

# **ANNEXURE “A”**

## **Information About Solidarity**

Solidarity is the oldest Trade Union in South Africa. It represents approximately 170 000 members. Over the years Solidarity has launched, and joined, several human rights disputes, ranging from the right to equality, language disputes, religious disputes and the like.

Solidarity is an organisation that aims to ensure that the rule of law is upheld, human rights are respected and that Government is held accountable to the Constitution and International Conventions.

In submitting this early complaint, Solidarity acts;

- in its own interest as a non-government organisation with standing;
- in the interest of its members who reside within the Republic of South Africa;

Who have suffered actual or potential prejudice in consequence of the South African Governments' failure to, without bias, investigate, prosecute and or discipline State officials and politicians who have made discriminatory statements and racist hate speech.

Solidarity has further received the support of 405 000 South Africans to submit this complaint.

The report attached hereto forms the basis of Solidarity's complaint and should be read as if incorporated by way of reference. We will highlight some of the findings in furtherance of the complaint.

## **The Complaint**

“We should be aware that hatred is not a natural and spontaneous sentiment— it is usually the outcome of propaganda and incitement to hatred, hostility and violence carried out at several levels, including social, political and media.”

Navi Pillay, United Nations High Commissioner for Human Rights<sup>1</sup>

### **Policies or practice of impunity regarding development and organization of extreme political groups based on a racist platform**

#### **#FeesMustFall and Black First Land First**

The student movement #FeesMustFall was formed in October 2015. They originally called for a freeze on the increase in tertiary tuition fees. Over time their demands shifted to free tertiary education for all students. While this goal has noble features, the methods used by the organization have been violent and racist.

Between October 2015 and November 2016, campuses across South Africa were closed down for weeks at time. Poor students withstood the worst of the shut downs since they were deprived of access to libraries and computer centres. Minimal access to other educational resources left them particularly vulnerable.

UCT fallist leader Masixole Mlandu stated:

It must be known that we are prepared to push the boundaries of power, for us there is no turning back beside death. We will usher into this country an attitude of black rage, black liberation, an attitude that threatened the foundation of whiteness. We are clear South Africa by the end of this year will have to confess to its sins.<sup>2</sup>

Slovo Magida, a UCT student protestor was seen wearing a shirt with the words “Kill All Whites”.<sup>3</sup> After Wits student leader Dlamini was arrested for inciting violence on campus, protestors graffitied the words “Fuck the Jews” and “Kill a Jew” onto a university building.<sup>4</sup> Dlamini had previously stated: “What I love about Hitler is his charisma and his capabilities to organise people. We need more leaders of such calibre. I love Adolf Hitler”.<sup>5</sup> The anti-Semitic graffiti may have been linked to this statement.

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<sup>1</sup> United Nations Human Rights Office of the High Commissioner, Xenophobia Factsheet, 2013.

<sup>2</sup> <https://www.facebook.com/masixole.mlandu/posts/979557248839665>

<sup>3</sup> *Hotz v UCT* 2016 ZASCA 159

<sup>4</sup> <https://www.thedailyvox.co.za/allegations-anti-semitism-wits-graffiti-calling-kill-jew-found-campus/>

<sup>5</sup> <http://witsvuvuzela.com/2015/04/27/src-president-says-i-love-hitler/>

Nationwide shutdowns of Universities were accompanied by buildings being attacked and destroyed. The University of North West Administration and Science buildings were burned.<sup>6</sup> The University of Johannesburg main auditorium was torched, at a loss of R100 Million (\$7.5 Million).<sup>7</sup> Books were burned at libraries at the University of Kwa Zulu Natal<sup>8</sup> and the University of the Witwatersrand.<sup>9</sup> Artworks were burned at UCT.<sup>10</sup>

These acts of arson were performed against a backdrop of overtly racist speech from leaders in the fees must fall movement.

Lyndsay Maarsdorp, a fallist and the national spokesperson for Black First Land First stated:

We can no longer talk of black pain as if it is not affecting black people. Neither can we talk of white privilege as if it is not benefiting white people. Black pain is because of white privilege. Black people are oppressed, because white people remain the oppressor. If we want to destroy white systems then we must too be prepared to destroy the ones those systems benefit. Its utter stupidity to think white people will allow us to destroy the thing that gives them privilege and us pain. We must now practice a degree of madness. Destroy the systems, capitalism, the neocolonial structure, burn the buildings, destroy the enemy!<sup>11</sup>

When will we kill them? ... South Africa. A country without a name. Just a location. A reminder to coloniser where the land mass is, which they stole... Fuck White People. ... I have aspirations to kill white people, and this must be achieved!<sup>12</sup>

Fallist leader Ntokozi Qwabe was filmed assaulting a white law student. In response, he said that he wished he'd "*whipped the white apartheid settler colonial entitlement out of the bastard.*" When asked by the Sunday Times whether #FeesMustFall had become anti-white racism, he retorted that "*there can never be racism against white people.*"<sup>13</sup>

The claim is particularly galling, given that whites are an ethnic minority comprising less than 9% of the population.<sup>14</sup> Whites hold very few positions in government. The President's cabinet contains 35 Ministers and 36 Deputy

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<sup>6</sup> <https://mg.co.za/article/2016-02-25-nwu-closes-mafikeng-campus-indefinitely>

<sup>7</sup> <https://www.dailymaverick.co.za/article/2016-05-17-uj-arson-university-gets-interdict-while-no-aggrieved-parties-claim-responsibility/>

<sup>8</sup> <http://www.enca.com/south-africa/fire-breaks-out-at-ukzn-howard-college-law-library>

<sup>9</sup> <http://www.news24.com/SouthAfrica/News/100-books-destroyed-in-wits-library-fire-20161020>

<sup>10</sup> <http://www.iol.co.za/capetimes/news/paintings-set-alight-at-uct-1985428>

<sup>11</sup> <https://twitter.com/LindsayMaasdorp/status/780484461880311809>

<sup>12</sup> <http://www.politicsweb.co.za/documents/raceballs-4>

<sup>13</sup> <http://www.timeslive.co.za/sundaytimes/opinion/2017/01/15/So-Many-Questions-On-FeesMustFall-in-2017>

<sup>14</sup> South African 2011 Census

Ministers. Only one Minister is white<sup>15</sup> and two Deputy Ministers are white.<sup>16</sup> Every court in South Africa is headed by a Judge President or Chief Justice. The Chief Justice of the Constitutional Court is black and there are no white Judge Presidents on the Supreme Court of Appeal or any of the eight provincial High Courts. The only court headed by a white Judge President is the specialist Competition Appeal Court.<sup>17</sup>

University of Cape Town (UCT) Lecturer Dr Lwazi Lushaba addressed a group of protesting students saying, *“we're happy to coexist with white people, but they need to know, primarily these institutions belong to us.”*<sup>18</sup>

Max Price, the UCT Vice Chancellor stated: *“what we have pursued is an appeasement policy in the last year.”*<sup>19</sup> UCT, protestors were granted clemency and despite their violent and racist behaviour they have been allowed to continue their studies without sanction.<sup>20</sup>

### **Grave Statements and Racist Propaganda by Elected Officials**

Member of parliament and leader of the Economic Freedom Fighters (EFF), Julius Malema has used overtly racist speech to mobilise support and garner votes. After being charged with breaching the Riotous Assemblies Act for inciting his followers to invade land he spoke to a rally of supporters outside of court. He stated the following:

I am here to disturb the white man's peace. They are right, the white man has been too comfortable for too long. We are here unashamedly to disturb the white man's peace. Because we have never known peace. We don't know what peace looks like. They have been living peacefully. They have been swimming in a pool of privilege. They have been enjoying themselves because they always owned our land. We, the rightful owners, our peace was disturbed by white man's arrival here. They committed a black genocide. They killed our people during land dispossession. Today, we are told don't disturb them, even when they disturbed our peace. They found peaceful Africans here. They killed them! They slaughtered them, like animals! We are not calling for the slaughtering of white people, at least for now.

We will not chase white people into the sea. We will give them portion... That is where you stay. And you can't own bigger than us. You are a visitor. Visitors must behave. They must know the land belongs to the people of South Africa, the indigenous people of South Africa. [...] For as long as the land is not in the hands of black people we remain a conquered nation! We are conquered! We are defeated! 1994 means NOTHING without the land! Victory will only be victory if the land is restored in the hands of rightful

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<sup>15</sup> <https://www.parliament.gov.za/ministers>

<sup>16</sup> <https://www.parliament.gov.za/deputy-ministers>

<sup>17</sup> <http://www.judiciary.org.za/heads-of-superior-courts.html>

<sup>18</sup> <http://www.news24.com/SouthAfrica/News/uct-lecturers-must-refuse-to-teach-student-activist-20161005>

<sup>19</sup> <https://martinplaut.wordpress.com/2017/01/09/university-of-cape-town-the-zombies-have-taken-over-the-institution/>

<sup>20</sup> [https://www.uct.ac.za/usr/downloads/2016-11-07\\_UCT\\_resolution.pdf](https://www.uct.ac.za/usr/downloads/2016-11-07_UCT_resolution.pdf)

owners. And rightful owners unashamedly is black people. No white person is a rightful owner of the land here in South Africa and in the whole of the African continent. This is our continent, it belongs to us.<sup>21</sup>

EFF spokesperson Mbuyiseni Ndlozi speaking to a crowd outside the Middelburg Magistrate's Court said the following about Malema's speech:

They say Commander in Chief is inciting violence. Commander in Chief says to them 'You slaughtered Black People in order to take this country. We should be slaughtering you! We should also be calling for white genocide. We should be calling for white massacre. We should be arming all of you! That you go and take revenge! But we are not doing that!' Nobody has called for a white massacre. Nobody has called – none of the African leadership – has said to our people 'Go and take revenge!' We are not saying that! We are not saying that! You will not find any of our leaders asking for revenge. Yet when we say 'Bring back the land!' they say we are inciting violence....<sup>22</sup>

The editor of Politicsweb, James Myburgh has drawn parallels with the words used by the EFF and the tactics used by NAZI propagandist Joseph Goebbels.

The propaganda of Goebbels' (and others) aggressively accused the Jews of having done what the National Socialists proceeded to do to them. Thus, the expulsion of the Jews from state employment and the professions was justified by propaganda claiming the Jews had unfairly seized the best jobs for themselves; the dispossession of the Jews by propaganda that they had stolen their wealth from honest Germans; the murder of the Jews by propaganda that they were murderers of Germans; the war on the Jews by the claim that the Jews had declared war on Germany; and so on.

The language used [by Malema] ("White People", "they", "them") combines all white individuals – the young and old, the long dead and the yet to be born – into a single group. Highly negative attributes (murder, criminality, genocide, viewing black people as "animals" etc.) are then ascribed to each member of this entity. This is done by taking crimes committed or allegedly committed by members of this group – recently or hundreds of years ago - and then attributing guilt to the group as a whole. The suggestion is then made that "White People" deserve to be punished, but because of the great powers of patience and forgiveness of "Black People" they have not (yet) been. However, if "they" continue with their crimes and "racism" against Black People, and refuse to return that which they stole, all bets are off the table.<sup>23</sup>

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<sup>21</sup><http://www.politicsweb.co.za/news-and-analysis/we-arent-calling-for-the-slaughtering-of-white-people>

<sup>22</sup><http://www.politicsweb.co.za/documents/raceballs-8-special-race-hate-edition>

<sup>23</sup><http://www.politicsweb.co.za/opinion/malema-goebbels-and-the-art-of-racial-propaganda>

During the ANC's 103rd birthday event in Cape Town in 2015, the President of South Africa, Jacob Zuma said Jan van Riebeeck's arrival in South Africa was the beginning of all South Africa's problems (City Press, 17 June 2016). *"How can you say we told the Afrikaners to go? No, I said the problem began when Jan van Riebeeck came here,"* he said. According to him, Van Riebeeck's arrival paved the way for racial discrimination.

Several complaints about the incident were quickly lodged with SAHRC due to Zuma's extremely high profile and the extensive executive influence he wields as head of state. The rights body confirmed in February 2015 that it was indeed examining complaints of hate speech against Mr Zuma (News24, 18 February 2015). *"We have accepted these complaints and have started with the investigation,"* SAHRC spokesperson Isaac Mangena said. The ANC's response this, via Keith Khoza, read as follows: *"We believe that the president, whatever remarks he made, would be vindicated."* A thorough Internet search showed no proof that the ANC ever denounced the president for those remarks or took special punitive measures against him. No evidence could also be found of any other political party, except the Freedom Front Plus who laid one of the charges at the SAHRC, condemning the remarks.

In June 2016, the SAHRC set a new deadline of 4 July 2016 for Mr Zuma to reply to the complaints against him (News24, 17 June 2016). This was after the FF+ as one of the complainants had to bring an application in terms of the Promotion of Access of Information Act (PAIA) to force the SAHRC to provide information on the reason why no progress had been made with the investigation. Zuma also showed blatant disregard for an earlier deadline of 8 May 2015 to provide the SAHRC with a response, with the SAHRC taking no action against him. The SAHRC's response was that the many complaints on the matter had to be consolidated. No further developments a propos the SAHRC's handling of the matter could since be found

## **Alleging racism as a diversionary tactic**

On 30 March 2017, President Zuma fired Minister of Finance Pravin Gordhan. South Africans of all races and political affiliation took to the streets to demonstrate. Protestors marched outside Parliament, the Union Buildings and in city centres across the nation calling for President Zuma to resign.<sup>24</sup>

President Zuma responded to the marches against him by saying:

There is a resurgence of racism in our country. It is also clear that racists have become more emboldened. The marches that took place last week demonstrated that racism is real and exists in our country. Many placards and posters displayed beliefs that we thought had been buried in 1994, with some posters depicting black people as baboons. It is clear that some of our white compatriots regard black people as being lesser human beings or sub-human. The racist onslaught has become more direct and is no longer hidden as was the case in the early years of our constitutional democratic order. Racists no longer fear being caught or exposed. In the fight to combat racism, we should look beyond only overt racist utterances and public displays that we saw during the marches last week. We should also look at the ideological and institutional machinations that continue to give racism more traction.<sup>25</sup>

The President received explicit support from Black First Land First. Members of the organisation attended anti-Zuma marches sang “Zuma My President” and chanted “One Settler One Bullet” while holding placards that read “#HandsOffZuma”.<sup>26</sup>

## **Media Bias**

“Propaganda is the first step to hell. Propaganda is always done by bringing the attention of the people to one side and taking the attention from the other side.”

Hans Fritzsche, senior official in Goebbels' Propaganda Ministry<sup>27</sup>

Solidarity has produced an extensive report outlining selective reporting on racism in South Africa. The report shows that racist statements made by whites received 1286 media mentions on average, while racist statements by black received only 66 mentions on average.<sup>28</sup> This demonstrates that there is an overwhelming tendency in the press to ignore anti-white racism. James Myburgh notes that:

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<sup>24</sup> <http://ewn.co.za/2017/04/07/thousands-join-anti-zuma-march-at-union-buildings>

<sup>25</sup> <https://www.dailymaverick.co.za/article/2017-04-10-trainspotter-abuse-inc-zuma-uses-hani-memorial-to-stage-counterattack/>

<sup>26</sup> <https://mg.co.za/article/2017-04-07-zuptamustfall-protest-gets-tense-outside-gupta-mansion-in-saxonwold>

<sup>27</sup> Leon Goldensohn, *The Nuremberg Interviews: Conversations with the Defendants and Witnesses*, at 59

<sup>28</sup> Dr Eugene Brink and Connie Mulder, *Racism, hate speech and double standards: not a simple black and white matter*, 2017.

By contrast, every physical or verbal assault, or insult, or act of racial impertinence, directed by a white person against black people receives huge coverage and sets off wave after wave of condemnation. Demands are then made for the severest of punishments, no matter how disproportionate to the actual offence, and for ever more stringent measures to stamp out the scourge of (anti-black) "racism" once and for all. When media loses its sense of balance and proportion in this way – and becomes fixated on the wrongdoing of individuals from a particular minority – it has turned away from journalism towards racial propaganda.<sup>29</sup>

On 4 January 2016, a Facebook post from Penny Sparrow, an estate agent in a small coastal town became national news. With the following statement, she racily compared black beachgoers to monkeys.

These monkeys that are allowed to be released on New Year's eve and New Year's day on to public beaches towns etc obviously have no education what so ever so to allow them loose is inviting huge dirt and troubles and discomfort to others. I'm sorry to say that I was among the revellers and all I saw were black on black skins what a shame. I do know some wonderful and thoughtful black people. This lot of monkeys just don't want to even try. But think they can voice opinions about statute and get their way oh dear. From now I shall address the blacks of South Africa as monkeys as I see the cute little wild monkeys do the same, pick drop and litter.<sup>30</sup>

Ms Sparrow was found guilty of hate speech by an equality court and received a large fine. The story received 4501 media reports and drew significant attention away from President Zuma.<sup>31</sup>

Velaphi Khumalo, a member of the African National Congress (ANC) and government official responded to Sparrow with the following:

I want to cleans this country of all white people. we must act as Hitler did to the Jews. I don't believe any more that the is a large number of not so racist whit people. I'm starting to be sceptical even of those within our Movement the ANC. I will from today unfriend all white people I have as friends from today u must be put under the same blanket as any other racist white because secretly u all are a bunch of racist fuck heads. as we have already seen [all sic].

Khumalo's comment only received 136 media reports and was largely forgotten.<sup>32</sup>

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<sup>29</sup> <http://www.politicsweb.co.za/opinion/malema-goebbels-and-the-art-of-racial-propaganda>

<sup>30</sup> <http://city-press.news24.com/News/penny-sparrow-back-in-court-on-criminal-charges-for-racist-comments-20160912>

<sup>31</sup> Dr Eugene Brink and Connie Mulder, *Racism, hate speech and double standards: not a simple black and white matter*, 2017.

<sup>32</sup> Dr Eugene Brink and Connie Mulder, *Racism, hate speech and double standards: not a simple black and white matter*, 2017.

It is commonplace for anti-white statements to be expressed in the press. On 17 March 2017, the publication Black Opinion published an article by Xola Skosana stating that:

Helen Zille [former leader of the Democratic Alliance] can spew all the tripe she likes, she is safe for as long as we have Black liberals who sing, "Not All Whites Are The Same". The script should be one, whites came, whites stole, whites raped, whites killed and whites must pay!<sup>33</sup>

On 16 January 2017, Foreign Policy published a story about the civil rights organisation Afriforum. The following quote from Panashe Chigumadzi was included in the article.

I believe all white people are structurally racist... I don't believe white South Africans are Africans. They remain settlers as long as they have not returned land to black people. I say white people should leave with what they came on ships with.<sup>34</sup>

## **A History of Violence**

In May 2008, South Africa was plagued by an outbreak of xenophobic violence. Sixty-two people lost their lives as a result of escalating hatred that was left unchecked.<sup>35</sup> A Mozambiquen man named Ernesto Nhamuave made international headlines after he was beaten, stabbed and ultimately burned alive.<sup>36</sup>

The Human Sciences Research Council produced a report on the attacks. The following quote is from a respondent that has interviewed:

We were against these people from the onset that's when terms like "makwerekwere" (derogatory term for foreigners) came about, we were against them in a light manner but now people are getting angry that is why they beat them up, their numbers are growing and some have babies this side it's as if this is their hometown; this violence happened because people are getting angry, this thing has always been there but it wasn't as strong as it is now. We never said we are happy to live with them but it was a light thing so people resorted to violence because of the realisation that the situation is getting serious.

The rhetoric used against white people mirrors much of the hatred that was expressed against foreigners. It is vital that action is taken before the onset of further tragedy.

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<sup>33</sup> <http://blackopinion.co.za/2017/03/17/beware-black-liberals-like-ferial-haffajee/>

<sup>34</sup> <http://foreignpolicy.com/2017/01/16/the-last-white-africans/>

<sup>35</sup> L.B. Landau (ed), Exorcising the Demons Within: Xenophobia, Violence and Statecraft in Contemporary South Africa, 2011

<sup>36</sup> <http://www.dailymail.co.uk/news/article-1024858/The-tale-flaming-man-picture-woke-world-South-Africas-xenophobia.html>

## **Reaction of the South African Human Rights Commission**

When Solidarity published the attached report, the SAHRC was reported to comment as follows:

*Seeking to portray a sector of society, which continues to enjoy considerable social and economic privilege, as 'victims' based on superficial analyses of media reporting on incidents of racism on social media, is disingenuous.*

*The SAHRC is mandated by the Constitution to monitor, protect and educate on human rights, not police private social media platforms or function as a 'Net Nanny'<sup>37</sup>*

These comments by the SAHRC are of great concern to Solidarity. The SAHRC is obliged to investigate and protect all, irrespective of race and or gender, however these comments confirm that when you are white you are perceived to enjoy considerable social and economic privilege and as such cannot be a victim.

The comment is not aligned with nor can it be compatible with the Constitutional and International obligations which the SAHRC has.

Even though Solidarity has submitted a complaint to the SAHRC it is submitted that above comments serves as confirmation that complaint procedure will be ineffective.

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<sup>37</sup> <http://city-press.news24.com/News/more-media-coverage-consequences-for-white-racists-than-black-racists-solidarity-20170411>

## **Required Relief**

We request that the Council:

- 1) Request the Secretariat to collect information from field presences of the Office of the High Commissioner of Human Rights and specialized agencies of the United Nations, national human rights institutions, and non-governmental organizations on the situation under consideration;
- 2) Adopt a decision including the expression of specific concerns, along with recommendations for action, addressed to:
  - (i) The State party concerned;
  - (ii) The Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, or the independent expert on minority issues;
  - (iii) Other relevant human rights bodies or special procedures of the Human Rights Council;
  - (iv) Regional intergovernmental organizations and human rights mechanisms;
  - (v) The Human Rights Council;
  - (vi) The Special Adviser of the Secretary-General on the prevention of genocide;
  - (vii) The Secretary-General through the High Commissioner for Human Rights, together with a recommendation that the matter be brought to the attention of the Security Council
- 3) Require the State party to submit a report in response to the above allegations, and require the parties to make representation to the Council regarding the issue.

## **Bibliography**

### Books

Leon Goldensohn, *The Nuremberg Interviews: Conversations with the Defendants and Witnesses*, 2007

L.B. Landau (ed), *Exorcising the Demons Within: Xenophobia, Violence and Statecraft in Contemporary South Africa*, 2011

### Reports

Dr Eugene Brink and Connie Mulder, *Racism, hate speech and double standards: not a simple black and white matter*, 2017

South African 2011 Census

United Nations Human Rights Office of the High Commissioner, *Xenophobia Factsheet*, 2013

### Cases

*Hotz v UCT* 2016 ZASCA 159

### Newspapers

Black Opinion

City Press

Daily Mail

Daily Maverick

Daily Vox

eNCA

Eye Witness News

Foreign Policy

Mail and Guardian

News24

Politicsweb

Times Live

Wits Vuvuzela

### Websites

[www.parliament.gov.za](http://www.parliament.gov.za)

[www.judiciary.org.za](http://www.judiciary.org.za)