined to me that population control was far too hot a potato for any Black African politician to touch. At least two considerations - in addition to what many North Americans might term a generally conservative African ethos celebrating procreation - are in play here. Both point up my error in assuming there's no more swart gevaar. For after three weeks in Cape Town I do believe there are at least two ways in which the swart gevaar may be said to loom still, promoting unease in many a South African heart.

72. He proceeds to refer to the Deracialized Swart Gevaar Redux, the massive influx of "foreign Africans", into post-Apartheid S. Africa; the aggravation of these illegal immigrants to population pressures collision with scarce employment and resources, and the 'friction theory' consequences; what is currently referred to in S. Africa as 'Xenophobia Attacks'. In Welfare state gives rise to xenophobic violence¹⁹⁴, SA's African Galileo, Meshack Mabogoane, documents the motives for corrupt politicians to welcome illegal foreigners regardless of deteriorating social, economic and health facilities that are reeling under the weight of an exploding population:

Absorbing millions of foreigners into a country that is still relatively poor, and in which more people are increasingly dependent on state grants for basic subsistence, is unpatriotic, dishonest and ridiculous. These foreigners come from countries that squander their resources and deliberately destroy economies - let alone develop them. A genuine regional power would address this.

These issues are not moral but material. The ruling regime encourages teenage girls, for example, to have children - for which the state pays child grants of R100bn a year - and this is presented as "human rights" and "welfare". Now millions of poor foreigners produce babies to receive child grants too, and compete for jobs and houses - the universal causes

¹⁹⁴ MESHACK MABOGOANE: Welfare state gives rise to xenophobic violence, Business Day, 2010/07/14; More welfare recipients than workers - Schussler, Sapa, 01 July 2010; SA biggest welfare state in world: economist, City Press, 2010-02-18; Minister defends welfare system, SAPA/News 24, 2010-02-23 [PDF: www.scribd.com/doc/34461035]

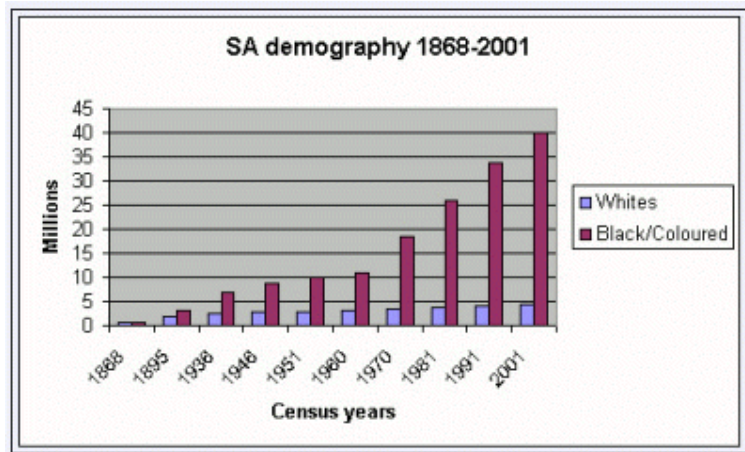
of real xenophobia. Such welfare programmes will stir real xenophobic attacks, as some of these “human rights” have engendered social degeneration.

73. In *Stalking the Wild Taboo*¹⁹⁵, Garrett Hardin deals with the concept of competition, a process that is inescapable in societies living in a finite resource world, and the competitive exclusion principle.

The meaning of this principle can be easily explained in a strictly biological setting. Suppose one introduces into the same region two different species that inhabit the same “ecological niche”. If, by hypothesis, two species occupy exactly the same ecological niche, then all that one species needs to know to predict the ultimate outcome of their competition is the rates at which they reproduce in this ecological niche. If one of them reproduces at a rate of 2 percent per year while the other reproduces at a rate of 3 percent, the ratio of the numbers of the faster reproducing species to the numbers of the slower will increase year by year. In fact, since their rates of reproduction, like compound interest, are exponential functions, a little algebra shows that the ratio of the two exponential functions is itself an exponential function.

The ratio of the faster species to the slower species increases without limit. If the environment is finite - and it always is finite - the total number of organisms that can be supported by this environment is also finite. Since the size of the population of a species can never be less than one individual, this means that ultimately the

slower breeding species will be completely eliminated from the environment. This will be true no matter how slight the difference in the rate of reproduction of the two species. Only a mathematically exact equality in their rates would ensure their continued coexistence, and such an exact equality is inconceivable in the real world. As a consequence, two species that occupy exactly the same ecological niche cannot coexist indefinitely in the same geographical area.



74. Even SAHistory.org in *Grade 12: Africa in the Twentieth Century: Economic*¹⁹⁶, is frank about the consequences of high population growths socio-economic consequences of poverty, unemployment, etc. But the ‘crime of apartheid’ TRC avoided an enquiry into Apartheid ‘swart gevaar’ demographic motives, and ANC ‘population production’ breeding factories, on their ‘racial-Boer-scapegoat’ march.

Especially evening assemblies girls had to attend as well: “They would come into the house and tell us we should go. They didn’t ask your mother they just said ‘come let’s go.’ You would just have to go with them. They would threaten you with their belts and ultimately

¹⁹⁵ *Stalking the Wild Taboo*, by Garrett Hardin: Part 4: Competition: (20) Competition, a Tabooed Idea in Sociology; (21) The Cybernetics of Competition; (22) Population, Biology and the Law; (23) Population Skeletons in the Environmental Closet; (24) The Survival of Nations and Civilisations (www.garretthardinsociety.org)

¹⁹⁶ SAHistory.org: *Grade 12: Africa in 20th Century: Economic: Overpopulation Problems* [PDF: <http://www.scribd.com/doc/34460518>]

you would think that if you refused, they would beat you. Our parents were afraid of them" (quoted by Delius 1996:189).

All those opposing the wishes of the young men were reminded, that it was every woman's obligation to give birth to new "soldiers", in order to replace those warriors killed in the liberation struggle. The idiom of the adolescents referred to these patriotic efforts as "operation production". Because of exactly this reason it was forbidden for the girls to use contraceptives. (Delius 1996:189; Niehaus 1999:250)¹⁹⁷

G. Farm Murders: A Rainbow-TRC-Peace, or Racial-Hatred-War Reality?

75. Political Climate of Farm Murders: According to (2.5 x 52 x 16)¹⁹⁸ Eugene Ney Eugene Terreblanche is murdered farmer number 2080 since the April 1994 TRC social contract brought S. Africans 'peace and human rights' (sic). By way of comparison:

1. In the 1950's Mau Mau War in Kenya, the official number of 'European settlers' killed was 32¹⁹⁹, of which a dozen were said to be farmers.
2. During the 15 year Rhodesian war, 260 white farmers were murdered²⁰⁰.
3. In South Africa, between 1970 and 1994, in 24 years, while the ANC was "at war" with the white minority government, sixty white farmers were killed.

76. The July 2003 Report of the Committee of Enquiry into Farm Attacks²⁰¹, details:

The Committee also interviewed 15 ... state advocates in Bloemfontein, Capetown, Kimberley, Pietermaritzburg and Pretoria. They were unanimously of the view that the degree of violence and cruelty during farm attacks was exceedingly high. Most state advocates attributed this extreme violence to racial hatred.²⁰²

Features of specific farm attacks culled from NICOC and other security agency reports, such as utterances by attackers, gratuitous violence and the fact that the attackers did not steal anything, are cited in support of this [Land related intimidation, racism, hatred, revenge and politics] interpretation. There is also reference to perceived racial hatred stemming from the historic relationship between blacks and whites in South Africa, and a desire for retaliation for past injustices.²⁰³

In his book Midlands, Steinberg, while acknowledging that the motive in the majority of farm attacks appears to be robbery, supports the theory that the imperative to reclaim land lost through colonial dispossession is a key factor in some of the post-1994 attacks, which 'tamper with the boundary between acquisitive crime and racial hatred'. He talks of 'a racial frontier' and claims that the perpetrators of a farm attack did so 'to push the boundary back, a campaign their forebears had begun in the closing years of the nineteenth century and which their great-grandchildren believed was their destiny, as the generation to witness apartheid's demise, to finish'.²⁰⁴

¹⁹⁷ Johannes Harnischfeger, Witchcraft and the State in South Africa * German version of published in Anthropos, 95/ 2000, S. 99-112. [PDF: www.scribd.com/doc/34180512] See also Women in the ANC and SWAPO: sexual abuse of young women in the ANC camps, by Olefile Samuel Mngqibisa [PDF: www.scribd.com/doc/32956931]

¹⁹⁸ Anatomy of a farm murder, by Vuvu Vena, Mail and Guardian, Apr 08 2010: "AgriSA, the South African Agricultural Union, recorded 1 541 murders and 10 151 attacks in the period from 1994 to 2008 -- an average of 0,3 murders a day. The Transvaal Agricultural Union (TAU) recorded 1 266 murders and 2070 attacks in the period from 1991 to 2009 -- an average of 0.2 murders a day. The Institute for Security Studies of the University of Pretoria, using statistics provided by TAU in June last year, reported 1 073 murders and 1 813 attacks in the period from 1993 to 2009 -- an average of 0,2 murders a day." [PDF: www.scribd.com/doc/34460479]

¹⁹⁹ Anderson, David (2005). Histories of the Hanged: The Dirty War in Kenya & the End of Empire. London: Weidenfeld and Nicolson. (p.4)

²⁰⁰ The Farmer At War, Trevor Grundy and Bernard Miller, Modern Farming Publ., Salisbury 1979 [PDF: www.scribd.com/doc/34381393]

²⁰¹ Great SA Land Scandal and Farm Attack Report: [PDF File: www.scribd.com/document_collections/2333949]

²⁰² Farm Attack Report: Chapter 8: Investigating Officers and Prosecutors (p19) [PDF: www.scribd.com/doc/34458366]

²⁰³ Farm Attack Report: Chapter 18: Conclusions and Recommendations (p 406) [PDF: www.scribd.com/doc/34458345]

²⁰⁴ Farm Attack Report: Chapter 18: Conclusions and Recommendations (p 408-409) [PDF: www.scribd.com/doc/34458345]

77. According to Johnny Steinberg, in his book *The Number*²⁰⁵, in those who act on the ANC's cultural heritage of 'Kill Farmers', are accorded with automatic membership -- prison and street-cred status -- of the 27's gang. Put differently, if you adhere to gang-culture and in accordance with such gang culture, Kill a Farmer (Boer) in South Africa, then you are rewarded with automatic membership of the 27's gang.
78. The 2080 farm murders have occurred in a country officially allegedly at peace, after having achieved alleged 'reconciliation', indicate that the "rainbow reconciled nation" is nothing but an illusion not reflected in evidentiary facts and reality on the ground. People who have forgiven each other, or are participating in such a conversation, collaborate to address and eliminate the root causes of their dispute, they don't murder, rape and torture those they allegedly forgave, in order to rob them; unless their definition for 'forgiveness' is 'murder, rape and torture'.
79. When Archbishop Tutu said the Truth and Reconciliation Commission had failed²⁰⁶ (perhaps because it was a 'get the big fish' vengeance commission, instead of a rainbow perspectives revolution of forgiveness consciousness commission?); was he referring to acts like that of Joseph Hlongwane, 22, when he brutally tortured and murdered his employers Alice, 76 and Helen, 57 Lotter, and the English media censored the incomprehensibly brutal murder and trial?²⁰⁷

RADICAL HONESTY: CULTURE & RELIGION, OR REFUGEE STATUS?

"To clarify, "religion" as I use it here does not refer to a system that has necessarily to do with a concept of God or with idols or even to a system of perceived religion, but to any group-shared system of thought and action that offers the individual a frame of orientation and an object of devotion. A religion may be conducive to the development of destructiveness or of love, of domination or of solidarity; it may further their power to reason or paralyze it. The question is not one of religion or not? but of which kind of religion? - whether it is one that furthers human development, the unfolding of specifically human powers, or one that paralyzes human growth. Thus, our religious attitude is an aspect of our character structure, for we are what we are devoted to, and what we are devoted to is what motivates our conduct."²⁰⁸

A. Radical Honesty Culture of Forgiveness Banned in SA Multi-Culture Courts

²⁰⁵ *The Number: One man's search for identity in the Cape underworld and prison gangs*, Jonny Steinberg, Jonathan Ball, 2004

²⁰⁶ We've lost our pride - Tutu, Murray La Vita, *Die Burger/News24*, 2010-05-05; The Truth Commission's chickens come home to roost, Business Day, 16 August 2007; The Rainbow Nation: Dead and buried?, David Bullard, *Politicsweb*, 28 April 2010; 10-04-27: WR ANC is in Breach of TRC Social Contract: Open Letter to President Jacob Zuma, from Transvaal Agricultural Union (TAU), April 24 2010, Ben Marais, President TAU SA [PDF: www.scribd.com/doc/34460267]

²⁰⁷ Tortured farm women's gardener guilty, Adriana Stuijt, *Censorbugbear*, 09 June 2010; Bejaarde se gebed laaste woorde voor dood, Tom de Wet, *Volksblad*, 2010-06-01; Slagting van vroue beskryf, by Corne van Zyl, *Nuus 24*, 2010-06-02; Wreeddaardigheid van moorde blyk uit verslae, Tom de Wet, *Volksblad*, 2010-06-03; Allanridge-vroue glo oor geld vermoor, Tom de Wet, *Volksblad/Nuus 24*, 2010-06-04; Tuinier skuldig aan 2 se dood, Corne van Zyl, *Volksblad*, 2010-06-09 [PDF: www.scribd.com/doc/34459264]

²⁰⁸ Fromm, Erich, *To Have or To Be* (Continuum 2000: p135-136)

80. First Amicus is currently serving a 6 month prison sentence, suspended for 3 years, for *crimen injuria*, for allegedly having insulted the dignity of a politician, by expressing her honest sincere Radical honesty opinion about the politicians behavior, privately, to her face, in five SMS's, which included the alleged '*crimen injuria*' word: 'Kaffir'.
81. First Amicus use of the word 'Kaffir' is, and has been generally in accordance with its original etymological meaning: The word Kaafir comes from the root verb Kafara, which means 'cover'. It was originally used before Islam, in the Arabic language, to describe farmers, when they bury a seed in the ground and cover it with soil in their planting process, and came to mean 'a person who hides or covers the truth'. Muslims altered it to mean 'a person who hides or covers the truth about Islam'. Johnstone's allegation that SA politicians 'know the truth about the irresponsible planting of semen seeds in women's wombs, and the resource war consequences of overpopulation colliding with scarce resources; but who cover up such information.'
82. The Politician, Mrs. Patricia de Lille filed a charge of '*crimen injuria*'. Johnstone was subsequently (a) illegally arrested, without a valid arrest warrant (18 July 2007)²⁰⁹; (b) denied right to appear in court within 24 hours of arrest (19 July 2007)²¹⁰; (c) illegally detained for 33 days in Pollsmoor prison (18 July - 22 Aug 2007)²¹¹; (c) denied right to information (alleged Arrest Warrant) to defend her rights (18 July 2007 to present)²¹²; (d) denied impartial investigating Officer, Prosecutor and Magistrate (18 July to present)²¹³; (e) framed in court by Investigating Officer and Prosecutor who intentionally withheld critical evidence of innocence (cellphone conversations with plaintiff) from the court; (f) framed by Magistrate who ignored the fact of Plaintiff Politician committing perjury on affidavit and witness stand; (g) denied valid legal internationally recognized Political Necessity²¹⁴ defence; (h) denied right to present expert witness evidentiary testimony (Dr. Leonard Horowitz²¹⁵ and Dr. Brad Blanton²¹⁶); (i) denied right to not be found guilty of an act that is 'lawful' (i.e. as per 'reasonableness' test)²¹⁷; (j) denied right to withdraw formal admissions if Prosecution

²⁰⁹ 08-12-28: S v. Johnstone: Incomplete Further Particulars; Letter to Senior Prosecutor [PDF: www.scribd.com/doc/20520262]

²¹⁰ 08-12-28: S v. Johnstone: Incomplete Further Particulars; Letter to Senior Prosecutor [PDF: www.scribd.com/doc/20520262]

²¹¹ 08-12-28: S v. Johnstone: Incomplete Further Particulars; Letter to Senior Prosecutor [PDF: www.scribd.com/doc/20520262]

²¹² 08-12-28: S v. Johnstone: Incomplete Further Particulars; Letter to Senior Prosecutor [PDF: www.scribd.com/doc/20520262]

²¹³ Respectively: Ibid, Ibid, and Notice of Intention: Application for Leave and for Judicial Review: ITO § 309B (1) & 304A of Criminal Procedure Act ("CPA"); with § 24(1) of the Supreme Court Act [PDF: www.scribd.com/doc/20519849]

²¹⁴ Civil Disobedience and Necessity Defence by Pierce Law Review [PDF: www.scribd.com/doc/33149485]

²¹⁵ Affidavit of Leonard George Horowitz evidencing the Origin of AIDS sourcing from Hepatitis B Vaccine experiments conducted by Agents and Agencies of the Federal Government of the United States of America and the Merck Pharmaceutical Company; [PDF: www.scribd.com/doc/33891726]

²¹⁶ Blanton, Brad Ph.D: Reasonableness Test Radical Honesty Skills & Competencies Affidavit [PDF: www.scribd.com/doc/33790671]

²¹⁷ Blanton, Brad Ph.D: Reasonableness Test Radical Honesty Skills & Competencies Affidavit [PDF: www.scribd.com/doc/33790671]

breach the 'Formal Admission/Plea' Agreement²¹⁸; (k) denied right not to be sentenced to a suspended prison sentence for an act that the law says is 'lawful'²¹⁹; (l) denied right to file a complaint with the police documenting her persecution²²⁰, for their investigation; (m) although the Registrar has approved her In Forma Pauperis application²²¹, Braam Swart & Partners declined to represent her for reasons of 'complexity of legal argument'²²². She has been unable to find one attorney willing to represent her²²³, to practice her culture: tell the truth. All require her to lie.

83. Although the Prosecutor, Magistrate and Johnstone all belonged to different cultures, the Magistrate refused to consider that politically correct Afrikaner or African interpretations are not prima facie applicable²²⁴, different definitions and meanings for the alleged insulting²²⁵ word -- kaffir²²⁶ -- in addition to 'dignity', 'respect', than his cultural definition. For example: In *Smit NO and Others v King Goodwill Zwelithini Kabhekuzulu and Others*²²⁷ Judge Nic van Reyden of the Kwa-Zulu Natal High Court, ruled in favour of the revived Zulu cultural practice of barehanded killing of a bull at the Ukweshwama festival, satisfied with the evidence of cultural expert Professor Jabulani Mapalala²²⁸, who said that the animal's death was quick, unpainful and that no blood was shed. (Others disagreed²²⁹: Mapalala's expert witness testimony contradicts Chief Mlaba (not submitted to the court), as quoted in an ANC newsletter of December 1995, that: "We must use our bare hands, It's cruelty, we agree, but it's our culture. We cannot change our culture."²³⁰). Johnstone's Magistrate lacked the philosophical or

²¹⁸ Notice of Intention: Correct Record: Withdraw Formal Admissions [PDF: www.scribd.com/doc/20918633]

²¹⁹ Blanton, Brad Ph.D: Reasonableness Test Radical Honesty Skills & Competencies Affidavit [PDF: www.scribd.com/doc/33790671]

²²⁰ Complaint to the SAPS: (i) Senior Pros. Jacobs, NPA: WC, Obstruction of Justice, Persecution and Corruption (II) Hon. P. de Lille, MP; ID: Perjury, Fraud, Corruption, & Persecution [PDF: www.scribd.com/doc/20890741] & [PDF: www.scribd.com/doc/20890746]

²²¹ 09-10-13: HC-WC: In Forma Pauperis Proceedings Referral to Braam Swart Partners [PDF: www.scribd.com/doc/21801180]

²²² 10-02-10: Braam Swart & Partners: In Forma Pauperis Proceedings: L Johnstone [PDF: www.scribd.com/doc/26795413]

²²³ 09-10-28: Cape Bar & Intl Bar Assoc: Pro Bono Comm: Re: HC-WC In Forma Pauperis (Crimen Injuria) Review Application; RE: Freedom of Speech Political and Cultural Rights, or Secession?; [PDF: <http://www.scribd.com/doc/22039639>]

²²⁴ Ex parte Minister of Native Affairs: In re Yako v Beyi 1948 (1) SA 388 (A) at 397.

²²⁵ Unlike a rose, 'kaffir' does NOT smell the same to black and white, by Sandile Memela, Mail & Guardian, February 26th, 2008; "Kaffirs do exist! The biggest sin will always be: Who says it!.... The use of the K-word is something that most white guilt whites still need to discuss with their psychiatrists... the meaning of any word is not in the word itself, but in people's heads"; referenced in Legal Argument: G. Decoding Kaffir: Prevailing Norms of Society, copy to Cape Bar Pro Bono Committee; Request: for Impartial Record Keeping of Documentation: State v. Johnstone: Legal Argument, dated 11 August 2009 [PDF: www.scribd.com/doc/18634354]

²²⁶ First Amicus Radical Honesty Cultural & Religious Definition for 'Kaffir' in this instance was the original etymological meaning for the word 'Kaffir' namely, from the root verb Kafara, which means 'cover'. Used before Islam, in the Arabic language, to describe farmers, when they bury a seed in the ground and cover it with soil in their planting process, to mean 'a person who hides or covers the truth'. In this Radical Honesty context it was used to accuse SA politicians of 'knowing the truth about the irresponsible planting of semen seeds in women's wombs, and the resource war consequences of overpopulation colliding with scarce resources; who covers up such information'.

²²⁷ *Smit NO and Others v King Goodwill Zwelithini Kabhekuzulu and Others* (10237/2009) [2009] ZAKZPHC 75 (4 December 2009)

²²⁸ Mkhize: Bull-killing ruling promotes cultural tolerance, Mail and Guardian, 04 December 2009; Court Clears Ritual, Bare Handed Killing of a Bull - Does the Judgement Threaten Wider Environmental Problems?, by Dave Harcourt, Eco-Localizer, 6 Dec 2009; S. African Judge Compares Zulu Bull-Killing to Holy Communion, by C Szabo, 2 Dec 2009, Digital Journal; [PDF: www.scribd.com/doc/34458079]

²²⁹ Culture no excuse for cruelty: How soon before we start burning witches again?; Justice Malala, Sunday Times, 6 Dec 2009: "The argument put forward was that this bull must suffer because my ancestors made animals suffer. The argument is, with all due respect, stupid: my ancestors had not read the work of JM Coetzee and were not on Facebook. I know that I know more than they did, and that my practices must of necessity differ with theirs." [PDF: www.scribd.com/doc/34458079]

²³⁰ ANC Daily News Briefing, Monday 11 December 1995: Zulu King revives ceremonies to build support, Sapa-AP, 10 December 1995; Court Clears Ritual, Bare Handed Killing of a Bull - Does the Judgement Threaten Wider Environmental Problems?, by Dave Harcourt, Eco-Localizer, 6 December 2009 [PDF: www.scribd.com/doc/34458079]

psychological courage or judicial impartiality²³¹ to enquire into Radical Honesty culture's practices, as detailed by her expert witness.²³²

84. This was the second time, a TRC multi-culture SA Magistrate refused to apply the Radical Honesty practices²³³ and Bolam test to the reasonableness of 'Kaffir' free speech. On 31 January 2003, Johnstone accused Afrikaner Magistrate ADS Meyer of being a 'white Kaffir' (white truth concealer/deceiver), and African Prosecutor Sipoyo a 'black Kaffir' (black truth concealer/deceiver), for their refusal to follow due process practices in response to Johnstone's Complaint to NPA regarding the Africanization of the Public Service²³⁴, and demanding the same ethical standard of service from blacks as whites: Questionable Qualifications and Understanding of Fundamental Legal Concepts displayed by George Prosecutor Ms. Sipoyo, in Case # C-572-2002: Lara Johnstone (Johnson)²³⁵.
85. Johnstone was summarily convicted on 3 counts of Contempt in Facie Curiae, and sentenced to 12 months imprisonment. Johnstone was denied parole, and served her full 12 months sentence. Both the NPA and Chief Justice Hlope refused to place the Appeal (HC-WC: A 696-04, leave granted on 16 February 2004, by Regional Magistrate VA Botha²³⁶), on the roll for hearing in the Cape High Court.²³⁷

B. 40 SA Media: Endorse Legal and Political Persecution of RH White Refugee

86. In February 2010, First Amici contacted 140 of SA's political, academic and media elite, to provide them with a copy of Radical Honesty author, 'Dr. Truth' psychologist and 'Honesty in Politics' Candidate for US Congress in 2004 and 2006, Dr. Blanton's Affidavit²³⁸ filed in the HC-WC -19963-09, with a summary of his findings:
1. If South Africa does not value non-violent civil disobedience free speech dissent, as one of its hallmarks; then it is not a democratic country.
 2. Hon. Mrs. De Lille and the NPA Senior Prosecutor conducted a political and legal prosecution and persecution campaign against [Johnstone].

²³¹ Ex parte Minister of Native Affairs: In re Yako v Beyi 1948 (1) SA 388 (A) at 397

²³² Blanton, Brad Ph.D: Reasonableness Test Radical Honesty Skills & Competencies Affidavit [PDF: www.scribd.com/doc/33790671]

²³³ Gray v Stead [1999] 2 Lloyd's Rep 559

²³⁴ 1964-01-10: ICJ: Counter-Memorial of SA (Book I-IV) p.455: "The Africanization of the Public Service has been a prolific source of dissatisfaction in many African States and territories. The newly independent territories in Africa have generally embarked on a more-or-less ambitious programme of "Africanizing" their Public Service; that is, replacing European or Indian personnel with Africans. The inevitable effect of this process has been to reduce the standard of efficiency of the service."

²³⁵ Questionable Qualifications and Understanding of Fundamental Legal Concepts displayed by George Prosecutor Ms. Sipoyo, in Case # C-572-2002: Lara Johnstone (Johnson), dated 22 July 2002; and RE: Complaint dated 22 July 2002, Re: George Prosecutor's Office in Case # C-572-2002: Lara Johnstone (Johnson) [PDF: www.scribd.com/doc/34342510]

²³⁶ 06-06-17 HC-CPD A 696-04: HoA: S.4.1 (A) Chronology of Facts [File: www.scribd.com/my_document_collections/2308877]

²³⁷ HC-WC: Appeal A 696-04: Heads of Argument: [File: www.scribd.com/my_document_collections/2308877]

²³⁸ Blanton, Brad Ph.D: Reasonableness Test Radical Honesty Skills & Competencies Affidavit [PDF: www.scribd.com/doc/33790671]

3. The law of *crimen injuria* is a law so ridiculous; it appears to date back to a belief in curses from witchdoctors. Put differently, any society that values the principle of '*crimen injuria*' (I think, I am unique); is one that values protecting the right of people with fragile ego's to not be offended as more important, than protecting the right of Galileo's and Voltaire's to offend.
 4. The South African government are deliberately and intentionally punishing defendant for practicing her non-violent culture and religion of Radical Honesty.
 5. The South African government are deliberately and intentionally denying defendant her right to a defence; and ignoring the justification and accuracy of her non-violent civil disobedience political necessity defence.
 6. That there is a significant difference between posed forgiveness and real forgiveness and that this difference is almost always avoided by politicians, including South Africa's alleged Truth and Reconciliation politicians. Put differently: S. Africa's Truth and Reconciliation was not real & sincere; but fake & posed; a political fraud committed against SA citizens.
87. First Amicus requested a comment regarding among others whether they (a) objected to Johnstone's legal and political persecution and prosecution²³⁹, (b) endorsed or supported Johnstone's right to non-violent Radical Honesty Freedom of Speech:
88. Sowetan Sun: Editor: Charles Mogale: 26 February 2010:
- 'I have taken the time to read Dr Blanton's offering and regret that I am not able to offer any opinion on his views. I do not feel aptly qualified to proffer any opinion as, you will appreciate, ours is a tabloid publication which does not cover the subjects he raises.'²⁴⁰
89. Beeld: Editor: Tim du Plessis: 25 February 2010:
- "Kindly be informed that I am not going to comment on the questions/issues raised in your letter. There will be no further correspondence or liaison in this matter."²⁴¹
90. 3rd Degree: Exec. Producer: Deborah Patta: 03 March 2010:
- "3rd degree is an investigative current affairs programme not a public elected body with a responsibility to comment on issues. All comment from e.news and current affairs falls under the head of news as pointed out in a previous e-mail."²⁴²
91. Business Day: Editor: Peter Bruce, 23 February 2010:
- "I didn't read all of it, because it was so long and so demented. So, I don't have any reply or any comment. I don't want to have anything to do with it. Sorry"²⁴³
92. Daily News: Editor: Alan Dunn: 25 February 2010:
- "Mr Alan Dunn, Editor, Daily News, will not be commenting on Free Speech Legal Issue. Any response on the Huntley case will be in our editorial column."²⁴⁴
93. Mail and Guardian: Editors: Keith Nichols & Mathew Burbidge: 22 February 2010:
- Mr. Nichols stated that he had "No Comment" to the issues raised by American politician and author, Dr. Brad Blanton's allegations of South African State's Political and legal

²³⁹ Immigration and Refugee (IRB) Ruling by Mr. William Davis: Case MA8-04910: Brandon Huntley

²⁴⁰ Request Sowetan Sunday World Official Comment on Free Speech Legal Issue: [PDF: www.scribd.com/doc/27743238]

²⁴¹ Request Beeld's Official Comment on Free Speech Legal Issue [PDF: www.scribd.com/doc/27357977]

²⁴² Request 3rd Degree Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27741647]

²⁴³ Request Business Day's Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27358006]

²⁴⁴ Request Daily News Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27741628]

prosecution and persecution of non-violent civil disobedience Free Speech dissenter in South Africa. Asked whether it would be fair to say whether Mr. Nichols choice not to make any comment on the issue, demonstrated that he did not care about the Free Speech issues raised, he said he was not going to comment. Asked whether it would be fair to conclude that his statement of No Comment, reflected that he did not care about a South African citizen's being politically and legally prosecuted and persecuted. He again responded that he was not going to comment, with "I am not going to comment on that, okay," and put down the phone.²⁴⁵

94. Saturday Star: Editor: Brendan Seery: 26 February 2010:

"I would much prefer deliberate indifference."

95. In Johnstone's follow up confirmation of comment letter, (Confirmation of [News Organisation's Name] Negligent and/or Deliberate Indifference to Radical Honesty Free Speech Legal Issue), she had informed Editors:

Your response is one of negligent or deliberate indifference. The term 'negligent and/or deliberate indifference' is used to describe your actions as follows: Prior to the Receipt of this Confirmation, you have made no effort whatsoever to (a) contact me to enquire for more information to make an informed comment; and/or (b) at least honourably and professionally notify me of your Deliberate Indifferent "No comment."

It is assumed that your motivations for aforementioned behaviour of negligent or deliberate indifference are a result of your, or your organisation's, deliberate indifference to certain people of certain ethnicities and/or ideologies and/or cultures and/or religions being politically and legally persecuted and prosecuted; and that I, Lara Johnstone fit one or more of those particular ethnic, ideological, cultural or religious categories, towards whom you are deliberately indifferent.

In the event that aforementioned assumption is incorrect; please clarify your intentions for your negligent and/or deliberate indifference; so that I may accurately state your reasons for your negligent and/or deliberate indifference.

96. Consequently Mr. Seery's 'Deliberate Indifference' is defined as follows:

"Deliberate Indifference: Brendan Seery (Editor: Saturday Star) is deliberately indifferent to certain people of certain ethnicities and/or ideologies and/or cultures and/or religions being politically and legally persecuted and prosecuted; and you fit one or more of those particular ethnic, ideological, cultural or religious categories, towards whom, Saturday Star is deliberately indifferent."²⁴⁶

97. The following Editors share Mr. Seery's "Deliberate Indifference" definition: 702 Radio: Manager: Ms. Pheladi Gwangwa: 01 Mar 2010²⁴⁷; Die Burger: Editor: Henry Jeffereys: 27 Feb 2010²⁴⁸; Cape Argus: Editor: Chris Witfield: 26 Fe 2010²⁴⁹; Cape Times: Editor: Alide Dasnois: 26 Feb 2010²⁵⁰; The Citizen: Editor: Martin Williams: 26 Feb 2010²⁵¹; City Press: Editor: Ferial Haffajee: 26 February 2010²⁵²; Daily Maverick: Brkic Branco: 26 February 2010²⁵³; Daily Sun: Editor: Themba Khumalo: 02 March 2010²⁵⁴; Daily Dispatch:

²⁴⁵ Request Mail & Guardian's Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27743162]

²⁴⁶ Request Saturday Star Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27743217]

²⁴⁷ Request 702 Radio's Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27357910]

²⁴⁸ Request Die Burger Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27823922]

²⁴⁹ Request Cape Argus Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27741568]

²⁵⁰ Request Cape Times Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27741584]

²⁵¹ Request The Citizen Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27743296]

²⁵² Request City Press Official Comment on Free Speech Legal Issue: [PDF: www.scribd.com/doc/27741601]

²⁵³ Request Daily Maverick's Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27741615]

Editor: Andrew Trench: 26 Feb 2010²⁵⁵; E-News: Head of News: Patrick Conroy: 04 March 2010²⁵⁶; Financial Mail: Editor: Barney Mthombothi: 26 Feb 2010²⁵⁷; Finweek: Editor: Colleen Naude: 26 February 2010²⁵⁸; George Herald: Editor: Mandi Botha: 26 February 2010²⁵⁹; The Herald: Editor: Jeremy McCabe: 26 February 2010²⁶⁰; Ind. on Saturday: Editor: Trevor Bruce: 26 Feb 2010²⁶¹; Pretoria News: Editor: Zingisa Mkhuma: 26 February 2010²⁶²; Rapport: Editor: Lisa Albrecht: 26 February 2010²⁶³; SA Press Assoc.: Ed.: Mark van der Velden: 26 Feb 2010²⁶⁴; Sowetan: Editor: Bongani Keswa: 03 March 2010²⁶⁵; The Star: Editor: Moegsien Williams: 26 February 2010²⁶⁶; Sunday Ind.: Editor: Makhudu Sefara: 26 February 2010²⁶⁷; Sunday Times: Editor: Ray Hartley: 26 February 2010²⁶⁸; Sunday Tribune: Editor: Philani Mgwaba: 26 Feb 2010²⁶⁹; Volksblad: Editor: Ainsley Moos: 26 February 2010²⁷⁰; Freedom of Expression Inst: Dir. M. Moore: 11/03/2010²⁷¹; Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities: Rev. Wesley Mabuza: 26 February 2010²⁷²:

Deliberate Indifference: [SANEF Editors, FXI Exec. Director, et al] are deliberately indifferent to certain people of certain ethnicities and/or ideologies and/or cultures and/or religions being politically and legally persecuted and prosecuted; and Lara Johnstone fit one or more of those particular ethnic, ideological, cultural or religious categories, towards whom, SANEF and FXI are deliberately indifferent.

98. Johnstone also informed Applicant, all SANEF Editors and FXI, that:

Please Note: No offence is taken from your decision to act with Negligent or Deliberate Indifference towards this matter. I most certainly would not want your Human Rights/Fourth Estate organisation to pretend to be concerned about my status as a legally and politically persecuted SA citizen; when in fact you couldn't care less. It is better for me to be clear about which organisation, if any, are concerned about me being legally and politically persecuted, and which couldn't care less.

If none, and I apply for asylum with a foreign country, as a result of SA civil society's negligent and/or deliberate indifference towards my political and legal persecution and prosecution; please do not be offended.

²⁵⁴ Request Daily Sun Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27741638]
²⁵⁵ Request Daily Dispatch Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27741607]
²⁵⁶ Request E-News Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27743088]
²⁵⁷ Request Financial Mail Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27743104]
²⁵⁸ Request Finweek Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27743118]
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²⁶¹ Request Independent on Saturday Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27743150]
²⁶² Request Pretoria News Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27743173]
²⁶³ Request Rapport Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27743183]
²⁶⁴ Request SAPA Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27743208]
²⁶⁵ Request Sowetan Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27743231]
²⁶⁶ Request The Star's Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27743248]
²⁶⁷ Request Sunday Independent Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27743260]
²⁶⁸ Request Sunday Times Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27743275]
²⁶⁹ Request Sunday Tribune Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27743285]
²⁷⁰ Request Volksblad Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/27743073]
²⁷¹ Request Freedom of Expression Inst. Official Comment on Free Speech Legal Issue. [PDF: www.scribd.com/doc/28224700]
²⁷² Request Commission... Official Comment on Free Speech Legal Issue [PDF: www.scribd.com/doc/28224628/]

99. On 17 Mar 2010, Johnstone notified²⁷³ Honourable Jason Kenney, Min. of Citizenship and Immigration, Canada, that 140 of SA elite endorse minority persecution in SA. On 21 March 2010 Johnstone launched Right of Return for African White Refugees and Jus Sanguinis Right of Return to Holland, for Boer-Afrikaners as a Facebook community and group; and on 21 April 2010, she contacted Dutch Representative Mr. Geert Wilders in Req: Freedom Party Help for African White Refugees who are descendants of Dutch Citizens.²⁷⁴
100. On 23 April 2010, Algemene Dagblad Editor Mr. Casper Naber reported in Bange Zuid Afrikanen Vragen Wuldens om Hulp²⁷⁵ that Mr. Kees van der Staaij, leader of the SGP conservative protestant party stated:

The Netherlands has 'a very special responsibility towards the often very religious South Africans of Dutch descent.... The violence against whites in South Africa in a large problem. If they are targeted by violence, they should also be accepted as asylum-seekers in the Netherlands... If those people do not feel safe in their own country and want to settle here in The Netherlands, our country should consider those requests with a positive approach....

CONCLUSION: TRC SOCIAL CONTRACT: A FRAUDULENT PR PUBLICITY STUNT?

101. Radical Honesty Population Policy Common Sense Social Contract²⁷⁶: should be (a) unequivocally understood and practiced by the common man, committed and capable of the honourable non-violent resolution of disagreements, except where clear consensual code of conduct for violent resolutions is agreed upon; (b) legislated in accordance with Laws of Sustainability²⁷⁷ (The Essential Exponential! For the Future of our Planet²⁷⁸), fully cognizant of Bouldings origins of socio-economic misery theorems:

1st Theorem: "The Dismal Theorem"- If the only ultimate check on the growth of population is misery, then the population will grow until it is miserable enough to stop its growth.

2nd Theorem: "The Utterly Dismal Theorem" - This theorem states that any technical improvement can only relieve misery for a while, for so long as misery is the only check on population, the [technical] improvement will enable population to grow, and will soon enable more people to live in misery than before.

3^d Theorem: "The moderately cheerful form of the Dismal Theorem" - If something else, other than misery and starvation, can be found which will keep a prosperous population in check, the population does not have to grow until it is miserable and starves, and it can be stably prosperous.

²⁷³ For the Record Memo: 'Beyond Milgram Belief': 140 SA Editors, Politicians, Academics confirm they are Deliberately Indifferent to the Rule-of-Law: have No Objections to persecution of 'Radical Honesty White Refugee' ("RHWR") [PDF: www.scribd.com/doc/34274197]

²⁷⁴ Friday, April 23, 2010: White Refugee: Help Asseblief Graaf Wilders & Royal Familie, Nederlands: Jus Sanguinis Right of Return to Holland, for Boer-Afrikaners... [PDF: www.scribd.com/doc/34457887]

²⁷⁵ Friday, April 23, 2010: White Refugee: Help Asseblief Graaf Wilders & Royal Familie, Nederlands; Ibid

²⁷⁶ Chapter 9: Radical Honesty About Anger: PDFs: [www.scribd.com/doc/33790658] & [www.scribd.com/doc/20520279]

²⁷⁷ Reflections on Sustainability, Population Growth, and the Environment, by Albert Bartlett, Ph.D., Paper first published in Population & Environment, Vol. 16, No. 1, Sep 1994, pp. 5-35: (1998) [PDF: www.scribd.com/doc/33707684]

²⁷⁸ The Essential Exponential! For the Future of Our Planet features reprints of Dr. Bartlett's papers, published by the University of Nebraska at Lincoln in. [PDF: www.scribd.com/doc/34456952]

RELIEF: RECOGNIZE RADICAL HONESTY, IMPLEMENT CHOICE OF LAW RULES

“The main difference between the corporate media and Pravda is that the Soviet citizens knew they were being lied to. We no longer have a free press. We have a brainwashing machine stuck on spin.” – Steve Bhaerman, How We Can Break the Soundless Barrier and Bring Down the Irony Curtain

102. Confirmation that Radical Honesty is a religion/culture, not a refugee status.²⁷⁹
103. Acknowledge that forgiveness, closure, ubuntu, amnesty, truth, reconciliation, interpreted in accordance to Radical Honesty definitions, renders the TRC social contract: A TRC Fraud: ‘Crime of Apartheid’ Falsification of History;
104. Acknowledge that the absence of multi-cultural legal definitions (let alone choice of law rules) for many TRC social contract’s foundational multi-cultural concepts -- forgiveness, closure, reconciliation, ubuntu, -- eliminates any Non-Descartian²⁸⁰ (I am, therefore I think) citizens ‘right to certainty in TRC ‘rainbow jurisprudence’²⁸¹ administration of justice’²⁸².
105. Issue a judgement requiring that relevant choice of law rules (where two or more conflicting legal systems aims have to be met) be implemented: to give detailed guidance to courts and citizens on the application of cultural laws; eg. where and when is a defendant to be treated as a member of a particular cultural community in which particular practices, are cultural rights and obligations obtained, allowing sufficient flexibility to cater for the peculiarities of individual cases.



George, Southern Cape
18 July 2010

LARA JOHNSTONE, Pro Se
Propria Persona / Litigant in Person

Expert Witness Affidavits & Written Statements of Consent:

- » Brad Blanton, Ph.D: Practicing Radical Honesty, Futilitarianism; i.e. Radical Honesty about Anger and Forgiveness; Paradigms and Contexts [PDF: www.scribd.com/doc/31989814]
- » T. Michael Maher, Ph.D: How and Why Journalists Avoid the Population-Environment Connection and Media Framing and Saliency of the Population Issue [PDF: www.scribd.com/doc/31373074]
- » Brad Blanton, Ph.D: legal, psych. & socio-political ‘citizens privilege’, Nuremberg Principles skills & competencies of Individual Responsibility, required for acts of civil disobedience...; application to common law ‘reasonableness test’ [PDF: www.scribd.com/doc/33790671]

²⁷⁹ Ex parte Minister of Native Affairs: In re Yako v Beyi. 1948 (1) SA 388 (A) at 397.

²⁸⁰ See: Non-Descartian/Radical Honesty (I am, therefore I think) Worldview. Ibid

²⁸¹ Alfred Cockrell ‘Rainbow Jurisprudence’ (1996) 12 SAJHR 1.

²⁸² Van der Vyver (1982) 15 CILSA 312-14

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- » United States v. Carolene Products Co. , 304 U.S. 144 (1938)
- » Lithgow & others v. United Kingdom (1986) * EHRR 329 § 110
- » R v Sussex Justices, Ex parte McCarthy ([1924] 1 KB 256, [1923] All ER 233)
- » Smit NO and Others v King Goodwill Zwelithini Kabhekuzulu and Others (10237/2009) [2009] ZAKZPHC 75 (4 December 2009)
- » Sandra Lovelace v. Canada, Communication No. R.6/24 (29 December 1977), U.N. Doc. Supp. No. 40 (A/36/40) at 166 (1981).
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- » Immigration and Refugee (IRB) Ruling by Mr. William Davis: Case MA8-04910: Brandon Huntley

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- » Bolam v. Friern Hospital Management Committee [1957] 1 WLR 582; [1957] 2 All ER 118
- » Daborn v Bath Tramways [1946] 2 All ER 333; Watt v Hertfordshire County Council [1954] 2 All ER 368; Gray v Stead [1999] 2 Lloyd's Rep 559; Philips v William Whiteley [1938] 1 All ER 566.
- » Civil Disobedience and the Necessity Defense, by John Alan Cohan, UCLA; Pierce Law Review.

Ecolaw 101: 'Sine Qua Non' for all Rights: Environment, Sustainability, Carrying Capacity

- » Opinion of Weeramantry J in the Case Concerning the Gabcikovo-Nagymaros Project (Hungary v Slovakia) (1998) 37 International Legal Materials 162 206.
- » Van Huyssteen NO v Minister of Environmental Affairs and Tourism 1995 9 BCLR 1191 (C)
- » Proposed Legal Principles for Environmental Protection and Sustainable Development, adopted by the WCED Experts Group on Environmental Law, WCED Our Common Future (1987) 348
- » World Population Plan of Action: adopted at the UN World Population Conference at Bucharest in August, 1974; Appendix 1 to Life and Death of NSSM 200
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- » Choucri, Nazli: Population & Conflict: New Dimensions of Population Dynamics; Population Dynamics and Local Conflict
- » National Security Council, National Security Study Memorandum (NSSM 200): Implications of Worldwide Population Growth for U.S. Security and Overseas Interests, DC Dec 10, 1974, 227 pp.