



**MINISTER  
JUSTICE AND CONSTITUTIONAL DEVELOPMENT  
REPUBLIC OF SOUTH AFRICA**

The Honourable Judge Shira A. Scheindlin  
United States District Judge  
United States District Court  
Southern District of New York  
United States Court House  
500 Pearl Street  
New York  
New York  
10007 – 1581  
United States of America

Dear Judge Scheindlin

**IN RE SOUTH AFRICAN APARTHEID LITIGATION (02 MDL 1499) – LUNGISILE  
NTSEBEZA et al; and KHULUMANI et al.**

On the 8<sup>th</sup> April 2009, the United States District Court, Southern District of New York, per Shira A Scheindlin U.S.D.J. issued an opinion in part upholding the Plaintiff's motion and in part denying it. The court also dismissed the plaintiffs' motion to re-solicit the views of the Governments (of the Republic of South Africa and the United States of America).

In its conclusion the Court stated that "corporate defendants merely accused of doing business with the apartheid Government of South Africa have been dismissed. Claims that a corporation that aided and abetted particular acts could be liable for the breadth of harms committed under apartheid have been rejected. What survives (in terms of claims) are much narrower cases that this Court hopes will move toward resolution after more than five years spent litigating motions to dismiss".

The remaining claims are based on aiding and abetting very serious crimes, such as torture, extrajudicial killing committed in violation of international law by the apartheid regime.

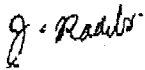
The Court in dismissing the claims based solely on the fact that corporations merely did business with the apartheid government also addressed some of the concerns which the Government of the Republic of South Africa had.

The apartheid issue and the role of business were canvassed by the Truth and Reconciliation Commission during its hearings. Its report and recommendations were acted upon by the Government of the Republic of South Africa in a manner it considered to be appropriate. The Government believes that it would not be prudent to continually have to re-state its position in response to all the motions filed in connection with these claims, pending the final adjudication by the District Court.

The Government of the Republic of South Africa, having considered carefully the judgement of the United States District Court, Southern District of New York is now of the view that this Court is an appropriate forum to hear the remaining claims of aiding and abetting in violation of international law.

The Plaintiffs have, separately, indicated to the Government of the Republic of South Africa their desire to have the matter resolved outside of the court process generally with resolution in the Republic of South Africa, if possible. The Government of the Republic of South Africa welcomes this development and would be willing to offer its counsel to the parties in pursuit of a settlement, if requested to do so by the parties.

Respectfully yours,



**JEFFREY THAMSANQA RADEBE, MP  
MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

cc: Clerk United States Court of Appeals for the Second Circuit