

**AN ANALYSIS OF THE ELEMENTS OF GENOCIDE  
WITH REFERENCE TO THE  
SOUTH AFRICAN FARMER'S CASE**

**by**

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Submitted in partial fulfilment of the  
Requirements for the degree of

**MAGISTER LEGUM**

In the Faculty of Law  
at the  
Nelson Mandela Metropolitan University

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**JANUARY 2011**

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## SUMMARY

The definition of genocide encompasses not only the killing of a protected group as is so often erroneously believed, but also *inter alia* the causing of serious bodily and mental harm to a group and deliberately inflicting conditions of life on a group calculated to bring about its destruction in whole or in part. Eight stages have been identified through which conventional genocide goes.

There is a closed list of four groups named in the Genocide Convention in respect of which genocide can be perpetrated. Problems have been experienced with the classification and the determination whether a group should qualify or not. In answer to this problem, the definition of the groups should be seen cohesively and attempts should preferably not be made to compartmentalise any group suspected of being targeted for genocide.

The special intent required for genocide sets it apart from other crimes against humanity. The intention that needs to be proven is the desire to exterminate a group as such in whole or in part. The mention of “in part” opens the door for genocide to be perpetrated against a small sub-group which conforms to the definition of a group. The white Afrikaner farmer forms part of the larger white Afrikaner group residing in South Africa.

Incitement to genocide is an inchoate crime and is regarded as a lesser crime reflected in lower sentences being passed for incitement than for genocide itself. The requirements are that the incitement must be direct and public. The required intention to incite must also be proven for a conviction to follow.

The farmer who laid the complaint with the International Criminal Court, did so in the hope that the Prosecutor would utilise his or her *proprio motu* powers to instigate an investigation in South Africa regarding white Afrikaner farmers. The complaint and

petition as well as the statistics used by the farmer paint the picture of incitement to genocide and possible genocide. The allegations are not specific and will have to be proven in a court of law for any such finding to follow.

# CHAPTER 1

## INTRODUCTION

The concept of genocide is an age-old phenomenon that has only been named and identified as such in the twentieth century.<sup>1</sup> The law regulating the perpetration thereof is even more new. The term is derived from the word “genos” being Greek for race, nation tribe or group and “caedere” meaning to kill in Latin.<sup>2</sup> The most horrific of all genocides in recent history is that which was perpetrated on the Jews in Nazi Germany during the earlier part of the twentieth century, also known as the Holocaust.<sup>3</sup>

Following the end of World War II, the United Nations General Assembly affirmed that Genocide is a crime under international law for which individuals are punishable and characterized genocide as “a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of human beings.”<sup>4</sup> The General Assembly of the United Nations adopted the Convention on the Prevention and Punishment of the Crime of Genocide on 9 December 1948.<sup>5</sup> This is commonly known as the Genocide Convention. Thus, the then, yet unnamed crime was given substance and weight and became punishable under international law. This, however, has done nothing to stop the commission of genocide throughout the world since then.<sup>6</sup>

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<sup>1</sup> Cryer, Friman, Robinson & Wilmshurst *An Introduction to International Criminal Law and Procedure* (2007) 166.

<sup>2</sup> Schabas *Developments relating to minorities in the law on genocide* in Henrard & Dunbar (eds) *Synergies in Minority Protection : European and International Law Perspectives* (2008) 189.

<sup>3</sup> Cryer et al *International Criminal Law and Procedure* 166.

<sup>4</sup> General Assembly Resolution 96 (1946).

<sup>5</sup> General Assembly Resolution 260 (1948).

<sup>6</sup> Examples hereof is the genocides of the Hereros, the Armenians, the Jews, the Gypsies, the Burundis, the Cambodians, the Kurds in Iraq, the Tutsi's in Rwanda and the genocides in Bosnia and Herzegovina and Kosovo.

The question to be answered now is whether there is genocide in the making in South Africa. South Africa is known for its high crime rate.<sup>7</sup> These crimes include violent farm attacks and farm murders. A high-ranking African National Congress politician has made stringent verbal attacks and calls to kill the Boer and farmer.<sup>8</sup> The high number of farm attacks coupled with the verbal attacks, has prompted an unnamed farmer from the North-west Province to lay a charge of genocide with the Prosecutor of the International Criminal Court as well as lodge a petition with the Secretary – General of the United Nations.<sup>9</sup>

The question that arises is whether there is enough substance to this claim for a prosecution of genocide or any other crime to be instituted. This will be considered with reference to the following aspects:

1. The definition and stages of genocide;
2. the elements of the crime as it evolved;
3. a discussion of the complaint and petition, and
4. an analysis and application of the law pertaining to the current South African situation.

In Chapter 2, the definition and stages of genocide are discussed. In Chapter 3, the elements of genocide which might find application with specific reference to the complaint of the farmer, are discussed. Chapter 4 deals with the complaint to the International Criminal Court as well as the petition to the United Nations, as well as the complaint mechanisms in place at the International Criminal Court. In Chapter 5, the law is applied to

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<sup>7</sup> Dixon R “South Africa struggles with crime rate” *LA Times* (2009-09-27)

<http://articles.latimes.com/2009/sep/27/world/fg-crime-police27>

<sup>8</sup> “Malema faces criminal charge over “kill the boer” song” *Timeslive* (2010-0310)

<http://www.timeslive.co.za/local/article348900.ece>; *Independent Online* “Defiant Malema sings it – again” (2010-04-05) <http://www.iol.co.za/news/politics/defiant-malema-sings-it-again-1.479492>.

<sup>9</sup> Unstructured interview with the complainant’s attorney, F. van der Walt, on 8 December 2010.

the allegations by the farmer as evident from the complaint and petition. The discussion is concluded in Chapter 6.



## **CHAPTER 2**

### **DEFINITION AND STAGES OF GENOCIDE**

#### **2 1 INTRODUCTION**

It is trite that minorities are chiefly the victims of genocide. Genocide has also been described as the most aggravated crime against humanity.<sup>10</sup> Winston Churchill described it during the Second World War as the crime without a name<sup>11</sup> whereas Schabas included the term “crime of crimes” as subtitle to his book *Genocide in International Law* following one of the earliest decisions by the International Criminal Tribunal for Rwanda,<sup>12</sup> indicating the seriousness with which this crime is viewed. In this chapter the definition and stages of genocide are analysed.

#### **2 2 DEFINITION**

Genocide is defined in Article II of the Genocide Convention (which was adopted verbatim in the International Criminal Court Statute) as any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;

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<sup>10</sup> Schabas *An Introduction to the International Criminal Court* (2007) 3rd ed 92.

<sup>11</sup> Schabas *Genocide in International Law : The Crime of Crimes* (2009) 2nd ed 17.

<sup>12</sup> Schabas *Genocide in International Law* (2009) 652.

(e) Forcibly transferring children of the group to another group.

According to Quigley, destroying a group can also take place not necessarily by killing, but by inflicting harm that renders the group unable to function effectively.<sup>13</sup> This includes destroying a group's social identification or ability to function on the basis of its customs and traditions.<sup>14</sup>

Article III of the Genocide Convention added four further categories of punishable acts: conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide and complicity in genocide.<sup>15</sup>

## **2 3 STAGES OF GENOCIDE**

Stanton recognises eight stages of Genocide.<sup>16</sup> The first stage is classification, which involves the division between cultures, races or ethnic classifications ("us" and "them"). The second stage is symbolisation where physical characteristics, names or symbols are given or attributed to certain groups. The third stage is dehumanisation where the humanity of the group is denied. The group is often labelled animal names during incitement to genocide. The bodies of the deceased are mutilated to express the denial of humanity. The fourth stage is organization, even informally. This can be by the State or other hate groups and varies from culture to culture. The fifth stage involves polarization. This involves the killing of moderates belonging to the killing group intended to speed the process. Stage six is characterised by preparation. This can include identification of the victim group, by

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<sup>13</sup> Quigley *The Genocide Convention: An International Law Analysis* (2006) 103.

<sup>14</sup> This will be discussed with reference to South Africa in Chapter 5.

<sup>15</sup> Article III of the Convention on the Prevention and Punishment of the Crime of Genocide Adopted by Resolution 260 (III) A of the U.N. General Assembly on 9 December 1948. See also Quigley *Genocide Convention* (2006) 10.

<sup>16</sup> Stanton *The 8 stages of Genocide* Paper presented to United States Department of State (1996) and presented at the Yale Program in Genocide Studies in 1998.

either specific external markings or cards, expropriation of property and unwilling concentration of the victim group in structures for example extermination camps. The penultimate stage is extermination. It is called extermination and not murder because the victims are considered not human. This is also the reason for the mutilation of bodies, mass graves and the burning of bodies. The final and eighth stage is denial. During this stage, mass graves are dug up and hidden and records are destroyed. During genocide, denial takes place when reports of genocide is dismissed as propaganda or labelled unconfirmed or alleged, the number killed is minimised and it is denied that killing fits the definition of genocide. According to Stanton,<sup>17</sup> the first stages precede later stages, but continue to operate throughout the genocidal process. Each stage reinforces the other.

According to Genocide Watch,<sup>18</sup> South Africa has reached the fifth stage namely polarization.<sup>19</sup> Polarization is characterised by a systematic campaign to maximise the social, psychological and moral distance between the groups involved.

## **2 4 CONCLUSION**

Genocide consists of much more than killing a group of people as is so often erroneously believed. Besides killing, it can comprise of causing serious bodily or mental harm, deliberately inflicting conditions of life calculated to bring about a group's physical destruction in whole or in part, imposing measures intended to prevent births within the group and forcibly transferring children of the group to another group. The different stages of genocide depict the gradual build-up towards the actual large scale killing. The presence of the early stages of genocide can be indications of the actual genocide to follow.

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<sup>17</sup> Stanton *The 8 stages of Genocide* (1996).

<sup>18</sup> Genocide Watch is the coordinator of the International Campaign to End Genocide and was found in 1999 by Dr. Gregory Stanton who is a Farmer professor in Human Rights at the University of Mary Washington.

<sup>19</sup> <http://www.genocidewatch.org/southafrica.html>.

Recognising and acknowledging these stages timeously can help in the prevention of possible genocide.

## **CHAPTER 3**

### **ELEMENTS OF GENOCIDE**

#### **3 1 INTRODUCTION**

In order to evaluate the situation in South Africa, the general elements of genocide need to be examined. The individual requirements for each of the applicable elements will be discussed.

#### **3 2 ELEMENTS**

Article 6 of the Rome Statute of the International Criminal Court<sup>20</sup> (hereinafter referred to as the Rome Statute), distinguishes between genocide by killing, genocide by causing serious bodily or mental harm, genocide by deliberately inflicting conditions of life calculated to bring about physical destruction, genocide by imposing measures intended to prevent births and genocide by forcibly transferring children.

Genocide by killing<sup>21</sup> is committed when the perpetrator kills one or more persons belonging to a particular national, ethnical, racial or religious group with the intent to destroy, in whole or in part, that group, as such.

Genocide by causing serious bodily or mental harm<sup>22</sup> is committed when the perpetrator caused serious bodily or mental harm to one or more persons belonging to a particular

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<sup>20</sup> UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90. It was adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 12 July 1998. The Statute entered into force on 1 July 2002. The Rome Statute was acceded to and implemented in South Africa by Act 27 of 2002 which came into effect on 16 August 2002.

<sup>21</sup> Article 6(a) International Criminal Court, Elements of Crimes, U.N. Doc. PCNICC/2000/1/Add.2 (2000).

<sup>22</sup> Article 6(b) International Criminal Court, Elements of Crimes, U.N. Doc. PCNICC/2000/1/Add.2 (2000).

national, ethnical, racial or religious group with the intent to destroy, in whole or in part, that national, ethnical, racial or religious group, as such.

Genocide by deliberately inflicting conditions of life calculated to bring about physical destruction<sup>23</sup> is committed when a perpetrator inflicts certain conditions of life upon one or more persons belonging to a particular national, ethnical, racial or religious group with the intent to physically destroy, in whole or in part, that national, ethnical, racial or religious group, as such.

Genocide by imposing measures intended to prevent births<sup>24</sup> is committed when a perpetrator imposes certain measures to prevent births upon one or more persons belonging to a particular national, ethnical, racial or religious group with the intent to destroy, in whole or in part, that national, ethnical, racial or religious group, as such.

Genocide by forcibly transferring children<sup>25</sup> is committed when a perpetrator forcibly transfers one or more persons under the age of 18 years belonging to a particular national, ethnical, racial or religious group from that group to another group with the intent to destroy, in whole or in part, that national, ethnical, racial or religious group, as such.

All five of the abovementioned methods of committing genocide has the added requirement that the conduct must take place in the context of a manifest pattern of similar conduct directed against that group or it must be conduct that could itself effect such destruction.

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<sup>23</sup> Article 6(c) International Criminal Court, Elements of Crimes, U.N. Doc. PCNICC/2000/1/Add.2 (2000).

<sup>24</sup> Article 6(d) International Criminal Court, Elements of Crimes, U.N. Doc. PCNICC/2000/1/Add.2 (2000).

<sup>25</sup> Article 6(e) International Criminal Court, Elements of Crimes, U.N. Doc. PCNICC/2000/1/Add.2 (2000).

After analysing the definitions, the genocidal acts (*actus reus*) that need to be proven are:

1. Killing members of the group, and/or
2. Causing serious bodily or mental harm to members of the group, and/or
3. Inflicting conditions of life on the group, and/or
4. Preventing births within the group, and/or
5. Transferring children of the group to another group.

For the purposes of this dissertation (based on the complaint of the farmer), Article 6(d) and (e) (and therefore the acts mentioned in 4 and 5 above) is not applicable and need not be discussed.

In addition to the various forms of conduct (*actus reus*) referred to above, consideration has to be given to the culpability requirement of the crime (which includes the interpretation of the words “in whole or in part”).

In these elements of crime, there is an added requirement to wit that the conduct takes place in the context of a manifest pattern of similar conduct directed against a group or is conduct which could itself effect such destruction. This did not form part of the initial definition of genocide as a crime. The effect hereof is that it is even more difficult to prove the crime.<sup>26</sup> The burden on the prosecution is intensified, as it now also needs to prove that there is a pattern of conduct indicating genocidal intent.

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<sup>26</sup> See also Wald “Genocide and Crimes against Humanity” 2007 *Washington University Global Studies Law Review* Vol 6 621 627 and Cryer et al *International Criminal Law and Procedure* 177 – 178.

### **3 2 1 KILLING MEMBERS OF A GROUP**

#### **3 2 1 1 Killing**

The first element of this particular crime is the killing of a person or persons. A problem encountered with the lexicon meaning of the English word 'killing' is that it does not indicate whether the killing must be intentional, reckless or through negligence or whether it covers all of these terms.<sup>27</sup>

The manner in which the killing takes place is immaterial in proving this specific element of the crime. Any manner of affecting the death of a person will suffice. The way in which a person is killed, may be relevant when it needs to be decided whether the deceased belonged to a specific group, especially if a certain group of people are targeted to be killed in a certain way. If, for example, during genocidal killings of a specific group, the bodies were ritualistically defaced in some way, it would strengthen proof and be indicative of the fact that a particular deceased belonged to that group if his or her body is defaced in a similar way.

It is not necessary for a large number of persons to be killed to enter a genocide conviction. If one person is killed by an accused, but that killing fulfils the other requirements for genocide, he or she will be found guilty. According to Schabas, the quantitative dimension belongs to the mental element and not the material element of genocide.<sup>28</sup>

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<sup>27</sup> See discussion on intent on 24 *infra*.

<sup>28</sup> Schabas *Genocide in International Law* (2009) 179.



### 3 2 1 2 Group

The Convention states that the killing must directed against one of four specific groups: national, racial, ethnical or religious. This is a departure from the original General Assembly Resolution 96(I) which included the term “other groups”. The result of this exclusion is that the definition is applied restrictively. In the debate leading up to the acceptance of the Rome Statute, it was argued that other groups defined by culture, language or gender should be included.<sup>29</sup>

In the sixty odd years since the Genocide Convention was enacted, problems have been experienced with the strict interpretation of the listed groups.<sup>30</sup> In Paragraph 9 of the general introduction to the International Criminal Court Elements of Crime,<sup>31</sup> it is clearly stated that particular conduct can fulfil the requirements of more than one crime. Torture can be either a war crime, a crime against humanity and, if it fulfils the intent requirement, genocide.

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<sup>29</sup> See 20 *infra*. Schabas *International Criminal Court* (2007) 94:

During the debates surrounding the adoption of the Genocide Convention, the forms of destruction were grouped into three categories: physical, biological and cultural. Cultural genocide was the most troublesome of the three, because it could well be interpreted in such a way as to include the suppression of national languages and similar measures. The drafters of the Convention considered that such matters were better left to human rights declarations on the rights of minorities and they actually voted to exclude cultural genocide from the scope of the definition. However, it can be argued that a contemporary interpreter of the definition of genocide should not be bound by the intent of the drafters back in 1948. The words ‘to destroy’ can readily bear the concept of cultural as well as physical and biological genocide, and bold judges might be tempted to adopt such progressive construction. Recent decisions of the International Criminal Tribunal for the former Yugoslavia and of the German Constitutional Court suggest that the law may be evolving in this direction. In any event, evidence of ‘cultural genocide’ has already proven to be an important indicator of the intent to perpetrate physical genocide.

<sup>30</sup> Wald “Genocide and Crimes against Humanity” 2007 *Washington University Law Review* Vol 6 621 627 states: “Because of the peculiarities of definition, some of the worst crimes in history may not be brought as genocides but only as crimes against humanity.”

<sup>31</sup> International Criminal Court, Elements of Crimes, U.N. Doc. PCNICC/2000/1/Add.2 (2000).

According to scholars Frank Chalk and Kurt Jonassohn, ‘the wording of the Convention is so restrictive that not one of the genocidal killings committed since its adoption is covered by it’. They add that “potential perpetrators have taken care to victimize only those groups that are not covered by the convention’s definition”.<sup>32</sup>

Voices have been heard to extend the Convention’s definition of genocide to include political, social, economic and other groups.<sup>33</sup> Application of this movement to include other groups is found in the judgment of *Akayesu*.<sup>34</sup> Here the Trial Chamber said it read and interpreted the preparatory notes to the Genocide Convention to mean that “stable groups” (a group constituted in a permanent fashion and membership of which is determined by birth) are to be included while “mobile groups” (a group which are joined through voluntary commitment) are to be excluded from the definition and would reflect what was originally meant when drawing up the Genocide Convention. The Trial Chamber concluded that the meaning or intention of the drafters of the Genocide Convention was to include any permanent and stable group.<sup>35</sup>

However, in the *Kayishema*<sup>36</sup> case, which was also heard by the International Criminal Tribunal for Rwanda, the Trial Chamber concluded that the Tutsi constituted an ethnic group because the perpetrators of genocide saw them as a group. The Trial Chamber said

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<sup>32</sup> Schabas *Genocide in International Law* (2009) 117. See the following criticism by Wald “Genocide and Crimes against Humanity” 2007 *Washington University Global Studies Law Review* Volume 6 : 621 633:

In the end I have to ask if we have reached a point where definitional niceties, important as they are in any criminal prosecution, have obscured what should be clearer demarcation lines between war crimes and crimes against humanity on the one hand, and on the other hand have required truly horrendous crimes against certain groups of people to be “dumbed down” from genocide to crimes against humanity because they don’t fit the tight genocidal definitional perimeters for targeted groups and destructive intent.

<sup>33</sup> Schabas *Developments relating to minorities in the law on genocide* 191.

<sup>34</sup> Schabas *Developments relating to minorities in the law on genocide* 194 -195.

<sup>35</sup> *Prosecutor v Akayesu* Case No. ICTR-96-4-T Judgment 2 September 1998, par 515.

<sup>36</sup> *Prosecutor v Kayishema and Ruzindana* Case No. ICTR-95-1-T Judgment 21 May 1999, par 98.

that an ethnic group could be “a group identified as such by others, including perpetrators of the crimes”.<sup>37</sup>

Schabas<sup>38</sup> is of the opinion that the groups mentioned in the Convention overlap:

The four terms in the Convention not only overlap, they also help to define each other, operating much as four corner posts that delimit an area within which a myriad of groups covered by the Convention find protection. This was certainly the perception of the drafters. For example, they agreed to add the term ‘ethnic’ so as to ensure that the term ‘national’ would not be confused with ‘political’. The drafters viewed the four groups in a dynamic and synergistic relationship, each contributing to the construction of the other.

He is thus of the opinion that one should not look at the definition of each group individually, but at all of them cohesively.

The South African Pocket Oxford Dictionary defines nation as “a large group of people sharing the same culture, language, or history, and inhabiting a particular state or area”,<sup>39</sup> and national as “adjective: 1. having to do with a nation; 2. owned, controlled, or financially supported by the state; noun: a citizen of a particular country.”<sup>40</sup>

This means the existence of the group is based on common citizenship and can be based on political affiliation or territory. This can also be described as the “catch-all group”.

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<sup>37</sup> *Kayishema supra*, par 98.

<sup>38</sup> Schabas *Genocide in International Law* (2009) 128 - 129.

<sup>39</sup> Soanes (ed) *South African Pocket Oxford Dictionary* 3<sup>rd</sup> ed 2002 597.

<sup>40</sup> Soanes (ed) *South African Pocket Oxford Dictionary* 597.

The term “Afrikaner” is described as “an Afrikaans-speaking white person in South Africa”.<sup>41</sup> When looking at the rationale for including “national”, it seems the origin of this phrase referred to European national minorities. Apparently, that is what Lemkin envisaged when he initially used the word national when he initially coined the term genocide and formulated the definition thereof.<sup>42</sup>

The definition of race is:

1. each of the major divisions of humankind, based on particular physical characteristics;
2. racial origin or the qualities associated with this;
3. a group of people sharing the same culture, language, etc.;
4. a group of people or things with a common feature;
5. a subdivision of a species.<sup>43</sup>

Racial is defined as:

1. having to do with race;
2. relating to relations or differences between races.<sup>44</sup>

During the drafting of the Convention, this term was understood to extend to cover national, ethnic and even religious minorities.<sup>45</sup> Racial discrimination is defined as “any distinction, exclusion, restriction or preference based on race, colour, descent, or

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<sup>41</sup> Soanes (ed) *South African Pocket Oxford Dictionary* 14.

<sup>42</sup> Schabas *Genocide in International Law* (2009) 135.

<sup>43</sup> Soanes (ed) *South African Pocket Oxford Dictionary* 734.

<sup>44</sup> Soanes (ed) *South African Pocket Oxford Dictionary* 732 .

<sup>45</sup> Schabas *Genocide in International Law* (2009) 140.

national or ethnic origin” in The International Convention for the Elimination of All Forms of Racial Discrimination.<sup>46</sup>

Cultural heritage means belonging to a specific culture, which includes the language spoken as well as the traditions specific to that group.

Ethnic is defined as:

1. having to do with a group of people who have a common national or cultural tradition
2. referring to origin by birth rather than present nationality.<sup>47</sup>

Ethnic minority is defined as “a group within a community which has different ethnic origin from the main population.”<sup>48</sup> This term was added after Sweden thought national might be confused with political.<sup>49</sup>

Thiam observed:

It seems that the ethnic bond is cultural. It is based on cultural values and is characterized by a way of life, a way of thinking and the same way of looking at life and things. On a deeper level, the ethnic group is based on a cosmonogy. The racial element, on the other hand, refers more typically to common physical traits.<sup>50</sup>

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<sup>46</sup> Schabas *Genocide in International Law* (2009) 141.

<sup>47</sup> Soanes (ed) *South African Pocket Oxford Dictionary* 302.

<sup>48</sup> Soanes (ed) *South African Pocket Oxford Dictionary* 302.

<sup>49</sup> Schabas *Genocide in International Law* (2009) 144.

<sup>50</sup> Schabas *Genocide in International Law* (2009) 146.

However, going back to the original meaning envisaged in 1948, it seems that language and culture are the two factors that are taken into account to determine whether a group falls under the umbrella of ethnic.<sup>51</sup>

The definition of religion is:

1. the belief in and worship of a God or gods;
2. a particular system of faith and worship.<sup>52</sup>

Religious is defined as:

1. having to do with or believing in a religion;
2. very careful or regular.<sup>53</sup>

Schabas comments:

The drafters of the Convention considered religious groups as closely analogous to ethnic or national groups, the result of historical conditions that, while theoretically voluntary, in reality circumscribed the group in as immutable a sense as racial or ethnic characteristics.<sup>54</sup>

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<sup>51</sup> *Akayesu* supra par 512.

<sup>52</sup> Soanes (ed) *South African Pocket Oxford Dictionary* 756.

<sup>53</sup> Soanes (ed) *South African Pocket Oxford Dictionary* 756.

<sup>54</sup> Schabas *Genocide in International Law* (2009) 147.

He also says that in the *Krstić*<sup>55</sup> case, it became clear that the Bosnian Muslims who were initially thought of as a religious group, had taken on the identity of a national or ethnic group.

Schabas<sup>56</sup> quotes Matthew Lippman who said “[R]eligious groups encompass both theistic, non-theistic, and atheistic communities which are united by a single spiritual ideal.”

Even though the term “cultural” as one of the groups was excluded from the final definition of genocide because it was thought that the definition should be limited to physical genocide<sup>57</sup>, it needs to be mentioned, as the attack on a group’s culture can be an initial indicator of genocide.<sup>58</sup> It can also be indicative of the genocidal intent.<sup>59</sup> The main reason for exclusion of cultural genocide from the Convention was the perception that it falls under human rights more so than under genocide.<sup>60</sup> In 1976, the International Covenant on Civil and Political Rights<sup>61</sup> made provision for the protection of minority rights regarding culture, religion and language.

The prosecution needs to prove the intention to destroy a group in whole or in part. The Genocide Convention does not specify what type of destruction is meant. It stands to reason that a group can be destroyed (not necessarily physically exterminated) by placing prohibitions on its cultural identity such as use of language, practicing of religion or anything else which destroys its identity bar physical extermination.<sup>62</sup>

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<sup>55</sup> *Prosecutor v. Krstić* Case No. IT-98-33-T, Judgment 2 August 2001 par 559 – 60.

<sup>56</sup> Schabas *Genocide in International Law* (2009) 149.

<sup>57</sup> Schabas *Genocide in International Law* (2009) 209.

<sup>58</sup> Schabas *Genocide in International Law* (2009) 207: “Destruction of a people often begin with a vicious assault on culture, particularly language and religious and cultural monuments and institutions.”

<sup>59</sup> Schabas *Genocide in International Law* (2009) 267.

<sup>60</sup> Schabas *Genocide in International Law* (2009) 213.

<sup>61</sup> International Covenant on Civil and Political Rights (1976) 999 UNTS 171 Article 27.

<sup>62</sup> Schabas 2004 *Human Rights Review* Vol. 5(4) 46-56 51.

Schabas suggests that a literal reading of the text can support this conclusion.<sup>63</sup> Quigley states “[T]he destruction of cultural objectives may provide evidence that such acts were done with intent to destroy the group in question.”<sup>64</sup> Schabas agrees.<sup>65</sup>

An important question is whether a group is deemed to exist objectively or whether the existence of the group is to be ascertained subjectively having regard to the views of the relevant parties. Quigley concludes, after reviewing both the Rwandan and Yugoslavian Tribunals’ point of departure (of using subjective factors to determine whether a group exists), that subjective factors are used to determine whether a group exists. He warns that no court will determine the existence of a group on subjective factors only. Any subjective factors taken into account would be based on the perception of the groups involved.<sup>66</sup> This is the perception of the community involved. According to Quigley, this perception is a fact which can be ascertained by a court of law and as such, lose some of its subjectivity, and then become an objective factor to be taken into account.<sup>67</sup>

Economic and political groups were excluded from the definition because they were deemed not to be of a permanent nature. It makes sense then that permanence of existence could be a requirement in establishing whether a group exists.

In *Akayesu*<sup>68</sup> it is said that “membership in such groups (referring here to the groups in toto) would seem to be normally not challengeable by its members, who belong to it automatically by birth, in a continuous and often irremediable manner.”

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<sup>63</sup> Schabas 2004 *Human Rights Review* Vol. 5(4) 46-56 52.

<sup>64</sup> Quigley *Genocide Convention* (2006) 105.

<sup>65</sup> Schabas 2004 *Human Rights Review* Vol. 5(4) 46-56 51.

<sup>66</sup> Quigley *The Genocide Convention: An International Law Analysis* (2006) 155 -156. See also Schabas 2004 *Human Rights Review* Vol. 5(4) 46-56 48.

<sup>67</sup> Quigley *The Genocide Convention: An International Law Analysis* (2006) 156.

<sup>68</sup> *Akayesu* supra par 511.



Schabas warns:

There is a danger that a search for autonomous meanings for each of the four terms will weaken the overarching sense of the enumeration as a whole, forcing the jurist into an untenable Procrustes bed. To a degree, this problem is manifested in the 2 September 1998 judgment of the International Criminal Tribunal for Rwanda in the *Akayesu* case, as well as in the definitions accompanying the genocide legislation adopted by the United States, both of which dwell on the individual meanings of the four terms. Deconstructing the enumeration risks distorting the sense that belongs to the four terms, taken as a whole.<sup>69</sup>

### **3 3 CAUSING SERIOUS BODILY OR MENTAL HARM TO MEMBERS OF A GROUP**

#### **3 3 1 Bodily Harm**

The idea that acts of physical violence falling short of killing members of a group, passed without much difficulty. The wording suggested by the United Kingdom “causing grievous bodily harm to members of the group” was accepted after an amendment suggested by India to replace “grievous” with “serious”.<sup>70</sup>

In the *Eichmann* case as quoted by Cryer,<sup>71</sup> it was found that serious bodily and mental harm could be caused

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<sup>69</sup> Schabas *Genocide in International Law* (2009) 129 - 131.

<sup>70</sup> Schabas *Genocide in International Law* (2009) 181.

<sup>71</sup> Cryer et al *International Criminal Law and Procedure* 174.

by the enslavement, starvation, deportation and persecution of people . . . and by their detention in ghettos, transit camps and concentration camps in conditions which were designed to cause their degradation, deprivation of their rights as human beings and to suppress them and cause them inhumane suffering and torture.

In *Akayesu*,<sup>72</sup> it was decided that acts of sexual violence and rape are acts of genocide. Also in *Akayesu*,<sup>73</sup> it was read to include acts of torture (physical or mental), inhumane or degrading treatment and persecution. In *Kayishema*,<sup>74</sup> the International Criminal Tribunal for Rwanda defined it as “harm that seriously injures the health, causes disfigurement or causes any serious injury to the external, internal organs or senses.”

### **3 3 2 Mental Harm**

The determining of mental harm, on the other hand, proved to be more problematic. Schabas<sup>75</sup> supports the approach of the Preparatory Committee of the International Criminal Court, which states that the reference to mental harm is understood to mean more than the minor or temporary impairment of faculties.

In *Kayishema*<sup>76</sup>, it was decided that decisions on what is meant by serious bodily or mental harm should be made on a case-by-case basis. In *Stakić*<sup>77</sup> it was “understood to mean, inter alia, acts of torture, inhumane or degrading treatment, sexual violence including rape, interrogations combined with beatings, threats of death, and harm that damages health or

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<sup>72</sup> *Akayesu* supra par 731.

<sup>73</sup> *Akayesu* supra par 503.

<sup>74</sup> *Kayishema* supra par 109.

<sup>75</sup> Schabas *Genocide in International Law* (2009) 184.

<sup>76</sup> *Kayishema* supra par 110.

<sup>77</sup> *Prosecutor v. Stakić* Case No. IT-97-24-T Judgment 31 July 2003 par 516.

causes disfigurement or injury. The harm inflicted need not be permanent and irremediable.”

### **3 4 DELIBERATELY INFLECTING CONDITIONS OF LIFE CALCULATED TO BRING ABOUT PHYSICAL DESTRUCTION IN WHOLE OR IN PART**

Cryer describes this requirement as when the perpetrator does not immediately kill the members of the group, but inflicts conditions of life on the members of the group that will eventually lead to the destruction of the group.<sup>78</sup>

#### **3 4 1 Conditions of life**

This would include subjecting people to conditions of life that would ultimately lead to their debilitation or death. Conditions include “lack of proper housing, clothing, food, hygiene and medical care, or excessive work or physical exertion, are likely to result in the debilitation or death of the individuals; and the deprivation of all means of livelihood, by confiscation of property, looting, curtailment of work, denial of housing and of supplies otherwise available to the other inhabitants of the territory concerned.”<sup>79</sup>

In *Akayesu*<sup>80</sup> it was interpreted to mean not the immediate killing of a group, but the methods of destruction, which ultimately seek the physical destruction of a group. The examples mentioned there are “subjecting a group of people to a subsistence diet, systematic expulsion from homes and the reduction of essential medical services below minimum requirement.”<sup>81</sup>

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<sup>78</sup> Cryer et al *International Criminal Law and Procedure* 175.

<sup>79</sup> Schabas *Genocide in International Law* (2009) 188 -189.

<sup>80</sup> *Akayesu* supra par 505. See also *Prosecutor v. Rutaganda* Case No. ICTR-96-3-T 6 December 1999.

<sup>81</sup> *Akayesu* supra par 505.

The International Criminal Court Elements of Crimes<sup>82</sup> states: “The term “conditions of life” may include, but is not necessarily restricted to, deliberate deprivation of resources indispensable for survival, such as food or medical services, or systematic expulsion from homes.”

### **3 4 2 In whole or in part**

This term adds a quantitative dimension to the *actus reus*. Schabas<sup>83</sup> opines that a small number of victims are sufficient to establish the material element. The most important question to be answered is whether the perpetrator had the required intent to destroy a group in whole or in part. It is logical that it would be easier to establish the necessary intent if a large number of people is destroyed. However, is the targeted group consists of a relatively small number of people; the destroying of even a few may constitute a substantial part. Where only part of a group is destroyed, it must be substantial.<sup>84</sup> What needs to be proven, then, is the intention to destroy a distinct part of a group rather than a number of individuals within the group.<sup>85</sup> The part of the group that the perpetrators are seeking to destroy must be viewed as a distinct entity, which should be eliminated.<sup>86</sup>

Another interpretation that has come to the fore is that where a significant part is destroyed, the requirement might be fulfilled. What is meant by this is the destroying of people significant to the group, such as leaders.<sup>87</sup>

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<sup>82</sup> International Criminal Court, Elements of Crimes, U.N. Doc. PCNICC/2000/1/Add.2 (2000) in article 6(c) n 4.

<sup>83</sup> Schabas *Genocide in International Law* (2009) 276.

<sup>84</sup> Schabas *An Introduction to the International Criminal Court* 195.

<sup>85</sup> Schabas *Genocide in International Law* (2009) 279.

<sup>86</sup> Schabas *Genocide in International Law* (2009) 279.

<sup>87</sup> Schabas *An Introduction to the International Criminal Court* 195 – 196. See also Cryer et al *International Criminal Law and Procedure* 180 – 181:

The perpetrator's personal motive is not an element of the crime. However, it might be useful in establishing the special ulterior discriminatory intent required for genocide, where victims are chosen because they are members of a national, ethnic, racial or religious group.<sup>88</sup>

### 3 5 INTENTION

Genocide is distinguishable from other Crimes against Humanity by the special intent required for it to be proven.<sup>89</sup> This special intent also makes the crime unique.<sup>90</sup>

Stanton describes the proving of intent as follows: "Intent can be directly proven from statements or orders by the perpetrators. But more often, it must be deduced from the systematic pattern of their acts, a pattern that could only arise out of specific intent."<sup>91</sup>

Article 30 of the Rome Statute states regarding intent:

1. Unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge.

2. For the purposes of this article, a person has intent where:

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This finding was affirmed by the Appeal Chamber, which also pointed out that, in determining what a 'substantial' part was, the prominence of the targeted individuals within the group as well as the number targeted (in absolute and in relative terms) could also be relevant; hence, both qualitative and quantitative criteria should be considered. If a specific part of the group is emblematic of the overall group, or is essential to its survival, that may support a finding that the part qualifies as substantial.

<sup>88</sup> Cryer et al *International Criminal Law and Procedure* 181 – 182.

<sup>89</sup> Cryer et al *International Criminal Law and Procedure* 165.

<sup>90</sup> Jarvis *An Emerging Gender Perspective on International Crimes* (2003) Boas & Schabas (eds) *International Criminal Law Developments in the Case law of the ICTY* 172.

<sup>91</sup> Stanton *The 8 stages of Genocide* Paper presented to United States Department of State (1996) and presented at the Yale Program in Genocide Studies in 1998.

- (a) In relation to conduct, that person means to engage in the conduct;
  - (b) In relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events.<sup>92</sup>
3. For the purposes of this Article, “knowledge” means awareness that a circumstance exists or a consequence will occur in the ordinary course of events. “Know” and “knowingly” shall be construed accordingly.

Ambos<sup>93</sup> distinguishes between the two separate elements attached to the intent for genocide and calls it “a general one that could be called ‘general intent’ or *dolus*, and an additional ‘intent to destroy’.” (This would be referred to as *dolus specialis*).

The general intent<sup>94</sup> relates to the normal intention of the perpetrator. In a case of murder, did he or she have the intention to kill the deceased? As to the *dolus specialis*, it is a requirement that, when killing the deceased, the perpetrator knew, or should have known that his or her act would contribute to destroying the group to which the deceased belonged, in whole or in part. This then deals with the “intent and knowledge” mentioned in the Rome Statute. It follows that the prosecution would have to prove the *actus reus* of the crime involved, knowledge of the genocide as well as the intent to commit genocide on the part of the perpetrator. It also follows logically that the *mens rea* must be formed prior to

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<sup>92</sup> See in this regard the comments of Wilmshurst in Cryer et al *International Criminal Law and Procedure* 182 where she says the following:

The special intent required for genocide necessitates each individual perpetrator, whether leader or foot soldier, having the intention to destroy the group or part of it when committing any of the prohibited acts. It differs from the ‘normal’ intent in criminal law, as exemplified in Article 30 of the ICC Statute. That Article provides that in relation to conduct, the individual must mean to engage in the conduct, and in relation to a consequence, the individual must mean to cause that consequence ‘or is aware that it will occur in the ordinary course of events’. That is a less stringent requirement than what is now regarded as constituting the special intent for genocide and, subject to what is said below, the intent requirement of Article 30 will therefore not be applicable in the ICC to genocide cases (but will apply to some other forms of liability in relation to genocide).

<sup>93</sup> Ambos “What does ‘intent to destroy’ in genocide mean?” 2009 *International Review of the Red Cross* 1 2.

<sup>94</sup> See Cryer et al *International Criminal Law and Procedure* 185 where this is referred to as “normal intent.”

the acts, as the acts should be done with the intention of furthering the genocidal intent. It is not necessary to prove premeditation of individual crimes that form the specific acts of genocide.<sup>95</sup> No court of law have ever convicted for genocide where some form of plan has not been proven.<sup>96</sup> All five of the methods of genocide has the added requirement that the conduct must take place in the context of a manifest pattern of similar conduct directed against that group or it must be conduct that could itself effect such destruction.

Ambos calls this *dolus specialis* an “ulterior intent or a goal-oriented crime (*Absichts-oder Zieldelikt*).”<sup>97</sup> He uses the following example to illustrate his point that a perpetrator may intend more than he or she may realistically be able to accomplish:

A case in point would be a white racist who intends to destroy the group of black people in a large city but, acting alone, will only be able to kill a few members of this group. Taking seriously the specific-intent-crime structure of genocide, his genocidal intent would suffice to fulfil the offence elements if only one of the underlying acts, *in casu* the “killing [of] members” of the said group (ICC Statute, Art. 6(a)), were to be accomplished.<sup>98</sup>

Whenever the special intent is not proved, the act remains punishable, but not as genocide.<sup>99</sup>

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<sup>95</sup> Schabas *Genocide in International Law* (2009) 268.

<sup>96</sup> Schabas *Genocide in International Law* (2009) 257.

<sup>97</sup> Ambos 2009 *International Review of the Red Cross* 3.

<sup>98</sup> Ambos 2009 *International Review of the Red Cross* 3.

<sup>99</sup> Schabas *Genocide in International Law* (2009) 267.

Cryer et al states regarding State responsibility that where the conduct or offence is attributable to a state, it is not only a crime of individual responsibility but also engages State responsibility.<sup>100</sup>

It is clear that genocide is perpetrated not only by the people who plan and lead the campaign of extermination, but also by the foot soldiers that do the dirty work, or as Cryer calls them, the “rank and file”, provided the necessary intent be proven.<sup>101</sup>

The proving of the “general” intent normally does not pose a problem. In criminal law, it usually is inferred from the proven conduct, which includes the actions of the perpetrator prior to and after the act.

The proving of “special intent” required to prove genocide is a bit more difficult. The conduct of the perpetrator preceding or following the act can be an important pointer as to his or her intent. If he or she publicly announced his or her intent through speeches, electronic media broadcasts or in meetings with others, it would be easy to determine the specific special intent. If those overt indications of intent is not possible, the intent can be inferred from the context and type of crime, the scale on which it is perpetrated and “elements of its perpetration that suggests hatred of the group and a desire for its destruction.”<sup>102</sup>

Schabas have drawn up a list of some of the relevant facts after perusing the relevant case law.<sup>103</sup> This includes the general context in which the crimes are committed, whether other acts are systematically directed against the same group or they are systematically targeted

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<sup>100</sup> Cryer et al *International Criminal Law and Procedure* 165 – 166.

<sup>101</sup> Cryer et al *International Criminal Law and Procedure* 182.

<sup>102</sup> Schabas *Genocide in International Law* (2009) 265.

<sup>103</sup> Schabas *Genocide in International Law* (2009) 266.



because of their membership of the specific group, the scale on which these acts are committed, or the frequency of the destructive or discriminatory acts.

Negligence is not an acceptable form of culpability for genocide.<sup>104</sup>

### **3 6 INCITEMENT TO COMMIT GENOCIDE**

In Article III of the Genocide Convention, direct and public incitement to commit genocide is added as one of four further punishable acts. The elements needed to prove the crime of direct and public incitement are the public act of incitement, intention to incite as well as the fact that the incitement took place with the intention to destroy a protected group in whole or in part.<sup>105</sup> Special provision was made for liability (individual criminal responsibility) for incitement to genocide in Article 25(3)(e) of the Rome Statute:<sup>106</sup>

#### Article 25

3. In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person:

(a) ...

(e) In respect of the crime of genocide, directly and publicly incites others to commit genocide;

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<sup>104</sup> *Akayesu* supra par 478.

<sup>105</sup> Schabas *Genocide in International Law* (2009) 319.

<sup>106</sup> Rome Statute of the International Criminal Court UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90.

With respect to all other crimes, the general principles regarding liability set out in Part III of the Rome Statute finds application.<sup>107</sup>

For a person to be held liable for the crime of incitement, it is not necessary to prove that anyone acted on the incitement or that genocide flowed from it. It is what can be called an inchoate crime,<sup>108</sup> although persons have been prosecuted where the incitement lead to genocide being committed. Schabas stresses the importance of inchoate crimes in the repression of genocide because of their preventative role, made even more necessary because of the seriousness of the crime.<sup>109</sup>

The most famous case to date which has dealt with this crime, is the case of the Rwandan Radio Station (RTL), the so-called “Media” case where the editor of a newspaper and the founders of the radio station in Rwanda were convicted for incitement to genocide after broadcasting inciting statements.<sup>110</sup> Here the International Criminal Tribunal for Rwanda came to the conclusion that the purpose and context of any public utterance is important when deciding whether the requisite intent is present.<sup>111</sup>

The Chamber in the “Media” case determined that the crime required “a call for criminal action to a number of individuals in a public place or to members of the general public at large by such means as the mass media, for example, radio or television”.<sup>112</sup>

Regarding *mens rea*, the court found that the person who commits the incitement, himself having the intention to destroy a group of people in part or in whole, must intend for his or

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<sup>107</sup> Cryer et al *International Criminal Law and Procedure* 185.

<sup>108</sup> Schabas *An Introduction to the International Criminal Court* 214.

<sup>109</sup> Schabas *Genocide in International Law* (2009) 308.

<sup>110</sup> *Prosecutor v Nahimana, Barayagwiza and Ngeze* ICTR T. Ch. 3.12.2003.

<sup>111</sup> *Nahimana, Barayagwiza and Ngeze* supra Par 1000 – 1010.

<sup>112</sup> *Nahimana, Barayagwiza and Ngeze* supra Par 1011.

her utterances to create a particular state of mind necessary to commit such a crime in the minds of the person(s) he or she is so engaging.<sup>113</sup>

A conviction for incitement to genocide does not carry the same weight as a conviction for genocide as such. This is reflected in the lesser sentences imposed for the former crime.<sup>114</sup>

Public incitement, according to the International Law Commission, “requires communicating the call for criminal action to a number of individuals in a public place or to members of the general public at large”.<sup>115</sup> This can happen through mass media such as television or radio,<sup>116</sup> or at a large public gathering.

The public element of incitement to commit genocide may be better appreciated in light of two factors: the place where the incitement occurred and whether or not it was selective or limited.<sup>117</sup> Public means words spoken aloud in a public place or broadcast through mass media.<sup>118</sup> The words should not be vague and an indirect suggestion would be insufficient.<sup>119</sup> It should be distinguished between direct incitement to commit genocide and the phenomenon of “hate speech”.<sup>120</sup> Hate speech is prohibited in international human rights treaties and has been found to fulfil the requirements of the crime against humanity of persecution.<sup>121</sup> It is defined as:

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<sup>113</sup> Cryer et al *International Criminal Law and Procedure* 315.

<sup>114</sup> Schabas *Genocide in International Law* (2009) 470.

<sup>115</sup> Schabas *Genocide in International Law* (2009) 329.

<sup>116</sup> Schabas *Genocide in International Law* (2009) 329.

<sup>117</sup> Schabas *Genocide in International Law* (2009) 330.

<sup>118</sup> Schabas *Genocide in International Law* (2009) 330.

<sup>119</sup> Schabas *Genocide in International Law* (2009) 330.

<sup>120</sup> For the debate regarding the fine line between hate speech and freedom of speech, see Salomon *Freedom of Speech v Hate Speech: The Jurisdiction of “Direct and Public Incitement to commit Genocide”* 2007 Henham & Behrens (eds) *The Criminal Law of Genocide : International, Comparative and Contextual Aspects* 141 – 155. See also Cryer et al *International Criminal Law and Procedure* 10.

<sup>121</sup> Schabas *Developments relating to minorities in the law on genocide* in Henrard & Dunbar (eds) *Synergies in Minority Protection : European and International Law Perspectives* (2008) 206.

[a] discriminatory form of aggression that destroys the dignity of those in the group under attack. It creates a lesser status not only in the eyes of the group members themselves but also in the eyes of others who perceive and treat them as less than human.<sup>122</sup>

Read against the background of the stages of genocide<sup>123</sup> as identified by Stanton, hate speech, which attacks the dignity of a group, can be seen as a precursor to genocide.

The meaning of “direct” has not received attention as most prosecutions were based on speeches being made to large groups of people that did not necessitate the definition of “direct”.<sup>124</sup> Cryer raises an interesting question as to whether the public requirement would be fulfilled when dealing with the internet and e-mail.<sup>125</sup> The internet is a worldwide forum and available with unlimited access to all. Any statements made on such a platform would fulfil the requirements of direct and public.

Suffice it to say the utterance has to be both “direct” and “public” for it to qualify as incitement to genocide.

The intention to incite is clear from the content of the speech or inciting words. The case law stipulates that the meaning of the speech must be unambiguous and it must be interpreted according to the language normally spoken where the crime was committed.<sup>126</sup>

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<sup>122</sup> Schabas *Developments relating to minorities in the law on genocide* in Henrard & Dunbar (eds) *Synergies in Minority Protection : European and International Law Perspectives* (2008) 206.

<sup>123</sup> 5 *supra*.

<sup>124</sup> Cryer et al *International Criminal Law and Procedure* 315.

<sup>125</sup> Cryer et al *International Criminal Law and Procedure* 316.

<sup>126</sup> Cryer et al *International Criminal Law and Procedure* 315.

### **37 CONCLUSION**

When a court has to decide whether genocide has been committed or is in the process of being committed, the complexity and interpretation of the elements and definitions will play a defining role. No two cases are the same and therefore the interpretation of the law may differ from case to case, but not the substance.

## **CHAPTER 4**

### **COMPLAINT TO THE INTERNATIONAL CRIMINAL COURT**

#### **4 1 INTRODUCTION**

A farmer from Rustenburg in the Northwest Province of South Africa lodged a complaint<sup>127</sup> with the Prosecutor of the International Criminal Court against a number of high-ranking ANC and government officials as well as sent a petition<sup>128</sup> to the Office of the Special Adviser of the Secretary-General on the Prevention of Genocide (OSAPG) of the United Nations. The complaint and petition avers that the white Afrikaner farmer or Boer is the target of incitement to genocide as well as actual genocide.

In this chapter, the mechanism for investigating complaints by the International Criminal Court will be discussed. Thereafter the complaint itself will be analysed with specific reference to the persons complained about as well as the accusations levelled against them.

#### **4 2 MECHANISM FOR INVESTIGATING COMPLAINTS**

Genocide may be prosecuted by national as well as international courts. In this case, the complaint was lodged with the International Criminal Court. There are three methods by which an investigation of any possible crime under the jurisdiction of the International Criminal Court is initiated, commonly referred to as “trigger mechanisms”: Security Council referrals to the Prosecutor of the International Criminal Court,<sup>129</sup> State referrals to the Prosecutor of the International Criminal Court<sup>130</sup> and the Prosecutor’s *proprio motu*

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<sup>127</sup> See Annexure A.

<sup>128</sup> See Annexure B.

<sup>129</sup> Article 13(b) of the Rome Statute UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90.

<sup>130</sup> Article 13(a) of the Rome Statute UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90.

Authority to investigated complaints.<sup>131</sup> Cryer has lauded the inclusion of the Prosecutor's *proprio motu* authority to investigate complaints.<sup>132</sup>

These three methods of referrals are set out in Article 13 of the Rome Statute.<sup>133</sup>

Once the Prosecutor receives the referral or complaint in terms of Section 13 (a) or (b), he or she must initiate an investigation to determine if there is a case to be answered. If a complaint is received in terms of Section 13 (c), he or she must request permission from the Pre-Trial Chamber to initiate an investigation.<sup>134</sup>

With referrals from a State Party or when using his or her *proprio motu* authority, section 12 finds application.<sup>135</sup>

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<sup>131</sup> Article 13(c) of the Rome Statute UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90.

<sup>132</sup> Cryer *Prosecuting International Crime: Selectivity and the International Criminal Law Regime* (2005) 163 where he states:

No matter how qualified it is, the addition of the power of independent initiation of investigation is iconoclastic in the positive sense. Leaving referral to States and the Security Council alone would for the most part leave preliminary decisions on whom to prosecute to the vagaries of politics.

<sup>133</sup> Article 13 of the Rome Statute UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90 states: The Court may exercise its jurisdiction with respect to a crime referred to in article 5 in accordance with the provisions of this Statute if:

(a) A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by a State Party in accordance with article 14;

(b) A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by the Security Council acting under Chapter VII of the Charter of the United Nations; or

(c) The Prosecutor has initiated an investigation in respect of such a crime in accordance with article 15.

<sup>134</sup> Art 15(3) of the Rome Statute UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90.

<sup>135</sup> Article 12 of the Rome Statute UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90 reads:

**Preconditions to the exercise of jurisdiction**

1. A State which becomes a Party to this Statute thereby accepts the jurisdiction of the Court with respect to the crimes referred to in article 5.

2. In the case of article 13, paragraph (a) or (c), the Court may exercise its jurisdiction if one or more of the following States are Parties to this Statute or have accepted the jurisdiction of the Court in accordance with paragraph 3:

(a) The State on the territory of which the conduct in question occurred or, if the crime was committed on board a vessel or aircraft, the State of registration of that vessel or aircraft;

The Prosecutor will only investigate in terms of sections 13(a) and (c) if it is clear that the crime was either committed by a State Party national or on the territory of a State Party.

#### **4 2 1 State Party Referrals**

Article 14 of the Rome Statute<sup>136</sup> regulates this type of referral.

The academic writers are not impressed with this form of referral, mainly because a referral by one State of a situation existing in another might be viewed as an unfriendly act and the probability of such referrals occurring is low.<sup>137</sup>

Although not specified, the drafting history of this article refers to a complaint of one State against another.<sup>138</sup> It is no wonder then that the self-referrals by Uganda and the Democratic Republic of Congo regarding situations existing inside their own borders, is viewed as astonishing.<sup>139</sup>

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(b) The State of which the person accused of the crime is a national.

3. If the acceptance of a State which is not a Party to this Statute is required under paragraph 2, that State may, by declaration lodged with the Registrar, accept the exercise of jurisdiction by the Court with respect to the crime in question. The accepting State shall cooperate with the Court without any delay or exception in accordance with Part 9.

<sup>136</sup> Article 14 of the Rome Statute UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90 states: Referral of a situation by a State Party

1. A State Party may refer to the Prosecutor a situation in which one or more crimes within the jurisdiction of the Court appear to have been committed requesting the Prosecutor to investigate the situation for the purpose of determining whether one or more specific persons should be charged with the commission of such crimes.

2. As far as possible, a referral shall specify the relevant circumstances and be accompanied by such supporting documentation as is available to the State referring the situation.

<sup>137</sup> Cryer *Prosecuting International Crime* 162. See also Schabas *An Introduction to the International Criminal Court* 143.

<sup>138</sup> Schabas *An Introduction to the International Criminal Court* 147.

<sup>139</sup> Cryer *Prosecuting International Crime* 162.



#### 4 2 2 Security Council Referrals

Art 13(b) of the Rome Statute<sup>140</sup> regulates Security Council referrals. One of the differences between this type of referral and the other two is that the Prosecutor does not need to obtain authorisation from the Pre-Trial Chamber before investigating.<sup>141</sup> Another difference is that while the other two types of referrals are limited to State Parties, a Security Council referral is not. If the Security Council is aware of a situation that warrants investigation by a non-State Party, it seems that these referrals are limited to a situation and not an individual.<sup>142</sup> The reasoning behind this seems to be that it is the Prosecutor's prerogative, and not that of political bodies, to decide which suspects and cases to investigate.<sup>143</sup>

When the Prosecutor receives a Security Council referral, he or she must<sup>144</sup> institute an investigation. If the Prosecutor finds no reasonable basis to institute an investigation, his or her decision is subject to review by the Pre-Trial Chamber who will intervene depending on whether the referral is from a State Party or the Security Council. Should the Pre-Trial Chamber differ from the Prosecutor, Schabas opines that in all probability the Pre-Trial Chamber can order the Prosecutor to proceed.<sup>145</sup> This situation has not occurred to date.

Cryer is of the opinion that, when looking at the history of the Security Council, the possibility of such a referral occurring is low.<sup>146</sup>

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<sup>140</sup> UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90.

<sup>141</sup> This is clear from the exclusion of Art 13(b) in Art 12.

<sup>142</sup> Galvin *ICC Investigations and a Hierarchy of Referrals: Has Genocide in Darfur been Predetermined?* 2007 Henham & Behrens (eds) *The Criminal Law of Genocide : International, Comparative and Contextual Aspects* 166.

<sup>143</sup> Cryer et al *International Criminal Law and Procedure* 133.

<sup>144</sup> The Rome statute is peremptory.

<sup>145</sup> Schabas *An Introduction to the International Criminal Court* 242.

<sup>146</sup> Cryer *Prosecuting International Crime* 162.

#### 4 2 3 Prosecutor's *Proprio Motu* Authority

Article 15 of the Rome Statute regulates this authority of the Prosecutor:<sup>147</sup>

There exists thus a set list of criteria which must be met before the Prosecutor can proceed:<sup>148</sup>

[A] reasonable suspicion of a crime under the Court's jurisdiction, the admissibility of the case, in accordance with the complementarity principle and the requirement of "sufficient gravity", and an assessment of the "interests of justice".

If the Prosecutor receives a complaint in terms of Section 13(c), he or she must request permission from the Pre-Trial Chamber to initiate an investigation. This is to allay fears that the Prosecutor might be politically motivated to institute a specific investigation and

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<sup>147</sup> Article 15 of the Rome Statute reads as follows:

1. The Prosecutor may initiate investigations *proprio motu* on the basis of information on crimes within the jurisdiction of the Court.
2. The Prosecutor shall analyse the seriousness of the information received. For this purpose, he or she may seek additional information from States, organs of the United Nations, intergovernmental or non-governmental organizations, or other reliable sources that he or she deems appropriate, and may receive written or oral testimony at the seat of the Court.
3. If the Prosecutor concludes that there is a reasonable basis to proceed with an investigation, he or she shall submit to the Pre-Trial Chamber a request for authorisation of an investigation, together with any supporting material collected. Victims may make representations to the Pre-Trial Chamber, in accordance with the Rules of Procedure and Evidence.
4. If the Pre-Trial Chamber, upon examination of the request and the supporting material, considers that there is a reasonable basis to proceed with an investigation, and that the case appears to fall within the jurisdiction of the Court, it shall authorize the commencement of the investigation, without prejudice to subsequent determinations by the Court with regard to the jurisdiction and admissibility of a case.
5. The refusal of the Pre-Trial Chamber to authorize the investigation shall not preclude the presentation of a subsequent request by the Prosecutor based on new facts or evidence regarding the same situation.
6. If, after the preliminary examination referred to in paragraphs 1 and 2, the Prosecutor concludes that the information provided does not constitute a reasonable basis for an investigation, he or she shall inform those who provided the information. This shall not preclude the Prosecutor from considering further information submitted to him or her regarding the same situation in the light of new facts or evidence.

<sup>148</sup> Cryer et al *International Criminal Law and Procedure* 365.

not another.<sup>149</sup> In his or her request, the Prosecutor must include the evidence garnered by him or her, which spurred the request. The Pre-Trial Chamber will then look at the evidence, as well as at jurisdiction before authorising an investigation.<sup>150</sup> The Prosecutor has a discretionary power to decline to seek authorisation from the Pre-Trial Chamber and this decision is not subject to any form of judicial review.<sup>151</sup>

Once the Prosecutor has received authorisation, he or she must inform the relevant State Party,<sup>152</sup> which from the evidence is indicated to be the primary responsible State to investigate the complaint.<sup>153</sup> This State would then have one month in which to notify the Prosecutor of any previous or present investigation into the allegations.<sup>154</sup> If he or she receives such a notification, and upon a request for deferral from the State Party, the Prosecutor's hand is stayed from further investigating the complaint,<sup>155</sup> unless he or she requests the Pre-Trial Chamber to authorize the investigation. The Prosecutor's deferral is open to review after six months or at any time when it is clear that the State is unwilling or unable to investigate the complaint.<sup>156</sup> After deferral and during the investigation by the State Party, the Prosecutor can request an update as to the state of the investigation and/or subsequent prosecutions. The State Party without undue delay must provide this.<sup>157</sup>

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<sup>149</sup> Cryer et al *International Criminal Law and Procedure* 134.

<sup>150</sup> Galvin *ICC Investigations and a Hierarchy of Referrals: Has Genocide in Darfur been Predetermined?* 2007 Henham & Behrens (eds) *The Criminal Law of Genocide : International, Comparative and Contextual Aspects* 167.

<sup>151</sup> Schabas *An Introduction to the International Criminal Court* 245.

<sup>152</sup> Galvin *ICC Investigations and a Hierarchy of Referrals: Has Genocide in Darfur been Predetermined?* 2007 Henham & Behrens (eds) *The Criminal Law of Genocide: International, Comparative and Contextual Aspects* 167. This is based on the doctrine of complementarity.

<sup>153</sup> Art 18(1) of Rome Statute UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90.

<sup>154</sup> Art 18(2) of Rome Statute UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90.

<sup>155</sup> Art 18(2) of Rome Statute UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90.

<sup>156</sup> Art 18(3) of Rome Statute UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90.

<sup>157</sup> Art 18(5) of Rome Statute UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90.

The Prosecutor has to inform the persons who provided the initial information or complaint if he or she is of the opinion that the information is insufficient to instigate an investigation.<sup>158</sup> There is no process of appeal or review available to the complainant after the Prosecutor's refusal to proceed further.<sup>159</sup>

The complaint of the unnamed farmer is being investigated pursuant to the Prosecutor's *proprio motu* authority.<sup>160</sup> The complaint should be read against the background of the petition, a discussion of which follows.

## **4 3 COMPLAINT AND PETITION**

### **4 3 1 Complaint**

The complaint laid with the Prosecutor of the International Criminal Court,<sup>161</sup> comprises approximately 40 pages. For the purpose of this treatise a summary of the charges and accused persons will be given.

The persons accused in the complaint with their official designations as set out in the complaint, are:

1. Mr. Julius Sello Malema (President of the African National Congress Youth League),
2. Mr. Jacob Gedleyihlekisa Zuma (President of the African National Congress; President of the Republic of South Africa),

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<sup>158</sup> Art 15(6) of Rome Statute states:

If, after the preliminary examination referred to in paragraphs 1 and 2, the Prosecutor concludes that the information provided does not constitute a reasonable basis for an investigation, he or she shall inform those who provided the information. This shall not preclude the Prosecutor from considering further information submitted to him or her regarding the same situation in the light of new facts or evidence.

<sup>159</sup> Schabas *An Introduction to the International Criminal Court* 163.

<sup>160</sup> Unstructured interview with the complainant's attorney, F. van der Walt, on 8 December 2010.

<sup>161</sup> See Annexure A.

3. Mr. Nathi Mthethwa (Minister of the South African Police Service; Member of the South African Parliament; Member of the National Executive Committee of the African National Congress),
4. Mr. Bheki Cele (Current National Commissioner of Police of South Africa; Former Member of the National Executive Committee of the African National Congress),
5. Mr. Jacob Sello (Jackie) Selebi (Former National Commissioner of the South African Police Service; Former President of Interpol; Former Ambassador and Permanent Representative to the United Nations),
6. Mrs. Tina Monica Joemat-Pettersson (Minister of Agriculture, Forestry and Fisheries; Chairwoman of the Northern Cape Province Rehabilitation Trust; Chairwoman SA Communist Party, Northern Cape; Chairwoman of the African National Congress Women's League, Northern Cape),
7. Mrs. Lindiwe Nonceba Sisulu (Minister of Defence of the Republic of South Africa; Member of Parliament; Inaugural Chairperson of the African Ministerial Conference on Housing and Urban Development; Member of the National Executive Committee of the African National Congress ),
8. Dr. Siyabonga Cyprian Cwele (Minister of State Security of the Republic of South Africa; Member of Parliament; Member of African National Congress Provincial Executive Committee in KwaZulu Natal; Member of National Assembly),
9. Mr. Ronald (Ronnie) Kasrils (Former Minister of Intelligence: Republic of South Africa),
10. Mr. Gwede Mantashe (Chairperson of the South African Communist Party; Secretary-General of the African National Congress),
11. Mr. Gugile Ernest Nkwinti (Minister of Rural Development and Land Reform; Member of Executive Council of the African National Congress: Local Government & Housing; Member of Eastern Cape Provincial Legislature), and

12. Mr. Pali Jobo Lehohla (Statistician: Statistics South Africa; Responsible for directing South African Census 1996).

The main charges mentioned in the complaint are Genocide, Crimes against Humanity of Murder, Extermination, Torture, Rape, Sexual violence, Persecution, Other inhumane acts, Incitement to commit these crimes, Violation of International Human Rights.

An overview of the complaint shows that the chief allegation is the public (on national and international television and in printed media) calling for the killing of the Boer and the farmer as well as incitement to kill the Boer and the farmer by Mr. Malema who sings the song “uDhubulu iBhunu” which means “Kill the Boer”. Further allegations are the dereliction of Constitutional duty to protect the Boer and farmer by the persons named who hold or held official positions in the South African Government by failing to act against Mr. Malema or using resources to protect the Boer and farmer, incitement, conspiracy, intimidation, providing criminals with information to enable the crimes and the encouragement of farm murders as part of a government orchestrated nationwide low intensity act of genocide and nationalisation of farmland.

A specific allegation against only Mr. Zuma, is his call to armed struggle by publicly singing the song “Umshini Wami”, which means “Bring my machine gun” (for war purposes).

A specific allegation against only Mr. Mantashe is his public critique of the court interdict prohibiting Mr. Malema from singing the song “Kill the Boer, Kill the Farmer”, and advising the African National Congress to appeal said interdict.

The common denominators between the named persons are that they are all members of the African National Congress and all are or were leaders in either the African National Congress or the South African government.

#### **4 3 2 Petition**

The petition lodged with the United Nations comprises approximately 16 pages.<sup>162</sup> It is addressed to Dr. Francis Deng, the Assistant-Secretary General of the United Nations in his capacity as Special Advisor on the Prevention of Genocide, as well as to the Secretary-General of the United Nations, Dr. Ban Ki-Moon.

In the petition, the facts on which the claim of genocide is based is set out together with statistics. The prayer at the end is as follows:

I therefore also appeal to and beg the United Nations Security Council (pending investigation) to pass a resolution whereby the Security Council would approve the following:

- The urgent deployment of qualified UN and International Investigators under the leadership of Dr Francis Deng in the rural farming areas in every Province of South Africa and for the purpose of monitoring the extremely gruesome and violent and torturous acts of murder committed against these Afrikaner Farmers during the last 16 years and to report the findings and statistics to the Office of the Special Advisor of the Secretary-General on the Prevention of Genocide, The UN General Assembly and the UN Security-Council and the International Community at large.

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<sup>162</sup> See Annexure B.

- A resolution to Protect the White minority against the very effective and nationally implemented government sanctioned clandestine, low intensity criminal acts of Genocide and Crimes Against Humanity committed under a facade of extremely high crime rates;
- A resolution preventing the ANC Regime to nationalise privately owned farm land, privately owned mines and the commercial banks in South Africa.
- A resolution to investigate and test the draconic South African (Affirmative Action) Black Economic Empowerment laws against international law and convention and which enforce quotas on the white minority and excluding white men from the workforce and this resolution to be tested against the UNHR Declaration and to declare this ANC draconic BEE laws a Crime Against Humanity.
- A resolution providing for emergency funding for rural farmers to upgrade their security and for the hiring of private security firms to protect them against the cruel and deadly farm attacks and as an interim solution.
- A resolution whereby the ANC will reinstate the South African Commando structures which they removed and which was one of major causes of the rapid increase in the farm murders;
- A resolution forcing the ANC government to remove the former Umkonto We Siswe veterans from active service in the South African Police Services.
- A resolution declaring the high killing rate of Afrikaner Boer Farmers as Genocide and a crime Against Humanity.
- Any further resolutions as deemed necessary by the Security Council and the UN and as dictated by their investigation.



### **4 3 3 Statistics**

The statistics mentioned in the petition and upon which the allegations are based, were obtained from the website <http://censorbugbear-reports.blogspot.com> that is maintained by Ms. Adriana Stuijt. She is a 70 year old retired journalist who used to work for Perskor (at Die Transvaler and Die Vaderland), Afrikaans newspapers in South Africa. Thereafter she worked for The Rand Daily Mail as court reporter in Johannesburg and specialised in medical reporting. After the Rand Daily Mail was closed down in 1990, she worked at the Sunday Times in Johannesburg until she moved to Cape Town in 1992 where she headed the Tygerberg news office of the Cape Argus for approximately a year. Thereafter she worked for South African Press Association for two years after which she retired and moved to the Netherlands with her husband.

Since 1987 when she used to work for the Sunday Times and was required to keep a ‘field-log’ (before the days of internet), she has kept record of farm murders which she reported on together with her husband, Pierre Oosthuysen, a press photographer.

She obtained factual confirmation of the first 900 farm murders through the Transvaal Agricultural Union and the other South African Agricultural Unions, as well as from the Solidarity union Agri-SA. According to her, the information obtained from Agri-SA and TAU differs markedly, as Agri-SA only identifies an attack as a farm attack when it is directed against commercial agrarian families. Agri-SA does not include attacks on smallholdings or game lodges as is done by the TAU. Solidarity has consolidated the two lists.

When she initially started her blog covering the farm murders, she used the statistics supplied by the South African government. If the government identified the property subjected to the attack as agrarian, she marked it as a farm attack, especially if the historical

modus operandi (attacks on families by militia style attackers) was followed. Her studies shows that 99% of the attackers are black men, 1% are black women. Of the families attacked, 95% is Afrikaans speaking whites, 2% are English-speaking whites and the rest are their black farm workers.

She does not include personal incidents in her farm attack archive if it relates to personal problems between farmers and workers, fighting between farm workers themselves and personal family problems when compiling her statistics. She also does not include attacks on Afrikaner families in cities.

She has found ten cases where Coloured or Asian agrarian families had been murdered, but she concedes that there might be more.

After retiring, she kept her field-log updated, mainly because the South African Police Service stopped recording stand-alone farm attacks as part of their statistics. She collates her information from reports from family members, undertakers and pastors as well as monitoring the South African newspapers.<sup>163</sup>

The statistics are as follows:

Commercial Farmers in South Africa 1994: 90 000

Commercial Farmers in South Africa 2010: 40 000

Estimated amount of farm attacks between 1994 and 2010: 2400 to 3600

Afrikaner Farmers murdered on smallholdings between 1994 and 2010: 3700

Estimated number of farm attacks on commercial farms between 1994 and 2010: 17400.

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<sup>163</sup> Information obtained from e-mail correspondence between writer and Ms. Stuijt on 11 December 2010.

The latest available official government statistics regarding farm attacks are dated 2003.<sup>164</sup>

They are as follows:

From 1991 to 2001 there were 6112 farm attacks during which 1,254 people were killed. During 2001 there were 1011 farm attacks during which 147 people were killed. During 2002 there were 1000 farm attacks during which 112 people were killed. The total number of farm attacks from 1991 to 2002 are 9154 with 1613 people killed.

#### **4 4 CONCLUSION**

The Prosecutor's *proprio motu* ability to investigate complaints, opened the door to enable the farmer to lay a charge directly with the International Criminal Court. The complaint and petition contains largely general allegations against the persons accused.

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<sup>164</sup> Committee of Inquiry into Farm Attacks 31 July 2003 1 – 447 <http://www.issafrica.org/CJM/farmrep>.

## CHAPTER 5

### APPLYING THE LAW TO THE FARMER'S CASE

#### 5 1 INTRODUCTION

In this chapter the substance of the farmer's case will be discussed. This will be done by measuring the case (as apparent from the complaint and petition) against the requirements needed to prove the elements of genocide.

#### 5 2 DETERMINING WHETHER THE WHITE AFRIKANER FARMER QUALIFIES AS A GROUP

In the South African context with specific reference to the charge laid by the unnamed farmer, one must decide whether the white Afrikaner farmer falls within the ambit of one or all of the four groups mentioned in the Genocide convention. This is a pre-requisite for establishing the crime of genocide. In order to decide that, the identity and definition of the white Afrikaner farmer as group, must be measured against the established definitions of the four groups.

If **national** is used as defining term, it is common cause that the white Afrikaner farmers form a smaller part of the white Afrikaners living in South Africa, sharing a common culture, language and history.

If **racial** is used as defining term, the white Afrikaner farmers form part of a group of people sharing the same culture and language. They also have a common physical

feature, being white. A very small number of farmers killed, though white, are English speaking.<sup>165</sup>

If **ethnic** is used as defining term, it is clear that this group of people have a common national and cultural tradition. This term also refers to origin by birth as determining factor. Most of the farmers were born as children to farmers and carries on the family tradition of farming.

If **religious** is used as defining term, the fact that most Afrikaner farmers belong to a Christian religion, could be seen as a common identifying factor. This is the case of most Afrikaners, however, and not limited to farmers.

From the above the difficulty of fitting the characteristics of a group into one of the four compartments mentioned in the Genocide Convention is apparent. It is agreed with Schabas<sup>166</sup> when he says these groups should not be seen in isolation from each other, but viewed holistically. Using an objective approach, the white Afrikaner farmer would qualify as a group.

### **5 3 DETERMINING WHETHER THE WHITE AFRIKANER FARMER HAS BEEN SUBJECTED TO “SERIOUS BODILY OR MENTAL HARM”**

Numerous cases of torture have been recorded during farm attacks.<sup>167</sup> The Commission of Enquiry into farm attacks reports that the level of violence used during farm attacks is higher than in comparative cash-in-transit robberies. They found that “victims of farm

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<sup>165</sup> Information obtained from e-mail interview with Ms Stuijt on 11 December 2010.

<sup>166</sup> 14 *supra*.

<sup>167</sup> Stofberg A “Farms become ‘the killing fields’ in Natal” *Beeld* (1997-12-13) 11. Mulder N “I heard her screams” *News24.com* (2002-02-13) <http://www.news24.com>.

attacks ran a far greater risk of being killed than victims of cash-in-transit robberies. Similarly a comparison of house robberies on farms and house robberies in urban areas suggest that there was a greater likelihood of victims on farms being injured than victims in urban areas.”<sup>168</sup> In a comparative study with house robberies, it was found that “farm attack victims had a considerably greater chance of being injured than house robbery victims.”<sup>169</sup>

A high level of cruelty is associated with farm attacks. Victims are systematically tortured and subjected to inhumane treatment before they are killed.<sup>170</sup>

The financial implications for the victims were enormous but the psychological trauma suffered is inestimable. The injuries sustained by the victims in the study were similar with those described in other reports on farm attacks. In 28% of the incidents the perpetrators displayed an aggressive attitude, although in only one incident were overt racial expressions used.<sup>171</sup>

All the victims (farmers, farm workers and their families) interviewed, suffered trauma. Most of them had not been for counselling and the lack of such facilities in rural areas is of great concern.<sup>172</sup>

The psychological impact of farm attacks on the survivors thereof should not be underestimated.<sup>173</sup>

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<sup>168</sup> Inquiry into Farm Attacks 446.

<sup>169</sup> Inquiry into Farm Attacks 439.

<sup>170</sup> Inquiry into Farm Attacks 426; Vena V “Anatomy of a farm murder” *Mail&Guardian online* (2010-04-08) <http://www.mg.co.za/article/2010-04-08-anatomy-of-a-farm-murder>.

<sup>171</sup> Inquiry into Farm Attacks 446.

<sup>172</sup> Inquiry into Farm Attacks 426.

<sup>173</sup> Van Zyl L “Victims of farm attacks: psychological consequences” 2008 *Acta Criminologica* 134 140.

It is clear that when a farm attack occurs and the farmer or his family are not killed outright, they suffer severe bodily and mental harm. It is also apparent that farm attacks are often accompanied by brutal torture which. Examples hereof is burning with hot irons, nails being torn out and prolonged burning and beatings.<sup>174</sup> It is submitted that these examples would satisfy the requirements set out in *Kayishema*.<sup>175</sup>

#### **5 4 DETERMINING WHETHER THE “CONDITIONS OF LIFE” REQUIREMENT APPLIES TO THE WHITE AFRIKANER FARMER**

The only allegation by the farmer pertains to the systematic expulsion from homes as referred to above.<sup>176</sup> He does not allege deprivation of medical resources or food.

In South Africa, many land claims have been handled by the Land Claims Court where action was instituted to reclaim land, which was previously disowned by the apartheid government. The original point of departure was “Willing seller, willing buyer”. This has since changed and expropriation has taken place in some instances.<sup>177</sup> The danger exists that the unhappiness with the slow process might cause Zimbabwe-style land grabs as has already happened in KwaZulu-Natal.<sup>178</sup>

Conditions of life, it is submitted, can also be influenced by change in the group’s social identification and ability to enjoy its culture, customs and traditions. According to Quigley,

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<sup>174</sup> LoBaido A “Killing of South Africa farmers intensifies” *WorldNetDaily.com* (2001-08-1) [http://www.wnd.com/news/article.asp?ARTICLE\\_ID=23871](http://www.wnd.com/news/article.asp?ARTICLE_ID=23871); “Farms of fear” *Sunday Times* (2006-04-02) [www.timesonline.co.uk/tol/life\\_and\\_style/article694534.ece](http://www.timesonline.co.uk/tol/life_and_style/article694534.ece).

<sup>175</sup> 21 *supra*.

<sup>176</sup> 22 *supra*.

<sup>177</sup> “State wants to ditch willing seller concept for land distribution” *Independent Online* (2009-11-11) [http://www.iolproperty.co.za/roller/news/entry/state\\_wants\\_to\\_ditch\\_willing](http://www.iolproperty.co.za/roller/news/entry/state_wants_to_ditch_willing).

<sup>178</sup> Clayton J “Land grab spreads to South Africa as mob seizes farm” *Times Online* (2009-04-16) <http://www.timesonline.co.uk/tol/news/world/africa/article6101732.ece>.

destroying a group can also take place not necessarily by killing, but by inflicting harm that renders the group unable to function effectively.<sup>179</sup> This includes destroying a group's social identification or ability to function based on its customs and traditions.

Schabas<sup>180</sup> is of similar mind when he says:

There are many ways to destroy a national, ethnic, racial or religious group, of which extermination camps like those at Auschwitz-Birkenau, Treblinka, and Belzec are only one. It is also possible to destroy a group by prohibiting its language, or by eliminating its traditional economy, or by a multitude of means falling short of actual physical elimination whose consequence is loss of identity by a people.

It is submitted that this would include *inter alia* removal of monuments and statues,<sup>181</sup> changing of place names<sup>182</sup> and curtailing or limiting the use of a specific language.<sup>183</sup> All of the above mentioned occurred in South Africa with specific reference to the white Afrikaner. Seen against the background of the list drawn up by Schabas using previous cases,<sup>184</sup> it could be reasoned that the white Afrikaner is being systematically targeted.

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<sup>179</sup> Quigley *The Genocide Convention: An International Law Analysis* (2006) 103.

<sup>180</sup> Schabas "The International Legal Prohibition of Genocide Comes of Age" 2004 *Human Rights Review* Vol. 5(4) 51-52.

<sup>181</sup> Dynes M "Afrikaner outrage over removal of statues" *Independent.ie* (2003-07-30) <http://www.independent.ie/world-news/africa/afrikaner-outrage-over-removal-of-statues-214997.html>.

<sup>182</sup> "Afrikaans name changes spark legal threat" *Independent Online* (2007-01-28) <http://www.iol.co.za/news/politics/afrikaans-name-change-spark-legal-threat-1.312765>.

<sup>183</sup> Versluis J "Nog bronne kwynt met Afrikaans in regspraak" *Beeld* (2010-10-10) news24.com.

<sup>184</sup> Schabas *Genocide in International Law* (2009) 266 discussed on 27 *supra*.



The farmer refers to the negative impact that the affirmative action policy has on Afrikaners<sup>185</sup> and links the Afrikaner Diaspora directly to this.

## **5 5 DETERMINING WHETHER THERE IS INCITEMENT TO GENOCIDE**

The main allegation which sparked the complaint, is the public calling for the killing of the Boer and the farmer as well as incitement to kill the Boer and the farmer by Mr. Malema.<sup>186</sup>

The words contained in the song calling for the killing of the Boer and the farmer, were found to be hate speech by the South African Human Rights Commission (SAHRC) in 2007 after the slogan was used during public meetings during 2006. The Commission initially described the slogan as an undesirable form of freedom of expression, but after being taken on appeal by the Freedom Front Plus,<sup>187</sup> the slogan was acknowledged as hate speech.<sup>188</sup>

To prove the crime of incitement to commit genocide, the elements which must be proven are the public act of incitement, intention to incite as well as the fact that the incitement took place with the intention to destroy a protected group in whole or in part.<sup>189</sup> When analysing the actions of Mr. Malema, it is clear that the use of the slogan “Kill the Boer,

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<sup>185</sup> Van Aardt P “Million whites leave SA – study” *fin24.com* (2006-09-24)  
<http://www.fin24.com/Economy/Million-whites-leave-SA-study-20060924>.

<sup>186</sup> “Malema charged over 'kill the boer'” *news24.com* (2010-03-10)  
<http://www.news24.com/SouthAfrica/News/Malema-charged-over-kill-the-boer-20100310> ; “Malema faces criminal charge over 'kill the boer' song” *Timeslive* (2010-03-10)  
<http://www.timeslive.co.za/local/article348900.ece>; “Defiant Malema sings it – again” *Independent Online* (2010-04-05) <http://www.iol.co.za/news/politics/defiant-malema-sings-it-again-1.479492>.

<sup>187</sup> A political party in South Africa.

<sup>188</sup> “Malema charged over 'kill the boer'” *news24.com* (2010-03-10)  
<http://www.news24.com/SouthAfrica/News/Malema-charged-over-kill-the-boer-20100310>.

<sup>189</sup> 23 *supra*.

kill the farmer” occurred during public appearances where he spoke to students at the University of Johannesburg, to members of the African National Congress’ Youth League of which he is the President, and when visiting Zimbabwe during April 2010.<sup>190</sup> These public appearances were broadcast over national and international television.

The only reasonable interpretation for the words “Kill the Boer, kill the farmer” is that it is a call to kill members of this specific group. It must be borne in mind that “Boer” is also a derogatory term used for any white Afrikaner.<sup>191</sup>

The intention to incite can also be deduced from the content of the words used. This might be even clearer when the fact that Mr. Malema sang the song the day after the leader of the Afrikaner Weerstandsbeweging, Mr. Eugene Terre’blanche, a white Afrikaner farmer, was killed, is taken into account. Before singing the song on this particular day, Mr. Malema acknowledged that he was being blamed for the murder of Terre’Blanche.<sup>192</sup>

Incitement to genocide is an inchoate crime. As such, it is unnecessary for genocide actually to follow on the incitement for a conviction to be obtained.

If a court of law were to find that making statements in public to large gatherings which is reported in the media both nationally and internationally, provide evidence of incitement to genocide, it is submitted that a prosecution could be successful.

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<sup>190</sup> “Malema charged over 'kill the boer'” *news24.com* (2010-03-10) <http://www.news24.com/SouthAfrica/News/Malema-charged-over-kill-the-boer-20100310>; “Malema faces criminal charge over 'kill the boer' song” *Timeslive* (2010-03-10) <http://www.timeslive.co.za/local/article348900.ece>; “Defiant Malema sings it – again” *Independent Online* (2010-04-05) <http://www.iol.co.za/news/politics/defiant-malema-sings-it-again-1.479492>.

<sup>191</sup> *Beeld* (2003-08-22) [http://www.news24.com/Beeld/Suid-Afrika/0,,3-975\\_1405425,00.html](http://www.news24.com/Beeld/Suid-Afrika/0,,3-975_1405425,00.html).

<sup>192</sup> “Defiant Malema sings it – again” *Independent Online* (2010-04-05) <http://www.iol.co.za/news/politics/defiant-malema-sings-it-again-1.479492>.

## 5 6 INACTION BY THE ACCUSED PERSONS

The farmer alleges that the accused persons has failed in their Constitutional duty to protect the Boer and farmer or using available resources to protect the Boer and farmer, *inter alia* by failing to act against Mr. Malema.

Initially, the African National Congress did little to stop Mr. Malema from using the slogan and defended the singing of the song<sup>193</sup> despite the finding of the South African Human Rights Commission. After the murder of Mr. Terre'Blanche, British Broadcasting Corporation News reported that the African National Congress has asked its members to refrain from singing the song and admitted that the singing of the song contributed to racial polarisation.<sup>194</sup> However, the African National Congress is appealing the banning of the song by Judge Halgryn who said the singing and publication of the song was unconstitutional and unlawful as it satisfies the requirements for the crime of incitement.<sup>195</sup>

It seems as if the leaders of the African National Congress is ambivalent regarding the actions of Mr. Malema. Mr. Malema called the leader of the Democratic Alliance,<sup>196</sup> Ms. Helen Zille, a cockroach at a public meeting. Mr. Zuma and Mr. Malema shared the stage and both addressed the gathering.<sup>197</sup> This is disturbing seen in light of the fact that the term cockroach was used derogatorily by the Hutus when describing the Tutsis in Rwanda prior to the genocide that followed. It formed part of the dehumanising process. The Deputy-

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<sup>193</sup> Chauke A "Song 'not hate speech'" *Timeslive* (2010-03-14)

<http://www.timeslive.co.za/local/article356182.ece/Song-not-hate-speech---Mantashe>.

<sup>194</sup> "South Africa's ANC stops singing 'Shoot the Boer'" *BBCNews* (2010-04-7)

<http://news.bbc.co.uk/2/hi/8607452.stm>.

<sup>195</sup> "ANC wants kill the Boer back" *news24.com* (2010-10-24)

<http://www.news24.com/SouthAfrica/Politics/ANC-wants-kill-the-boer-back-20101024>.

<sup>196</sup> The official opposition political party.

<sup>197</sup> "Malema calls Zille a cockroach" *Timeslive* (2010-10-30)

<http://www.timeslive.co.za/local/article735514.ece/Malema-calls-Zille-a-cockroach>.

President of South Africa, Mr. Motlanthe, called the actions of Mr. Malema “bad manners” when questioned in parliament.<sup>198</sup>

## **5 7 DETERMINING WHETHER THERE IS INTENTION TO DESTROY THE WHITE AFRIKANER FARMER**

For genocide to be proven, it is necessary to prove *dolus specialis*. The requirement that the actions must take place in the context of a manifest pattern of similar conduct directed against that group or that it must be conduct that could itself effect such destruction, is alleged by the farmer. The proving of an orchestrated plan to kill a specific group as such, is integral to proving the crime of genocide.

Reading the petition and complaint carefully, it seems the farmer is of the opinion that the African National Congress, and by virtue of being the ruling party, the State is committing genocide against white Afrikaner farmers. No direct evidence is given of a plan and the reader is left to deduce it from the facts mentioned in the petition. I submit that it would take more than inferences to satisfy this requirement.

A number of articles<sup>199</sup> where members of Cabinet vow to curb farm murders can be seen as evidence that the ruling party does not intend for genocide to take place.

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<sup>198</sup> Dodds C “Motlanthe chides Malema” *Independent Online* (2010-11-04) [www.iol.co.za/news/politics/motlanthe-chides-malema-1.708447](http://www.iol.co.za/news/politics/motlanthe-chides-malema-1.708447).

<sup>199</sup> Hamlyn M “Mthethwa promises plan to curb farm murder” *Mail&Guardian online* (2010-03-08) <http://mg.co.za/article/2010-03-08-mthethwa-promises-plan-to-curb-farm-murders>; “New focus on farm security: Minister” *The Citizen* (2011-01-11) <http://citizen.cambridgent.com/citizen/content/en/citizen/local-news?oid=163920&sn=Detail>.

However, the public declarations by Mr. Malema, who is a high ranking African National Congress official, is disturbing. Taking his utterances alone, I submit it would satisfy the requirements for proving the *dolus specialis* as pertains to himself.

Schabas<sup>200</sup> mentions hatred of the group evident from the manner of perpetration as an indicator of special intent. Seen against the background of torture evident in many farm attacks, this might go towards satisfying the special intent requirement.

## **5 8 CONCLUSION**

The white Afrikaner farmer qualifies as a group protected by the Genocide Convention. The allegations made by the farmer are mainly vague and indistinct except regarding the actions of Mr. Malema.

Should a court of law find Mr. Malema made these utterances with the required intent, it is submitted that he would be found guilty of incitement to genocide.

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<sup>200</sup> Schabas *Genocide in International Law* (2009) 265. See also 27 *supra*.

## **CHAPTER 6**

### **CONCLUSION**

Genocide is one of the most heinous crimes known to humankind. The concept of exterminating a whole group of people has been part of humankind since its infancy. Regrettably, it seems, it is here to stay. The difference is that modern society calls those responsible to account for their actions.

The elements of genocide are clearly set out in legislation. However, the interpretation thereof varies from case to case and in the case of genocide, from tribunal to tribunal. With the establishment of the International Criminal Court some uniform interpretations can be expected. One of the concepts that cause the most problems is the interpretation and definition of a protected group. On the one hand it is understandable that the definition should not be too wide, but on the other hand a too strict interpretation of the definitions can lead to genocide not being acknowledged as such. Schabas's suggestion that the definitions should be used together / in cohesion, offers a workable solution. In this treatise it has been shown that the white Afrikaner farmer conforms to the definition(s) of the protected groups. As such, a finding of genocide in respect of this group is possible.

The mechanism for *proprio motu* investigation of complaints by the Prosecutor of the International Criminal Court enabled the farmer from Northwest Province to lay a complaint. He was spurred into action by the singing of the song "Kill the Boer, kill the farmer" by Mr. Malema. The singing of this song should be seen against the background of the number of farm attacks in South Africa. It has also been shown that Mr. Malema, should a court of law find the required intent, can be found guilty of incitement to genocide.

The question initially asked is whether there is genocide in the making in South Africa. After careful scrutiny of the applicable law and the available information gleaned from the complaint, petition and other sources, it should be found that South Africa, with specific reference to the white Afrikaner farmer, is in danger of being the object of genocide. Statistics mentioned in chapter four shows that proportionally a large number of white Afrikaner farmers are killed. Seen against the background that “Boer” is a derogatory term used to describe any white Afrikaans speaking person, this is especially worrying. The danger exists that all white Afrikaans speaking persons could become the target of genocide.

Normally there is a gradual build up to actual all out spree killing. This can be seen from the eight stages through which conventional genocide evolves. Genocide Watch places South Africa in the fifth stage, polarisation. It is submitted that there is already cause for concern.

However, no direct proof of an orchestrated plan is found in the farmer’s complaint and petition. He merely makes vague allegations. Consequently, one of the key elements as set out in the Elements of Crime of the International Criminal Court has not been met.

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## ANNEXURE A

### **FORMAL COMPLAINT**<sup>201</sup>

1. Alleged Perpetrator: Mr. Julius Sello Malema,  
Date of birth: 03 March 1981  
President of the African National Congress Youth League  
Nationality: South African

I the undersigned complainant hereby accuse Mister Julius Sello Malema of committing crimes within the Jurisdiction of the International Criminal Court and as described by the Rome Statute of the International Court as listed below and which are crimes of great concern to the International Community as a whole and in violation of the Universal Declaration of Human Rights of 1948 (UDHR) and in violation of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951:

Article 6 – Genocide.

Mister Julius Sello Malema with full existence of knowledge and intent and as described by Art 30 (2) a & b and Art 30 (3) of the Rome Statute, on several occasions publicly (nationally and internationally) called for the killing of persons belonging to a particular, national, ethnical, racial or religious group and as described by Art 6 (a) (elements of crime 1,2,3,4), (b) (elements of crime 1,2,3,4) and (c) (elements of crime 1,2,3,4,5) of the Rome Statute and that he had genocidal intent.

That Mister Julius Sello Malema deliberately and intentionally, unlawfully but willfully and effectively and with the full knowledge of his intentions and with the intent of the most extreme gravity of his actions, publicly, on several occasions during a period of several weeks called for on national and international television, and through the printed media for the killing of the Boer and the farmer, intentionally committing the heinous International crimes of Genocide, Crimes against humanity of murder, extermination, torture and rape. That Mister Julius Sello Malema is criminally responsible under the Rome Statute for crimes committed in violation of the Rome Statute and within the jurisdiction of the International Criminal Court.

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<sup>201</sup> This is a copy of the formal complaint lodged by the Rustenburg farmer with the International Criminal Court. It was obtained from <http://www.stopafrikanervolksmoord.co.za/#/vn-petisie/4543354232> and the correctness thereof was verified with the farmer's lawyer, Mr. F. van der Walt in an unstructured interview on 8 December 2010.

That Mister Julius Sello Malema as a natural person and pursuant to Individual Criminal responsibility and in violation of Article 25, (1), (2), (3) a, b, c, d, (1&2) and with full knowledge and intent committed the crimes of genocide and crimes against humanity and directly and publicly over a period of weeks incited his followers to commit these same crimes.

That Mister Julius Sello Malema, after severe public outcry and requests by numerous institutions and politicians, and in contravention of an urgent court order and interdict and judgment against the use of the call for Genocide by himself, deliberately, willfully and with intent and with disregard and in contempt of court repeated his call to 'Kill the Boer and the Farmer' in Zimbabwe during his negotiations with President Robert Mugabe of Zimbabwe.

The Boer and the Farmer as defined by Wikipedia:

'Afrikaners (including distinct Boer subgroup) are an Afrikaans-speaking ethnic group in Southern Africa. They are mainly of northwestern European descent (mainly Dutch, German and French ancestry), and their native tongue is Afrikaans, a Germanic language which originated from Dutch'.

Article 7 – Crimes against Humanity

Mister Julius Sello Malema with full existence of knowledge and intent and as described by Art 30 (2) a & b and Art 30 (3) of the Rome Statute, on several occasions publicly (nationally and internationally) called for the killing of persons belonging to a particular, national, ethnical, racial or religious group and as described by Crime against Humanity of murder Art 7 (1) a (elements of crime, 1, 2 and 3) and Crimes against humanity of Extermination Art 7 (1) b (elements of crime 1,2,3 & 4) and Crime against Humanity of Torture Art 7 (1) f (Elements of crime 1,2,3,4 and 5) and Art 7(1) (g)-1 Crime against Humanity of Rape (Elements of crime 1,2,3,4 and 5) and Article 7 (1) (g)-6 and Crime against humanity of sexual violence (Elements of crime 1, 2 and 3) and Art 7 (1) (h) Crime against Humanity of Persecution (Elements of crime 1, 2, 3, 4, 5 and 6) and Article 7 (1) (k) Crime against humanity of other inhumane acts (Elements of crime 1, 2, 3, 4 and 5) and that Mister Julius Sello Malema directly and publicly incited his followers to commit these same crimes.

That the secondary goal of Mister Julius Sello Malema, in his capacity as Leader of the ANC Youth League through and by his illegal actions incites his followers to get support for the violent nationalization of the farm land belonging to private Afrikaner individuals, and through intimidation in the national media by cruel criminal acts of murder, rape and



torture and in contravention of General Assembly Resolution 1803 (XVII) of 14 December 1962 of the United Nations.

That Mister Julius Sello Malema , in his capacity as ANC Youth League leader is well aware of the statistics regarding the very high incidence of murder, rape and torture committed against the Afrikaner Boere (highest incidence in the world according to Interpol statistics) and that Mister Julius Sello Malema deliberately and with intent regardless of the high crime rate called for the crime of Murder and killing (Genocide and Crimes Against Humanity) to be committed against the Afrikaner Boere with the intention to increase these violent attacks.

Universal Declaration of Human Rights (UDHR) violated by Mister Julius Sello Malema.

The criminal acts as described above constitutes an intentional contravention and violation of the Universal Declaration of Human Rights of 1948 (UDHR) by Mister Julius Sello Malema, in his capacity as influential South African political youth leader and with specific reference to Articles 3,5,7,12,17 and 28 of the UDHR as well as and in violation of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951 violating article 3 a,b,c,d,e, and in contravention of General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources"

2.	Alleged Perpetrator:	Mr. Jacob Gedleyihlekisa Zuma
	Date of Birth:	12 April 1942
	President of the African National Congress	
	President of the Republic of South Africa	
	Nationality:	South African

I the undersigned complainant hereby accuse Mister Jacob Gedleyihlekisa Zuma of committing crimes within the Jurisdiction of the International Criminal Court and as described by the Rome Statute of the International Court as listed below and which are crimes of great concern to the International Community as a whole and in violation of the Universal Declaration of Human Rights of 1948 (UDHR) and in violation and contravention of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951:  
Article 6 – Genocide.

Mister Jacob Gedleyihlekisa Zuma, in his capacity as President of South Africa allowed and permitted with full existence of knowledge and intent and as described by Art 30 (2) a & b and Art 30 (3) of the Rome Statute, the leader of the ANC Youth League, Mister

Malema to publicly on several occasions (nationally and internationally) call for the killing of persons belonging to a particular, national, ethnical, racial or religious group and as described by Art 6 (a( elements of crime 1,2,3,4),b (elements of crime1,2,3,4) and c (elements of crime1,2,3,4,5) of the Rome Statute and that Mister Jacob Gedleyihlekisa Zuma knew Mister Julius Sello Malema had genocidal intent.

#### Article 7 – Crimes against Humanity

That Mister Jacob Gedleyihlekisa Zuma with full knowledge and intent allowed Mister Julius Sello Malema to publicly call for his followers to commit and as described by Crime against Humanity of murder Art 7 (1) a (elements of crime, 1, 2 and 3) and Crimes against humanity of Extermination Art 7 (1) b (elements of crime 1,2,3 & 4) and Crime against Humanity of Torture Art 7 (1) f (Elements of crime 1,2,3,4 and 5) and Art 7(1) (g)-1 Crime against Humanity of Rape (Elements of crime 1,2,3,4 and 5) and Article 7 (1) (g)-6 Crime against humanity of sexual violence (Elements of crime 1, 2 and 3) and Art 7 (1) h Crime against Humanity of Persecution (Elements of crime 1,2,3,4,5 and 6) and Article 7 (1) (k) Crime against humanity of other inhumane acts (Elements of crime 1,2,3,4 and 5 )

That Mister Jacob Gedleyihlekisa Zuma intentionally allowed Genocide and Crimes against Humanity to be committed as unofficial government policy, which has a civilian population as the object of attack to be called for and implemented by Mister Julius Sello Malema ANC (Youth League leader) and his Youth League organization and that Mister Jacob Gedleyihlekisa Zuma, in his capacity as President of South Africa deliberately failed to take action against Mister Malema and that Mister Zuma consciously allowed and aimed with intent to encourage genocidal inhumane attacks called for by his genocidal co-conspirator Mister Julius Sello Malema.

That Mister Jacob Gedleyihlekisa Zuma, in his capacity as Head of State of South Africa is well aware of the very high incidence of murder, rape and torture committed against the Afrikaner Boere (highest incidence in the world according to Interpol statistics) and that Mister Jacob Gedleyihlekisa Zuma deliberately and with intent allow the crime of Genocide and Crimes Against Humanity to be committed against the Afrikaner Boere with the intention to further the criminal acts and to increase the murder incidence amongst Afrikaner farmers by his failure to intervene and failure to use his powers and constitutional duties as President and Head of State of South Africa to protect these Afrikaner Boere citizens against these heinous crimes.

That Mister Jacob Gedleyihlekisa Zuma, by omission, deliberate failure to act and his refusal (after many public outcries and calls for action nationally and internationally) to take action against Mister Julius Sello Malema willfully and with full knowledge and intent

participated in the International Criminal Acts of Genocide and Crimes Against Humanity against the Afrikaner Boere, (as identified) and directly and indirectly and publicly incited his followers to commit these same crimes.

That Mister Jacob Gedleyihlekisa Zuma conspired with Mister Julius Sello Malema to commit the acts of Genocide and Crimes against Humanity.

That Mister Jacob Gedleyihlekisa Zuma with full knowledge and intent and in his capacity as Head of State of the Republic of South Africa deliberately failed to use South African Government security institutions and intentionally failed to allocate funds and other human resources to protect the lives of the Farmers and Boere, according to his constitutional duties as President, and that his deliberate failure to take action against the extreme high incidence of murder, torture and rape committed against these Afrikaner Boere civilians is consciously aimed at encouraging farm murders and as part of a government orchestrated low intensity nationwide act of genocide.

That Mister Jacob Gedleyihlekisa Zuma in his capacity as the President of the ANC by and through his refusal to act against Mister Malema in effect granted impunity against any criminal action to be taken against Mister Julius Malema and conspired to commit Genocide and Crimes against Humanity.

That the secondary goal of Mister Jacob Gedleyihlekisa Zuma, in his capacity as Head of State of the republic of South African through and by omission and his deliberate failure to act and by verbal threats, is to nationalize (without compensation) the farm land belonging to private individuals of the Afrikaner Boer nation, through intimidation of these farm owners as individuals by cruel criminal acts of murder, rape and torture and in contravention of General Assembly Resolution 1803 (XVII) of 14 December 1962 of the United Nations.

That Mister Jacob Gedleyihlekisa Zuma willfully, with full knowledge and intent for months on end sang his favorite song Umshimi Wami, which means bring my machine gun for war purposes aimed against the White Afrikaner Boere and sang this song with specific reference to the years of the Armed Struggle against the White Apartheid's Regime. That he now sang the same song for the purpose of a new call to armed conflict against the White Afrikaner Boer, the continuation of the ANC Armed Struggle and to further the Communist Revolutionary goals of the ANC, SACP alliance to nationalize (without compensation) privately owned farmland owned by the Afrikaner Boere.

That Mister Jacob Gedleyihlekisa Zuma in the recent past (the preceding four years) acted with impunity in that he abused his Presidential powers to create this impunity and to appoint a pro-government puppet as Head of the South African Prosecution Authority to

withdraw 700-800 crimes of fraud and corruption against himself after he was sworn in as The President and for his alleged involvement in an International arms deal scam of corruption and fraud.

Universal Declaration of Human Rights (UDHR) violated by Mister Jacob Gedleyihlekisa Zuma

The criminal acts as described above constitutes an intentional contravention and violation of the Universal Declaration of Human Rights of 1948 (UDHR) by Mister Jacob Gedleyihlekisa Zuma, in his capacity as President of the Republic of South Africa and as President of the African National Congress and with specific reference to Articles 3,5,7,12,17 and 28 of the UDHR and in violation of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951, violating article 3 a,b,c,d,e and in contravention of General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources"

3.      Alleged Perpetrator:                      Mr. Nathi Mthethwa  
            Date of Birth:                                23 January 1967  
            Minister of the South African Police Service  
            Member of the South African Parliament  
            Member of the National Executive Committee (NEC) of the African National Congress (ANC)  
            Nationality:                                   South African

I the undersigned complainant hereby accuse Mister Nathi Mthetwa of committing crimes within the Jurisdiction of the International Criminal Court and as described by the Rome Statute of the International Court as listed below and which are crimes of great concern to the International Community as a whole and in violation of the Universal Declaration of Human Rights of 1948 (UDHR) and in violation and contravention of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951.

Article 6 – Genocide.

Mister Nathi Mthetwa, in his capacity as Minister of the South African Police Service of the republic of South Africa allowed and permitted with full existence of knowledge and intent and as described by Art 30 (2) a & b and Art 30 (3) of the Rome Statute, the leader of the ANC Youth League to publicly on several occasions (nationally and internationally) call for the killing of persons belonging to a particular, national, ethnical, racial or religious group (Afrikaner Boere) and as described by Art 6 (a( elements of crime 1,2,3,4),b

(elements of crime 1,2,3,4) and c (elements of crime 1,2,3,4,5) of the Rome Statute and that Mister Nathi Mthetwa knew Mister Julius Sello Malema had genocidal intent and did not call for Mister Malema's arrest.

#### Article 7 – Crimes against Humanity

That Mister Nathi Mthetwa with full knowledge and intent allowed Mister Julius Sello Malema to publicly call for his followers to commit and as described by Crime against Humanity of murder Art 7 (1) a (elements of crime, 1, 2 and 3) and Crimes against humanity of Extermination Art 7 (1) b (elements of crime 1,2,3 & 4) and Crime against Humanity of Torture Art 7 (1) f (Elements of crime 1,2,3,4 and 5) and Art 7(1) (g)-1 Crime against Humanity of Rape (Elements of crime 1,2,3,4 and 5) and Article 7 (1) (g)-6 Crime against humanity of sexual violence (Elements of crime 1, 2 and 3) and Art 7 (1) h Crime against Humanity of Persecution (Elements of crime 1,2,3,4,5 and 6) and Article 7 (1) (k) Crime against humanity of other inhumane acts (Elements of crime 1,2,3,4 and 5 )

That Mister Nathi Mthetwa intentionally allowed Genocide and Crimes against Humanity to be committed as unofficial government policy, which has a civilian population as the object of attack to be called for and implemented by Mister Julius Sello Malema ANC (Youth League leader) and his Youth League organization and that Mister Nathi Mthetwa, in his capacity as Minister of the South African Police Service of South Africa deliberately failed to take action against Mister Malema and that Mister Mthetwa consciously allowed and aimed with intent to encourage genocidal inhumane attacks called for by his genocidal co-conspirator Mister Julius Sello Malema.

That Mister Nathi Mthetwa conspired with Mister Julius Sello Malema to commit the acts of Genocide and Crimes against Humanity.

That Mister Nathi Mthetwa by omission, deliberate failure to act and his refusal (after many public outcries and calls for action) to take action against Mister Julius Sello Malema willfully and with full knowledge and intent participated in the International Criminal Acts of Genocide and Crimes Against Humanity against the Afrikaner Boere, (as identified) and directly and indirectly and publicly incited his followers to commit these same crimes.

That Mister Nathi Mthetwa, in his capacity as Minister of the South African Police Service of the republic of South Africa allowed and permitted with full existence of knowledge and intent the security situation pertaining to the Afrikaner Farmer Boere, (in violation of the South African Constitution, and in violation of the Universal Declaration of Human Rights of 1948 (UDHR) and in violation of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951) to deteriorate to

such and extent that they are murdered and attacked at the highest current murder rate in the world. (Source: Interpol)

That Mister Nathi Mthetwa, in his capacity as Minister of the South African Police Service of the republic of South Africa allowed and permitted with full existence of knowledge and intent the South African Police Intelligence Services to provide information to criminals for the purpose of committing Genocide and Crimes Against Humanity.

That Mister Nathi Mthetwa, in his capacity as Minister of the South African Police Service of the republic of South Africa, did not exercise his Constitutional obligation as stipulated by the South African Constitution and that he deliberately and intentionally failed to use The South African Police Service to protect the lives of the Afrikaner Farmer Boere Pro actively, and that he intentionally failed to allocate funds, manpower and other resources to protect the lives of the Afrikaner Farmers and Boere, in accordance with his constitutional duties (Article 205 (3) of the SA Constitution) as Minister of the South African Police Services , and that his deliberate failure to take action against the extreme high incidence of murder, torture and rape committed against these civilians is consciously aimed at encouraging farm murders, and as part of a government orchestrated nationwide low intensity act of genocide and long-term goal of nationalization of all farm land belonging to the Afrikaner Boere.

Universal Declaration of Human Rights (UDHR) violated by Mister Nathi Ntswana.

The criminal acts as described above constitutes an intentional contravention and violation of the Universal Declaration of Human Rights of 1948 (UDHR) by Mister Nathi Mthetwa , in his capacity as Minister of the South African Police Services of South Africa and as member of the African National Congress National Executive Committee and with specific reference to Articles 3,5,7,12,17 and 28 of the UDHR and in violation of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951, violating article 3 a,b,c,d,e and in contravention of General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources"

4.      Alleged Perpetrator:                      Mr. Bheki Cele  
            Date of Birth:                                22 April 1952  
            Current National Commissioner of Police of South Africa  
            Former Member of the National Executive Committee (NEC) of the African  
            National Congress (ANC)  
            Nationality:                                  South African

I the undersigned complainant hereby accuse Mister Bheki Cele of committing crimes within the Jurisdiction of the International Criminal Court and as described by the Rome Statute of the International Court as listed below and which are crimes of great concern to the International Community as a whole and in violation of the Universal Declaration of Human Rights of 1948 (UDHR).

#### Article 6 – Genocide.

Mister Bheki Cele, in his capacity as National Commissioner of Police of the Republic of South Africa allowed and permitted with full existence of knowledge and intent and as described by Art 30 (2) a & b and Art 30 (3) of the Rome Statute, the leader of the ANC Youth League to publicly on several occasions (nationally and internationally) call for the killing of persons belonging to a particular, national, ethnical, racial or religious group (Afrikaner Boere) and as described by Art 6 (a) (elements of crime 1,2,3,4), b (elements of crime 1,2,3,4) and c (elements of crime 1,2,3,4,5) of the Rome Statute and that Mister Bheki Cele knew Mister Julius Sello Malema had genocidal intent.

#### Article 7 – Crimes against Humanity

That Mister Bheki Cele with full knowledge and intent allowed Mister Julius Sello Malema to publicly call for his followers to commit and as described by Crime against Humanity of murder Art 7 (1) a (elements of crime, 1, 2 and 3) and Crimes against humanity of Extermination Art 7 (1) b (elements of crime 1,2,3 & 4) and Crime against Humanity of Torture Art 7 (1) f (Elements of crime 1,2,3,4 and 5) and Art 7(1) (g)-1 Crime against Humanity of Rape (Elements of crime 1,2,3,4 and 5) and Article 7 (1) (g)-6 Crime against humanity of sexual violence (Elements of crime 1, 2 and 3) and Art 7 (1) h Crime against Humanity of Persecution (Elements of crime 1,2,3,4,5 and 6) and Article 7 (1) (k) Crime against humanity of other inhumane acts (Elements of crime 1,2,3,4 and 5 )

That Mister Bheki Cele intentionally allowed Genocide and Crimes against Humanity to be committed as unofficial government policy, which has a civilian population as the object of attack to be called for and implemented by Mister Julius Sello Malema ANC (Youth League leader) and his Youth League organization and that Mister Bheki Cele, in his capacity as the current Commissioner of the South African Police Service of South Africa deliberately failed to take action against Mister Malema and that Mister Bheki Cele consciously allowed and aimed with intent to encourage genocidal inhumane attacks called for by his genocidal co-conspirator Mister Julius Sello Malema.

That Mister Bheki Cele conspired with Mister Julius Sello Malema to commit the acts of Genocide and Crimes against Humanity.

That Mister Bheki Cele by omission, deliberate failure to act and his refusal (after many public outcries and calls for action, nationally and Internationally) to be taken action against Mister Julius Sello Malema willfully and with full knowledge and intent participated in the International Criminal Acts of Genocide and Crimes Against Humanity against the Afrikaner Boere, (as identified) and directly and indirectly and publicly incited his followers to commit these same crimes.

That Mister Mister Bheki Cele, in his capacity as Commissioner of the South African Police Service of the republic of South Africa allowed and permitted with full existence of knowledge and intent the security situation pertaining to the Afrikaner Farmer Boere, (in violation of the South African Constitution, and in violation of the Universal Declaration of Human Rights of 1948 (UDHR) and in violation of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951) to deteriorate to such and extent that they are murdered and attacked at the highest current murder rate in the world. (Source: Interpol)

That Mister Bheki Cele, in his capacity as Commissioner of the South African Police Services of the republic of South Africa allowed and permitted with full existence of knowledge and intent the South African Police Intelligence Services to provide information to criminals for the purpose of committing Genocide and Crimes Against Humanity.

That Mister Bheki Cele , in his capacity as National Commissioner of the South African Police Service of the republic of South Africa, did not exercise his Constitutional obligation as stipulated by the South African Constitution and that he deliberately and intentionally failed to use The South African Police Service to protect the lives of the Afrikaner Farmer Boere Pro actively, and that he intentionally failed to allocate funds, manpower and other resources to protect the lives of the Afrikaner Farmers and Boere, in accordance with his constitutional duties (Article 205 (3) of the SA Constitution) as National Commissioner of Police of South Africa, and that his deliberate failure to take action against the extreme high incidence of murder, torture and rape committed against these Afrikaner Boer civilians is consciously aimed at encouraging farm murders and as part of a government orchestrated nationwide low intensity act of genocide and long-term goal of nationalization of all farm land.

Universal Declaration of Human Rights (UDHR) violated by Mister Bheki Cele

The criminal acts as described above constitutes an intentional contravention and violation of the Universal Declaration of Human Rights of 1948 (UDHR) by Mister Bheki Cele, in his capacity as National Commissioner of the South Africa Police Services and with specific reference to Articles 3,5,7,12,17 and 28 of the UDHR and in violation of The



Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951, violating article 3 a,b,c,d,e, and in contravention of General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources"

5.      Alleged Perpetrator:                      Mr. Jacob Sello (Jackie) Selebi  
            Date of Birth:                                      07 March 1950  
            Former National Commissioner of the South African Police Service (2000 - July 2009).  
            Former President of Interpol (2004 - 2008).  
            In 1995, Selebi was appointed South Africa's Ambassador and Permanent Representative to the United Nations.  
            Nationality:                                      South African

I the undersigned complainant hereby accuse Mister Jacob Sello (Jackie) Selebi of committing crimes within the Jurisdiction of the International Criminal Court and as described by the Rome Statute of the International Court as listed below and which are crimes of great concern to the International Community as a whole and in violation of the Universal Declaration of Human Rights of 1948 (UDHR):

That Mister Mister Bheki Cele, in his capacity as former Commissioner of the South African Police Service of the republic of South Africa, during his term and tenure allowed and permitted with full existence of knowledge and intent the security situation pertaining to the Afrikaner Farmer Boere, (in violation of the South African Constitution, and in violation of the Universal Declaration of Human Rights of 1948 (UDHR) and in violation of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951) to deteriorate to such and extent that they are murdered and attacked at the highest current murder rate in the world. (Source: Interpol)

That Mister Jacob Sello (Jackie) Selebi, in his capacity as Former Commissioner of the South African Police Service of the republic of South Africa allowed and permitted with full existence of knowledge and intent the South African Police Intelligence Services to provide information to criminals for the purpose of committing Genocide and Crimes Against Humanity.

That Mister Jacob Sello (Jackie) Selebi participated in alleged criminal acts of a very serious nature, allegedly took bribes from criminals, alleged assistance to drug traffickers and murder and that he is currently on trial for these alleged crimes. That Mister Jacob Sello (Jackie) Selebi had to resign from his post as National Commissioner of the South

African police and as President of Interpol because of the very serious criminal charges brought against him and for which he is currently defending himself in court whilst on trial.

That Mister Jacob Sello (Jackie) Selebi, in his capacity as former Commissioner of the South African Police Service of the republic of South Africa, did not exercise his Constitutional obligation as stipulated by the South African Constitution and that he deliberately and intentionally failed to use The South African Police Service to protect the lives of the Afrikaner Farmer Boere Pro actively, and that he intentionally failed to allocate funds, manpower and other resources to protect the lives of the Afrikaner Farmers and Boere, in accordance with his constitutional duties (Article 205 (3) of the SA Constitution) as Minister of the South African Police Services , and that his deliberate failure to take action against the extreme high incidence of murder, torture and rape committed against these civilians is consciously aimed at encouraging farm murders and as part of a government orchestrated nationwide low intensity act of genocide and long-term goal of nationalization of all farm land.

Universal Declaration of Human Rights (UDHR) violated by Mister Jacob Sello (Jackie) Selebi

The criminal acts as described above constitutes an intentional contravention and violation of the Universal Declaration of Human Rights of 1948 (UDHR) by Jacob Sello (Jackie) Selebi, in his capacity as former National Police Commissioner of the SA PS of the Republic of South Africa and in his capacity as Head of Interpol and with specific reference to Articles 3,5,7,12,17 and 28 of the UDHR and in violation of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951, violating article 3 a,b,c,d,e, and in contravention of General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources"

6.      Alleged Perpetrator:                      Mrs Tina Monica Joemat-Pettersson  
            Date of Birth:                                18 December 1963  
            Minister of Agriculture, Forestry and Fisheries.  
            Chairwoman of the Northern Cape Province Rehabilitation Trust.  
            Chairwoman SA Communist Party, Northern Cape.  
            Chairwoman of the ANC Women's League, Northern Cape.  
            Nationality:                                 South African

I the undersigned complainant hereby accuse Mrs Tina Monica Joemat-Pettersson of committing crimes within the Jurisdiction of the International Criminal Court and as described by the Rome Statute of the International Court as listed below and which are

crimes of great concern to the International Community as a whole and in violation of the Universal Declaration of Human Rights of 1948 (UDHR):

That Mrs Tina Monica Joemat-Pettersson, in her capacity as the Minister of Agriculture, Forestry and Fisheries of the republic of South Africa, during her term and tenure allowed and permitted with full existence of knowledge and intent the security situation pertaining to the Afrikaner Farmer Boere, (in violation of the South African Constitution, and in violation of the Universal Declaration of Human Rights of 1948 (UDHR) and in violation of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951) to deteriorate to such and extent that they are murdered and attacked at the highest current murder rate in the world. (Source: Interpol)

That Mrs Tina Monica Joemat-Pettersson, in her capacity as the Minister of Agriculture, Forestry and Fisheries of the republic of South Africa allowed and permitted with full existence of knowledge and intent the Department of Agriculture to provide information to criminals for the purpose of committing Genocide and Crimes Against Humanity.

That Mrs Tina Monica Joemat-Pettersson, in her capacity as the Minister of Agriculture, Forestry and Fisheries of the republic of South Africa, did not exercise her Constitutional obligation as stipulated by the South African Constitution and that she deliberately and intentionally failed to use the Constitutional powers assigned to her position to protect the lives of the Afrikaner Farmer Boere Pro actively, and that she intentionally failed to allocate funds, manpower and other resources to protect the lives of the Afrikaner Farmers and Boere, in accordance with her Constitutional duties as Minister of Agriculture, Forestry and Fisheries , and that her deliberate failure to take action against the extreme high incidence of murder, torture and rape committed against these civilians is consciously aimed at encouraging farm murders and as part of a government orchestrated nationwide low intensity act of genocide and long-term goal of nationalization of all farm land belonging to Afrikaner Boere.

Mrs Tina Monica Joemat-Pettersson, in her capacity as Minister of Agriculture, Forestry and Fisheries of the republic of South Africa with full existence of knowledge and intent and as described by Art 30 (2) a & b and Art 30 (3) of the Rome Statute threatened Afrikane Boere with nationalization of their farm land, if they do not agree to comply with new farm land distribution and nationalization legislation.

That Mrs Tina Monica Joemat-Pettersson conspired with Mister Julius Sello Malema to commit the acts of Genocide and Crimes against Humanity.

That Mrs Tina Monica Joemat-Pettersson , in her capacity as Minister of Agriculture, Forestry and Fisheries, and with full knowledge and intent threatened the Afrikaner Boere (through the national media) that their unwillingness to cooperate with new government legislation to nationalize their farm land will result in a situation far worse than that of the situation which were created by white Zimbabwe farmers and their eviction from their privately owned farm land.

That Mrs Tina Monica Joemat-Pettersson with full existence of knowledge and intent and as described by Art 30 (2) a & b and Art 30 (3) of the Rome Statute, on several occasions publicly (nationally and internationally) called for the nationalization of farm land of persons belonging to a particular, national, ethnical, racial or religious group and as described by Crime against Humanity of murder Art 7 (1) a (elements of crime, 1, 2 and 3) and Crimes against humanity of Extermination Art 7 (1) b (elements of crime 1,2,3 & 4) and Crime against Humanity of Torture Art 7 (1) f (Elements of crime 1,2,3,4 and 5) and Art 7(1) (g)-1 Crime against Humanity of Rape (Elements of crime 1,2,3,4 and 5) and Article 7 (1) (g)-6 Crime against humanity of sexual violence (Elements of crime 1, 2 and 3) and Art 7 (1) h Crime against Humanity of Persecution (Elements of crime 1,2,3,4,5 and 6) and Article 7 (1) (k) Crime against humanity of other inhumane acts (Elements of crime 1,2,3,4 and 5 ) and that Mrs Tina Monica Joemat-Pettersson directly and publicly incited her followers to commit these same crimes.

That the secondary goal of That Mrs Tina Monica Joemat-Pettersson, in her capacity as Minister of Agriculture through and by her illegal actions incites her followers to get support for the violent nationalization of the farm land belonging to private Afrikaner individuals, and through intimidation in the national media by cruel criminal acts of murder, rape and torture and in contravention of General Assembly Resolution 1803 (XVII) of 14 December 1962 of the United Nations.

Universal Declaration of Human Rights (UDHR) violated by Mrs Tina Monica Joemat-Pettersson

The criminal acts as described above constitutes an intentional contravention and violation of the Universal Declaration of Human Rights of 1948 (UDHR) by Mrs Tina Monica Joemat-Pettersson, in her capacity as Minister of Agriculture of the Republic of South Africa and as President of the African National Congress and with specific reference to Articles 3,5,7,12,17 and 28 of the UDHR and in violation of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951, violating article 3 a,b,c,d,e:

7.      Alleged Perpetrator:                      Mrs. Lindiwe Nonceba Sisulu  
            Date of Birth:                                10 May 1954  
            Minister of Defence of the Republic of South Africa since 11 May 2009  
            Member of Parliament since 1994;  
            Inaugural Chairperson of the African Ministerial Conference on Housing and Urban Development  
            Member of the National Executive Committee (NEC) of the African National Congress (ANC).  
            Nationality:                                      South African

I the undersigned complainant hereby accuse Mrs. Lindiwe Nonceba Sisulu of committing crimes within the Jurisdiction of the International Criminal Court and as described by the Rome Statute of the International Court as listed below and which are crimes of great concern to the International Community as a whole and in violation of the Universal Declaration of Human Rights of 1948 (UDHR):

That Mrs. Lindiwe Nonceba Sisulu with full existence of knowledge and intent and as described by Art 30 (2) a & b and Art 30 (3) of the Rome Statute, on several occasions publicly (nationally and internationally) called for the training of the ANC Youth League leader and his followers and for the purpose of the intimidating Afrikaner Boere farmers to nationalize farm land of persons belonging to a particular, national, ethnical, racial or religious group and as described by Crime against Humanity of murder Art 7 (1) a (elements of crime, 1, 2 and 3) and Crimes against humanity of Extermination Art 7 (1) b (elements of crime 1,2,3 & 4) and Crime against Humanity of Torture Art 7 (1) f (Elements of crime 1,2,3,4 and 5) and Art 7(1) (g)-1 Crime against Humanity of Rape (Elements of crime 1,2,3,4 and 5) and Article 7 (1) (g)-6 Crime against humanity of sexual violence (Elements of crime 1, 2 and 3) and Art 7 (1) h Crime against Humanity of Persecution (Elements of crime 1,2,3,4,5 and 6) and Article 7 (1) (k) Crime against humanity of other inhumane acts (Elements of crime 1,2,3,4 and 5 ) and that Mrs. Lindiwe Nonceba Sisulu directly and publicly incited her followers to commit these same crimes.

That the secondary goal of Mrs. Lindiwe Nonceba Sisulu, in her capacity as Minister of Defence through and by her illegal actions incites her followers to get support for the violent nationalization of the farm land belonging to private Afrikaner individuals, and through intimidation in the national media by cruel criminal acts of murder, rape and torture and in contravention of General Assembly Resolution 1803 (XVII) of 14 December 1962 of the United Nations.

Universal Declaration of Human Rights (UDHR) violated by Mrs.. Lindiwe Nonceba Sisulu

The criminal acts as described above constitutes an intentional contravention and violation of the Universal Declaration of Human Rights of 1948 (UDHR) by Mrs. Lindiwe Nonceba Sisulu, in her capacity as Minister of the Defense Force of the Republic of South Africa and as President of the African National Congress and with specific reference to Articles 3,5,7,12,17 and 28 of the UDHR and in violation of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951, violating article 3 a,b,c,d,e, and in contravention of General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources"

8. Alleged Perpetrator: Dr. Siyabonga Cyprian Cwele  
Date of Birth: Unknown  
Minister of State Security of the Republic of South Africa since 11 May 2009.  
Member of Parliament since 1994.  
Member of African National Congress (ANC) Provincial Executive Committee (PEC) in KwaZulu Natal (KZN) since 1990.  
Member of National Assembly since 1999.  
Nationality: South African

I the undersigned complainant hereby accuse Dr. Siyabonga Cyprian Cwele of committing crimes within the Jurisdiction of the International Criminal Court and as described by the Rome Statute of the International Court as listed below and which are crimes of great concern to the International Community as a whole and in violation of the Universal Declaration of Human Rights of 1948 (UDHR) and in violation and contravention of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951:

#### Article 6 – Genocide.

Dr. Siyabonga Cyprian Cwele, in his capacity as Minister of National security of South Africa allowed and permitted with full existence of knowledge and intent and as described by Art 30 (2) a & b and Art 30 (3) of the Rome Statute, the leader of the ANC Youth League, Mister Malema to publicly on several occasions (nationally and internationally) to call for the killing of persons belonging to a particular, national, ethnical, racial or religious group and as described by Art 6 (a( elements of crime 1,2,3,4),b (elements of crime1,2,3,4) and c (elements of crime1,2,3,4,5) of the Rome Statute and that Dr. Siyabonga Cyprian Cwele knew Mister Julius Sello Malema had genocidal intent.

#### Article 7 – Crimes against Humanity

That Dr. Siyabonga Cyprian Cwele with full knowledge and intent allowed Mister Julius

Sello Malema to publicly call for his followers to commit and as described by Crime against Humanity of murder Art 7 (1) a (elements of crime, 1, 2 and 3) and Crimes against humanity of Extermination Art 7 (1) b (elements of crime 1,2,3 & 4) and Crime against Humanity of Torture Art 7 (1) f (Elements of crime 1,2,3,4 and 5) and Art 7(1) (g)-1 Crime against Humanity of Rape (Elements of crime 1,2,3,4 and 5) and Article 7 (1) (g)-6 Crime against humanity of sexual violence (Elements of crime 1, 2 and 3) and Art 7 (1) h Crime against Humanity of Persecution (Elements of crime 1,2,3,4,5 and 6) and Article 7 (1) (k) Crime against humanity of other inhumane acts (Elements of crime 1,2,3,4 and 5 )

That Dr. Siyabonga Cyprian Cwele intentionally allowed Genocide and Crimes against Humanity to be committed as unofficial government policy, which has a civilian population as the object of attack to be called for and implemented by Mister Julius Sello Malema ANC (Youth League leader) and his Youth League organization and that Dr. Siyabonga Cyprian Cwele, in his capacity Minister of National Intelligence of South Africa deliberately failed to take action against Mister Malema and that Dr Cwele consciously allowed and aimed with intent to encourage genocidal inhumane attacks called for by his genocidal co-conspirator Mister Julius Sello Malema.

That Mister Dr. Siyabonga Cyprian Cwele , in his capacity as Minister of National intelligence of South Africa is well aware of the very high incidence of murder, rape and torture committed against the Afrikaner Boere (highest incidence in the world according to Interpol statistics) and that Dr. Siyabonga Cyprian Cwele deliberately and with intent allow the crime of Genocide and Crimes Against Humanity to be committed against the Afrikaner Boere with the intention to further the criminal acts by his failure to intervene and failure to use his powers and constitutional duties as Minister of National Intelligence of South Africa to protect these Afrikaner Boere citizens against these heinous crimes.

That, Dr. Siyabonga Cyprian Cwele by omission, deliberate failure to act and his refusal (after many public outcries and calls for action nationally and internationally) to take action against Mister Julius Sello Malema willfully and with full knowledge and intent participated in the International Criminal Acts of Genocide and Crimes Against Humanity against the Afrikaner Boere, (as identified) and directly and indirectly and publicly incited his followers to commit these same crimes.

That Dr. Siyabonga Cyprian Cwele conspired with Mister Julius Sello Malema to commit the acts of Genocide and Crimes against Humanity.

That Dr. Siyabonga Cyprian Cwele with full knowledge and intent and in his capacity as Minister of National Intelligence of South Africa deliberately failed to use South African Government security institutions and intentionally failed to allocate funds and other human resources to protect the lives of the Farmers and Boere, according to his constitutional

duties as Minister of National Intelligence, and that his deliberate failure to take action against the extreme high incidence of murder, torture and rape committed against these Afrikaner Boere civilians is consciously aimed at encouraging farm murders and as part of a government orchestrated low intensity nationwide act of genocide.

That Dr. Siyabonga Cyprian Cwele in his capacity as Minister of National Intelligence of South Africa by and through his refusal to act against Mister Malema in effect granted impunity against any criminal action to be taken against Mister Julius Malema and conspired to commit Genocide and Crimes against Humanity.

That the secondary goal of Dr. Siyabonga Cyprian Cwele, in his capacity Minister of National Intelligence of the republic of South African through and by omission and his deliberate failure to act, is to nationalize the farm land belonging to private individuals of the Afrikaner Boer nation, through intimidation of these farm owners as individuals by cruel criminal acts of murder, rape and torture and in contravention of General Assembly Resolution 1803 (XVII) of 14 December 1962 of the United Nations.

Universal Declaration of Human Rights (UDHR) violated by Dr. Siyabonga Cyprian Cwele

The criminal acts as described above constitutes an intentional contravention and violation of the Universal Declaration of Human Rights of 1948 (UDHR) by Dr. Siyabonga Cyprian Cwele , in his capacity as Minister of National Intelligence of the Republic of South Africa and with specific reference to Articles 3,5,7,12,17 and 28 of the UDHR and in violation of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951, violating article 3 a,b,c,d,e, and in contravention of General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources"

9.      Alleged Perpetrator:                  Ronald (Ronnie) Kasrils  
            Date of Birth:                              15 November 1938  
            Former Minister of Intelligence: Republic of South Africa: 2004 - 2008.  
            Nationality:                                South African

I the undersigned complainant hereby accuse Ronald (Ronnie) Kasrils of committing crimes within the Jurisdiction of the International Criminal Court and as described by the Rome Statute of the International Court as listed below and which are crimes of great concern to the International Community as a whole and in violation of the Universal Declaration of Human Rights of 1948 (UDHR) and in violation and contravention of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951:



## Article 7 – Crimes against Humanity

That Ronald (Ronnie) Kasrils with full knowledge and allowed the resources, assets and human resources of the Ministry of National Intelligence to be used against the Afrikaner Boere and as described by Crime against Humanity of murder Art 7 (1) a (elements of crime, 1, 2 and 3) and Crimes against humanity of Extermination Art 7 (1) b (elements of crime 1,2,3 & 4) and Crime against Humanity of Torture Art 7 (1) f (Elements of crime 1,2,3,4 and 5) and Art 7(1) (g)-1 Crime against Humanity of Rape (Elements of crime 1,2,3,4 and 5) and Article 7 (1) (g)-6 Crime against humanity of sexual violence (Elements of crime 1, 2 and 3) and Art 7 (1) h Crime against Humanity of Persecution (Elements of crime 1,2,3,4,5 and 6) and Article 7 (1) (k) Crime against humanity of other inhumane acts (Elements of crime 1,2,3,4 and 5 )

That Ronald (Ronnie) Kasrils intentionally allowed Genocide and Crimes against Humanity to be committed as unofficial government policy, which has a civilian population as the object of attack in his capacity as former Minister of National Intelligence of South Africa deliberately failed to take action against criminals and that Mister Kasrils consciously allowed and aimed with intent to encourage genocidal inhumane attacks against the Afrikaner Boere.

That Ronald (Ronnie) Kasrils, in his capacity as former Minister of National intelligence of South Africa is well aware of the very high incidence of murder, rape and torture committed against the Afrikaner Boere (highest incidence in the world according to Interpol statistics) and that Ronald (Ronnie) Kasrils deliberately and with intent allow the crime of Genocide and Crimes Against Humanity to be committed against the Afrikaner Boere with the intention to further the criminal acts by his failure to intervene and failure to use his powers and constitutional duties as Minister of National Intelligence of South Africa to protect these Afrikaner Boere citizens against these heinous crimes.

That, Mister Ronald (Ronnie) Kasrils by omission, deliberate failure to act and his refusal (after many public outcries and calls for action nationally and internationally) to take action against the high incidence of farm murders willfully and with full knowledge and intent participated in the International Criminal Acts of Genocide and Crimes Against Humanity against the Afrikaner Boere, (as identified) and directly and indirectly and publicly incited his followers to commit these same crimes.

That Mister Ronald (Ronnie) Kasrils with full knowledge and intent and in his capacity as former Minister of National Intelligence of South Africa deliberately failed to use South African Government security institutions and intentionally failed to allocate funds and other human resources to protect the lives of the Farmers and Boere, according to his

constitutional duties as former Minister of National Intelligence, and that his deliberate failure to take action against the extreme high incidence of murder, torture and rape committed against these Afrikaner Boere civilians was consciously aimed at encouraging farm murders and as part of a government orchestrated low intensity nationwide act of genocide.

That Mister Ronald (Ronnie) Kasrils in his capacity as former Minister of National Intelligence of South Africa by and through his refusal to act against these criminals and murderers in effect granted impunity against any criminal action to be taken against Mister Julius Malema and conspired to commit Genocide and Crimes against Humanity.

That the secondary goal of Ronald (Ronnie) Kasrils, in his capacity former Minister of National Intelligence of the republic of South African through and by omission and his deliberate failure to act, was to nationalize the farm land belonging to private individuals of the Afrikaner Boer nation, through intimidation of these farm owners as individuals by cruel criminal acts of murder, rape and torture and in contravention of General Assembly Resolution 1803 (XVII) of 14 December 1962 of the United Nations.

Universal Declaration of Human Rights (UDHR) violated by Ronald (Ronnie) Kasrils

The criminal acts as described above constitutes an intentional contravention and violation of the Universal Declaration of Human Rights of 1948 (UDHR) by Ronald (Ronnie) Kasrils , in his capacity as Minister of National Intelligence of the Republic of South Africa and with specific reference to Articles 3,5,7,12,17 and 28 of the UDHR and in violation of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951, violating article 3 a,b,c,d,e, and in contravention of General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources"

- |     |   |                   |
|-----|---|-------------------|
| 10. | Alleged Perpetrator:                                | Mr Gwede Mantashe |
|     | Date of Birth:                                      | Unknown           |
|     | Chairperson of the South African Communist Party    |                   |
|     | Secretary-General of the African National Congress. |                   |
|     | Nationality:  | South African     |

I the undersigned complainant hereby accuse Mister Gwede Mantashe of committing crimes within the Jurisdiction of the International Criminal Court and as described by the Rome Statute of the International Court as listed below and which are crimes of great concern to the International Community as a whole and in violation of the Universal Declaration of Human Rights of 1948 (UDHR) and in violation and contravention of The

Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951:

#### Article 6 - Genocide

Mister Gwede Mantashe, in his capacity as Secretary-General of the ANC allowed and permitted and assisted and justified with full existence of knowledge and intent and as described by Art 30 (2) a & b and Art 30 (3) of the Rome Statute, the leader of the ANC Youth League, Mister Malema to publicly on several occasions (nationally and internationally) call for the killing of persons belonging to a particular, national, ethnical, racial or religious group and as described by Art 6 (a( elements of crime 1,2,3,4),b (elements of crime1,2,3,4) and c (elements of crime1,2,3,4,5) of the Rome Statute and that knew Mister Julius Sello Malema had genocidal intent.

That Gwede Mantashe publicly justified the singing of songs calling for the Killing of the Afrikaner Boere and that he also criticized a court order interdict which was granted to stop Mister Julius Malema from singing these songs. That Mister Mantashe advised the ANC to appeal against the High Court's decision to interdict the singing of the Kill the Boer, Kill the Farmer songs and in the process justifying the calls for Genocide and Crimes against Humanity.

#### Article 7 – Crimes against Humanity

That Mister Gwede Mantashe with full knowledge and intent allowed the resources, assets and human resources of the African National Congress to be used against the Afrikaner Boere and that he used the political platform granted to him by his high ranking political status to further the ANC's orchestrated objectives of genocide committed against the Afrikaner Boer nation and as described by Crime against Humanity of murder Art 7 (1) a (elements of crime, 1, 2 and 3) and Crimes against humanity of Extermination Art 7 (1) b (elements of crime 1,2,3 & 4) and Crime against Humanity of Torture Art 7 (1) f (Elements of crime 1,2,3,4 and 5) and Art 7(1) (g)-1 Crime against Humanity of Rape (Elements of crime 1,2,3,4 and 5) and Article 7 (1) (g)-6 Crime against humanity of sexual violence (Elements of crime 1, 2 and 3) and Art 7 (1) h Crime against Humanity of Persecution (Elements of crime 1,2,3,4,5 and 6) and Article 7 (1) (k) Crime against humanity of other inhumane acts (Elements of crime 1,2,3,4 and 5 )

That Mister Gwede Mantashe intentionally allowed Genocide and Crimes against Humanity to be committed as unofficial ANC policy, which has a civilian population as the object of attack in his capacity as Secretary-General of the ANC deliberately failed to take

action against criminals and that Mister Gwede Mantashe consciously allowed and aimed with intent to encourage genocidal inhumane attacks against the Afrikaner Boere.

That Mister Gwede Mantashe , in his capacity as Secretary-General of the ANC is well aware of the very high incidence of murder, rape and torture committed against the Afrikaner Boere (highest incidence in the world according to Interpol statistics) and that Mister Gwede Mantashe deliberately and with intent allow the crime of Genocide and Crimes Against Humanity to be committed against the Afrikaner Boere with the intention to further the criminal acts by his conspiring with Mister Julius Malema against the Afrikaner Boere citizens.

That, Mister Gwede Mantashe by omission, deliberate failure to act and his refusal (after many public outcries and calls for action nationally and internationally) to take action against the high incidence of farm murders willfully and with full knowledge and intent participated in the International Criminal Acts of Genocide and Crimes Against Humanity against the Afrikaner Boere, (as identified) and directly and indirectly and publicly incited his followers to commit these same crimes through his deliberate and willful refusal to condemn the use of genocidal calls by high ranking politicians and through his condoning of genocidal hate speech.

That Mister Gwede Mantashe conspired with Mister Julius Sello Malema to commit the acts of Genocide and Crimes against Humanity.

Universal Declaration of Human Rights (UDHR) violated by Mister Gwede Mantashe

The criminal acts as described above constitutes an intentional contravention and violation of the Universal Declaration of Human Rights of 1948 (UDHR) by Mister Gwede Mantashe, in his capacity as Secretary-General of the African National Congress and Chairperson of the South African Communist Party and with specific reference to Articles 3,5,7,12,17 and 28 of the UDHR and in violation of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951, violating article 3 a,b,c,d,e: and in contravention of General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources"

11. Alleged Perpetrator: Mister Gugile Ernest Nkwinti  
Date of Birth: 18 December 1948  
Minister of Rural Development and Land Reform;  
Member of Executive Council of the ANC:

Local Government & Housing; Member Provincial Legislature: EC Prov  
Legislature  
Nationality: South African

I the undersigned complainant hereby accuse Mister Gugile Ernest Nkwinti of committing crimes within the Jurisdiction of the International Criminal Court and as described by the Rome Statute of the International Court as listed below and which are crimes of great concern to the International Community as a whole and in violation of the Universal Declaration of Human Rights of 1948 (UDHR) and in violation and contravention of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951:

#### Article 7 – Crimes against Humanity

That Mister Gugile Ernest Nkwinti with full knowledge and allowed the resources, assets and human resources of the Ministry of Rural Development and Land Reform to be used against the Afrikaner Boere and as described by Crime against Humanity of murder Art 7 (1) a (elements of crime, 1, 2 and 3) and Crimes against humanity of Extermination Art 7 (1) b (elements of crime 1,2,3 & 4) and Crime against Humanity of Torture Art 7 (1) f (Elements of crime 1,2,3,4 and 5) and Art 7(1) (g)-1 Crime against Humanity of Rape (Elements of crime 1,2,3,4 and 5) and Article 7 (1) (g)-6 Crime against humanity of sexual violence (Elements of crime 1, 2 and 3) and Art 7 (1) h Crime against Humanity of Persecution (Elements of crime 1,2,3,4,5 and 6) and Article 7 (1) (k) Crime against humanity of other inhumane acts (Elements of crime 1,2,3,4 and 5 )

That Mister Gugile Ernest Nkwinti intentionally allowed Genocide and Crimes against Humanity to be committed as unofficial government policy, which has a civilian population as the object of attack in his capacity as Minister of Rural Development and Land Reform of South Africa deliberately failed to take action against criminals and that Mister Nkwinti consciously allowed and aimed with intent to encourage genocidal inhumane attacks against the Afrikaner Boere.

That Mister Gugile Ernest Nkwinti, in his capacity as Minister of Rural Development and Land Reform of South Africa is well aware of the very high incidence of murder, rape and torture committed against the Afrikaner Boere (highest incidence in the world according to Interpol statistics) and that Mister Gugile Ernest Nkwinti deliberately and with intent allow the crime of Genocide and Crimes Against Humanity to be committed against the Afrikaner Boere with the intention to further the criminal acts by his failure to intervene and failure to use his powers and constitutional duties as Minister of Rural Development and Land

Reform of South Africa to protect these Afrikaner Boere citizens against these heinous crimes.

That, Mister Gugile Ernest Nkwinti by omission, deliberate failure to act and his refusal (after many public outcries and calls for action nationally and internationally) to take action against the high incidence of farm murders willfully and with full knowledge and intent participated in the International Criminal Acts of Genocide and Crimes Against Humanity against the Afrikaner Boere, (as identified) and directly and indirectly and publicly incited his followers to commit these same crimes.

That Mister Gugile Ernest Nkwinti with full knowledge and intent and in his capacity as Minister of Rural Development and Land Reform of South Africa deliberately failed to use South African Government security institutions and intentionally failed to allocate funds and other human resources to protect the lives of the Farmers and Boere, according to his constitutional duties as Minister of Rural Development and Land Reform, and that his deliberate failure to take action against the extreme high incidence of murder, torture and rape committed against these Afrikaner Boere civilians was consciously aimed at encouraging farm murders and as part of a government orchestrated low intensity nationwide act of genocide.

That Mister Gugile Ernest Nkwinti with full knowledge and intent and in his capacity as Minister of Rural Development and Land Reform of South Africa threatened the Afrikaner Boere through the national media that their failure to co-operate with his department's land reform objectives and new legislation "to prevent a crisis worse than Zimbabwe". That his threats of nationalization and worse than Zimbabwe actions constitutes Crimes against humanity. That the willful intent of Mister Gugile Ernest Nkwinti is to intimidate the Afrikaner Boer farmers into accepting the ANC Government's new policy of taking unused land from farmers without compensation and in violation of General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources"

That Mister Gugile Ernest Nkwinti conspired with Mister Julius Sello Malema to commit the acts of Genocide and Crimes against Humanity.

That the secondary goal of Mister Gugile Ernest Nkwinti, in his capacity as Minister of Rural Development and Land Reform of the republic of South African through and by omission and his deliberate failure to act, is to nationalize the farm land belonging to private individuals of the Afrikaner Boer nation, through intimidation of these farm owners as individuals by cruel criminal acts of murder, rape and torture and in contravention of General Assembly Resolution 1803 (XVII) of 14 December 1962 of the United Nations.

Universal Declaration of Human Rights (UDHR) violated by Mister Gugile Ernest Nkwinti

The criminal acts as described above constitutes an intentional contravention and violation of the Universal Declaration of Human Rights of 1948 (UDHR) by Mister Gugile Ernest Nkwinti, in his capacity as Secretary-General of the African National Congress and Chairperson of the South African Communist Party and with specific reference to Articles 3,5,7,12,17 and 28 of the UDHR and in violation of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951, violating article 3 a,b,c,d,e: and in contravention of General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources"

12. Alleged Perpetrator: Mister Pali Jobo Lehohla  
Date of Birth: Unknown  
Statistician: Statistics South Africa;  
Responsible for directing SA Census 1996.  
Nationality: South African

I the undersigned complainant hereby accuse Mister Pali Jobo Lehohla of committing crimes within the Jurisdiction of the International Criminal Court and as described by the Rome Statute of the International Court as listed below and which are crimes of great concern to the International Community as a whole and in violation of the Universal Declaration of Human Rights of 1948 (UDHR) and in violation and contravention of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951:

#### Article 7 – Crimes against Humanity

That Mister Pali Jobo Lehohla with full knowledge and intent allowed the resources, assets and human resources of the Department of Statistics of South Africa (known as Statistics South Africa) to be used against the Afrikaner Boere and as described by Crime against Humanity of murder Art 7 (1) a (elements of crime, 1, 2 and 3) and Crimes against humanity of Extermination Art 7 (1) b (elements of crime 1,2,3 & 4) and Crime against Humanity of Torture Art 7 (1) f (Elements of crime 1,2,3,4 and 5) and Art 7(1) (g)-1 Crime against Humanity of Rape (Elements of crime 1,2,3,4 and 5) and Article 7 (1) (g)-6 Crime against humanity of sexual violence (Elements of crime 1, 2 and 3) and Art 7 (1) h Crime against Humanity of Persecution (Elements of crime 1,2,3,4,5 and 6) and Article 7 (1) (k) Crime against humanity of other inhumane acts (Elements of crime 1,2,3,4 and 5 )

That Mister Pali Jobo Lehohla intentionally allowed Genocide and Crimes against Humanity to be committed as unofficial government policy, which has a civilian population as the object of attack in his capacity as Head of Statistics South Africa deliberately failed

to take action against criminals and that Mister Lehohla consciously allowed and aimed with intent to encourage genocidal inhumane attacks against the Afrikaner Boere.

That Mister Pali Jobo Lehohla, in his capacity as Head of Statistics South Africa is well aware of the very high incidence of murder, rape and torture committed against the Afrikaner Boere (highest incidence in the world according to Interpol statistics) and that Mister Pali Jobo Lehohla deliberately and with intent allow the crime of Genocide and Crimes Against Humanity to be committed against the Afrikaner Boere with the intention to further the criminal acts by his failure to intervene and failure to use his powers and constitutional duties as Head of Statistics South Africa to protect these Afrikaner Boere citizens against these heinous crimes.

That Mister Pali Jobo Lehohla by omission, deliberate failure to act and his refusal (after many public outcries and calls for action nationally and internationally) to take action against the high incidence of farm murders willfully and with full knowledge and intent participated in the International Criminal Acts of Genocide and Crimes Against Humanity against the Afrikaner Boere, (as identified) and directly and indirectly and publicly incited his followers to commit these same crimes.

That Mister Pali Jobo Lehohla with full knowledge and intent and in his capacity as Head of Statistics South Africa deliberately failed to use South African Government security institutions and intentionally failed to allocate funds and other human resources to protect the lives of the Farmers and Boere, according to his constitutional duties as Head of Statistics South Africa , and that his deliberate failure to take action against the extreme high incidence of murder, torture and rape committed against these Afrikaner Boere civilians was consciously aimed at encouraging farm murders and as part of a government orchestrated low intensity nationwide act of genocide.

That Mister Pali Jobo Lehohla with full knowledge and intent and in his capacity as Head of Statistics South Africa make available the confidential information obtained from the last census during 2001 regarding the age, gender geographic location and gun ownership to his fellow conspirators listed above and for the purpose of committing murder and crimes against humanity and that his actions constitutes Crimes against humanity. That the willful intent of Mister Pali Jobo Lehohla is to assist the South African government to find the older and more vulnerable farmers to be killed, murdered, tortured and raped by the ANC criminal gangs operating in South Africa.

That Mister Pali Jobo Lehohla conspired with Mister Julius Sello Malema to commit the acts of Genocide and Crimes against Humanity by providing confidential information about Afrikaner Boer farmers to his co-conspirators.



That the secondary goal of, Mister Pali Jobo Lehohla in his capacity as Head of Statistics SA through and by omission and his deliberate failure to act, is to nationalize the farm land belonging to private individuals of the Afrikaner Boer nation, through intimidation of these farm owners as individuals by cruel criminal acts of murder, rape and torture and in contravention of General Assembly Resolution 1803 (XVII) of 14 December 1962 of the United Nations.

Universal Declaration of Human Rights (UDHR) violated by Mister Pali Jobo Lehohla

The criminal acts as described above constitutes an intentional contravention and violation of the Universal Declaration of Human Rights of 1948 (UDHR) by, Mister Pali Jobo Lehohla in his capacity as Secretary-General of the African National Congress and Chairperson of the South African Communist Party and with specific reference to Articles 3,5,7,12,17 and 28 of the UDHR and in violation of The Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951, violating article 3 a,b,c,d,e: and in contravention of General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources"

## **ANNEXURE E**

### **PETITION**<sup>202</sup>

#### **EXTREMELY URGENT PETITION FOR INTERVENTION, PROTECTION, PREVENTION, RECONSTRUCTION and RECONCILIATION.**

- Office of the Special Advisor on the Prevention of Genocide – His Excellency the Assistant Secretary-General, Dr. Francis Deng.
- His Excellency the Secretary-General of the United Nations Dr Ban Ki-Moon.

Urgent Petition for United Nations Security Council Intervention for the Prevention of and Protection against further Genocidal Acts, Crimes Against Humanity and other serious Atrocities allowed to be committed by the ruling ANC Government against the Afrikaner Boer Nation and white minority in a Post Apartheid South Africa.

In the words of Dr Francis Deng:

"This is an impossible mandate that must be made possible. Genocide, nearly always the result of identity-related conflicts, is one of the most heinous of crimes on which humanity must unite to prevent and punish. However, for the same reason, it evokes denial from both the perpetrators and those who would be called upon to intervene to prevent or stop it. This is why our strategy focuses on prevention, by responding to situations before positions harden into denial."

**MR. FRANCIS DENG, UNITED NATIONS SECRETARY GENERAL'S SPECIAL ADVISER ON THE PREVENTION OF GENOCIDE**

#### **Fast Facts:**

- Commercial Farmers in South Africa 1994:  
90 000
- Commercial Farmers in South Africa 2010:  
40 000
- Estimated amount of farm attacks between 1994 and 2010:  
2400 to 3600
- Afrikaner Farmers murdered on small holdings between 1994 and 2010:  
36500

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<sup>202</sup> This is a copy of the petition sent by the Rustenburg farmer to the United Nations. It was copied from <http://www.stopafrikanervolksmoord.co.za/#/vn-petisie/4543354232> and the correctness thereof was verified with the farmer's lawyer, Mr. F. van der Walt in an unstructured interview on 8 December 2010.

- Estimated amount of farm attacks on commercial farms between 1994 and 2010: 17400
- South African Population 1994:
 

Total population	44,0m
Black (76, 4%)	33,6m
White (12, 6%)	5,5m
Coloured (8, 5%)	3,75m
Asian (2, 5%)	1,1m
- South African Population 2009:
 

Total population	49,3m
Black (76, 4%)	39,1m
White (9, 1%)	4,4m
Coloured (9, 0%)	4,4m
Asian (2, 6%)	1,27m
- Farm murder prosecution statistics: 3% successful prosecution rate.
- Afrikaner Diaspora amounting to 1,1million – 2010.
- Another 350 000 Afrikaners estimated to live and work outside South Africa due to Affirmative Action legislation.

#### History and background:

For the 2nd time in the short history of the Afrikaner Boer Nation they have become the victims of Genocide and Crimes against Humanity.

During the 2nd Anglo Boer War Lord Alfred Milner and Lord Herbert Kitchener through and by the implementation of the cowardly genocidal acts of their ‘Scorched Earth Policy’ and the isolation and civilian internment of the Afrikaner Boer woman and children into Concentration Camps, murdered more than 26 000 Afrikaner Boer civilians, mostly children. These innocent woman and children were left to die through the deliberate degradation of poor hygiene and little food as an act of pacification of the extremely brave Afrikaner Boer soldiers and to break their will to fight the British. The cowardly acts of systematic Genocide and Crimes Against Humanity secured the British the victory against the Boer fighters whose love for their woman and children far exceeded their quest for victory over the British.

#### Current situation Analysis:

The 2nd Act of Genocide committed against the Afrikaner Boer nation is by the ruling ANC Government in South Africa. No doubt that the perpetrators of the Crime Against

Humanity of Apartheid, has become the victims of those people whom they oppressed during the years of Apartheid. This petition acknowledges the crime of Apartheid.

This Afrikaner Genocide, now in commission and committed against the Afrikaner Nation is undoubtedly the result of the Apartheid past and the result of the racial and ethnic hatred of Whites by Black South Africans.

My analyses shows the ANC started their highly effective clandestine policy of Genocide and Crimes Against Humanity through the deliberate implementation and very effective utilization of extremely high rates of extreme violent crime against white Afrikaner farmers during 1986 whilst still in exile. Since 1994 when the ANC took power in government this Genocidal attacks were escalated through deliberate state inaction, state neglect and refusal to act against crime. The implementation of draconic gun laws greatly contributed to the rapid increase of extremely violent crimes committed against the Afrikaner Boer Nation. This revolution which is an extension of the ANC armed struggle of the past, with the primary goal and objective to remove the White minority from South Africa is forever increasing in efficacy, now focusing with greater ferocity and cruelty on the target group, the white minority and specifically the Afrikaner Boer population. Increasingly targeted are white men in particular. The Afrikaner Diaspora now amounting to one million people in exile is evidence of how effective this ANC Genocidal criminal war and international crime is fought against the Afrikaner.

The Afrikaner Boer Nation urgently needs timely intervention and with specific reference: At the 2005 World Summit high-level plenary meeting of the 60th session of the General Assembly the decision was made that the responsibility to protect against Genocide and Crimes Against Humanity will be very high on the agenda and it was stated:

“Clear and unambiguous acceptance by all governments of the collective international responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

Willingness to take timely and decisive collective action for this purpose, through the Security Council, when peaceful means prove inadequate and national authorities are manifestly failing to do it.”

The very effective arsenal of Genocidal weapons used by the ANC Government to commit Genocide and Crimes Against Humanity against the Afrikaner Boer and White minority includes:

- Deliberate and regular public incitement by high ranking ANC Government officials through negative public speech and false accusations against white Afrikaner farmers,

- Deliberate state inaction and refusal to implement effective crime fighting policies and to disperse funds and use organs of state to act against the criminal elements;
- Underutilization of the security forces and resources to protect the farmers and to prevent the Farm Murders (as proven by the 2010 Soccer World Cup successes);
- Draconic gun laws making it almost impossible to get a legal gun license;
- Removal of the rural Commando Forces with which the farming community could act against criminal elements;
- Several land reform policies including nationalization, laws and legislation now in the process of being promulgated;
- The illegal threat of the nationalization of farm land referring to the ‘successes’ of Robert Mugabe in Zimbabwe and South African Government Ministers threatening with ‘a situation on white owned South African farms worse of than their counterparts in Zimbabwe’;
- The proposed new Media Tribunal and very strict media laws to be promulgated by the ANC and with which the ruling party intent to control the media in South Africa;
- The very effective utilization of Mkonto We Zizwe veterans now serving in the South African Police Services and taking the fight to the White minority farming community;
- The effective and deliberate disuse of a Police Force not being able to cope with crime and a police force whose members in many cases are not competent or qualified to enforce the law. Two consecutive Police Commissioners now accused of involvement in corruption and crime. The former national Police Commissioner (and former head of Interpol) Jackie Selebi was recently found guilty of corruption and sentenced to 15 years imprisonment. The current serving Police Commissioner Beke Cele, recently accused of involvement in a crooked deal involving R500 million Rand (USD\$ 70 million). In four recent farm attacks four on duty Police men and woman to have been arrested and actively involved in the execution of this lethal farm attacks.
- The implementation and enforcement of the most draconic (affirmative action) Black Economic Empowerment legislation (in violation of the United Nations Human Rights Declaration) which during the last 16 years reduced one million white Afrikaner Boer to the status of beggars and paupers. This Black Economic Empowerment Policy, legislation and Strategy has the primary objective to destroy the economic future and well-being of the White minority at large and to economically empower the Black majority at the expense of the Whites and has become an extremely effective weapon of destruction of a quarter of the Afrikaner population. White children born just before and after 1994 and who was never part of Apartheid are victims of this Affirmative Action Laws and excluded from the job

- market on the basis of their white skins. This Affirmative Action law is in effect a weapon with strategic intent and a Crime Committed Against Humanity;
- Most effectively of all strategies to murder and to destroy the Afrikaner Boer and the white minority is the President of South Africa, Mister Jacob Zuma, allowing his Youth League Leader to call upon his followers for the 'Killing of the Boer and the Farmer', and President Zuma in the process willfully and effectively and with intent propagating and allowing the process of State sanctioned dehumanization of the white minority population and the Afrikaner Boer in particular and in violation of many United Nations Conventions on Human Rights and the Prevention of Genocide. This deliberate Presidential approval and sanctioning of an act of barbaric dehumanization leads to racial polarization, hatred and mass killing by black people of white people. In the execution of these crimes torture and rape of the white minority victims are increasingly used as crimes of revenge resulting in the Afrikaner Boer and the farmers as the primary target group being regarded as less human by the Black majority.

Appeal for urgent International action:

The question I personally ask the International community and world leaders are:

How loud, how clear, how pronounced, how gruesome, how often must the Genocidal calls for the Killing of The Boer and the Afrikaner Farmer be made before the International Community will use their international will and political leadership and responsibility to protect and to prevent and to stop the gruesome and very cruel murders, rape and torture of innocent civilians?

Does the world and international leaders justify the gruesome killings of the Afrikaner Boer as payback for Apartheid atrocities? Why the inaction by world leaders?

Did the International community again failed to remain vigilant to this South African Genocidal situation and process of ethnic cleansing, economic exclusionary ideology and eliminationist extremely high crime rates?

Will the International community choose to respond now that they are officially requested to intervene and will the international community act swiftly to protect the fundamental values of the Afrikaner Boer civilian population or will they allow these civilians to become victims similar to that of past Genocides?

The same political forces and policies which led to the total demise and destruction of Zimbabwe are hard at work in South Africa.

The Jacob Zuma-Malema team, with the support of the South African Communist Party, has the potential to destroy the South African economy and democracy within months if

allowed to implement their autocratic communist socialist strategies without international opposition.

The Zimbabwean recipe for political self-destruction and international condemnation is written on the pillars of the South African Constitutional democracy using the blood of innocent Afrikaner Boer Farmers, willfully and intentionally by the ruling ANC Regime.

Will the International community at large and world leaders allow the creation of a 2nd Zimbabwe through inaction and lack of political will?

During the years of Apartheid, the champions of Human Rights were active worldwide in a concerted effort to overthrow the Apartheid Regime. Now that the Afrikaners are murdered in their thousands these same champions of Human Rights are inactive and silent.

Does the world and international leaders justify the gruesome killings of the Afrikaner Boer as payback for Apartheid atrocities?

Petition:

I refer to the so-called “Right of Humanitarian Intervention of the United Nations”, The UN Responsibility to Protect; The UN Responsibility to React and the UN Responsibility to Rebuild. I furthermore refer to the Mandate of the Office of the Special Advisor on the Prevention of Genocide.

I also refer to the Convention on the Prevention and Punishment of Genocide of 1948, the Rome Statute and the numerous other Conventions and international laws attempting to stop the killing of civilians through Genocidal attacks and Crimes against Humanity.

- I hereby request, (as a matter of the gravest urgency) Dr Francis Deng to use his powers as mandated by the United Nations System, the International Law, International Treaties and Conventions, Human protection declarations and International Humanitarian Law to urgently investigate the never-ending murder, rape, torture, crimes against humanity and dehumanization of the Afrikaner Boer Nation in South Africa.
- I hereby request Dr Francis Deng to raise International awareness amongst world leaders of the critical situation which the Afrikaner Boer Nation is facing and which the International community has chosen to neglect and to deny.
- I hereby request Dr Francis Deng and Mr. Ban Ki-Moon to urgently acknowledge, immediately, in public, the gravity of the killings of the White minority Farmers and the grave criminal situation by and through the study of Interpol statistics which are now indicating that the white Afrikaner Boer farmers are being killed at the highest per capita rate per hundred thousand of the South African population and the highest current murder rate of any group or nation anywhere in the world today.

- I hereby request the UN initiating an urgent process and several actions to assist with the removal of the process of denial by the International community and International leaders, of the mass murder, crimes against humanity and Genocide of the Afrikaner Boer nation and farmers in particular. To also acknowledge the primary ANC objectives with regards to the extremely high crime rates in South Africa and which has become a very effective clandestine tool with which the ANC perpetrators effectively disguise these most serious international crimes of the gravest concern.
- The United Nations to join in an international collaborative effort to study the general high crime rates in South Africa and in particular as a front with which the ANC leadership is disguising their Genocidal intent and Genocidal attacks as the most successful facade ever to be implemented to commit a nationwide Genocide clandestinely.
- I hereby officially request the Secretary-General of the UN, Dr Ban Ki-Moon to bring under the attention of the Security Council, under Article 99 of the UN Charter of the United Nations the grave situation in South Africa and the extremely grave consequences of inaction regarding the murders and killings of the Afrikaner Boer Nation in South Africa.
- I hereby request Dr Ban Ki-Moon under the leadership of Dr Francis Deng to send a study group to South Africa consisting of international experts and to study the grave situation in South Africa and with particular reference to the Genocide, Crimes against Humanity and the facade of high crime rates.
- I hereby request that Dr Ban Ki-Moon will study and confirm Interpol statistics on the extremely high murder rate (highest in the world) amongst the Afrikaner Boer farmers and dually inform the members of the UN Security Council.
- That the Secretary-General inform the UN Security Council that during the period 1994 to 2010 under the leadership and governance of the ANC led South African government it is estimated that between 2400 and 3600 Afrikaner Boer Commercial farmers, their spouses and children were brutally murdered, tortured, raped, killed many in execution style and dehumanized in the execution of the atrocities. That the UN study the statistics of the victims of the murder of white Afrikaner Boer on small holdings in South Africa and to be included, this figure will rise to an estimated 36,500 corpses. (Crime statistics in South Africa are manipulated by the ANC Regime and made difficult to access as it is made available once annually)
- Dr Ban Ki –Moon to inform the UN Security Council and The General Assembly of these civilian Afrikaner Boer victims who were murdered, killed, maimed and tortured in the most gruesome manner the world has ever seen. (and that as a strategy of denial the ANC Government constantly to blame the Afrikaner Boer farmers for the murders committed against them by Black Africans, but without



proof of gross violation of the rights of Black farm workers by the White Afrikaner Farmers).

- That the UN Security Council and General Assembly be informed of the current ANC Regime's hunger for privately owned farm land owned by white Afrikaner Farmers and the ANC Regime's collaborative inter-departmental and governmental strategies to violate the negotiated constitutionally enshrined willing seller, willing buyer solution negotiated by former Presidents Nelson Mandela and FW De Klerk. That this hunger for land to be the primary reason for the murders and that the strategy is aimed at obtaining the farm land without having to pay for it.
- That the UN Security Council and the General Assembly be informed of the ANC Regime's proposed nationalization of farm land and threats made by Minister of Rural Development and Land Reform, Mister Gugile Nkwinti, to white farmers declaring a situation which will be worse than that of Zimbabwe, should they not co-operate with ANC land-reform nationalization policies;
- That the UN Security Council and General Assembly be informed of the imminent threat which nationalization of farm land by the ANC regime in South Africa will have on the food security of 45 million people in South Africa and with particular reference to the disastrous strategies implemented by Robert Mugabe in Zimbabwe and the current grave situation in Zimbabwe;
- That the UN Security Council and General Assembly be informed of and to take serious cognizance of the fact that numerous international institutions and humanitarian organizations, including Genocide Watch on several occasions, during the last few months warned of an imminent and looming threat of mass genocidal killings of the Afrikaner Boer Nation.
- That the UN Security Council and General Assembly be informed that Dr Gregory Stanton President of Genocide Watch very recently warned and indicated that the Genocide warning indicator for the situation in South Africa must be raised to level six (Level 6 = Potential Massacre).
- That the UN Security Council and General Assembly to take serious cognizance of the fact that the most recent calls for the Genocidal mass killings of the Afrikaner Boer, made in public by the ANC Youth League leader, Julius Malema over a period of several months were ignored by the International Community and political leaders' worldwide.
- That the UN Security Council and General Assembly be asked the question why and how is it again possible for history to repeat itself? How the International Community and the UN system allow a prominent ANC political leader in South Africa, to call for the Killing of the Boer and the Farmer utilizing the National and International media to agitate his followers to murder, torture and rape innocent Afrikaner Boer civilians and the world community does not flinch an eyelid and refuse to act?

- That the UN Security Council and General Assembly be informed that it is no coincidence that whilst Julius Malema make public genocidal calls for the Killing of the Boer and the Farmer, the murder, rape and torture of this particular group, The white Afrikaner Boer, which he targets and identified is the highest in the world and six times higher than the highest murder rate in the world, which is that of Colombia.
- That the UN Security Council and General Assembly take serious cognizance of the corruption on national level in the South African Police Services. That they realize and investigate the fact that two consecutive Police Commissioners to be involved in criminal activities.
- That the UN Security Council and General Assembly be informed that “where their (sic) is smoke, their usually is fire” and where their is calls for Genocide a Genocide is usually in Execution. That the highest killing rate of 355 people per hundred thousand people per annum in the world, of this identified group for which the Genocidal calls are made are indicative of Crimes Against Humanity and that the UN be assured a GENOCIDE is in EXECUTION.
- That the UN Security Council, General Assembly, the International community at large, world leaders and the Anti-Genocide Alliance take seriously my warnings of Genocide and to launch an urgent joint investigation into the mass killings of thousands of Afrikaner Boer civilians.
- That the UN Security Council and General Assembly urgently approve an interim UN led civilian investigative task force, under the leadership of DR Francis Deng and to be based in the rural areas amongst farmers in all 9 Provinces of South Africa and this UN task force to monitor and investigate farm murders and farm attacks and to report their findings to the Secretary-General and the UN Security Council and General Assembly.
- That the UN Security Council and General Assembly allow the study of the possibility of the ANC Government using criminal gangs (including foreigners and particularly Zimbabweans and Mozambique citizens) as well as through the clandestine use of the South African National Intelligence Agency (NIA), the utilization of the (MK) Mkonto We Siswe veteran soldiers and the South African Police Services, to execute these farmer murders and attacks.
- That the UN Security Council and General Assembly allow the investigation of the role of Robert Mugabe and the collaboration between Robert Mugabe and Julius Malema in their efforts to grab the farm land of White Farmers in South Africa.
- That the United States of America to be informed of the risk that South Africa will very soon be falling down the same Zimbabwean abyss, should the USA and other world leaders not use their self-appointed role as champion and guardian of Human Rights worldwide.

- That President Barrack Obama be requested to intervene and to assist the ANC Regime in South Africa to protect the rights of the Afrikaner Boer Farmers and that President Obama to have a look over the South African wall of peace which were carefully constructed by the ANC and now blinding the International Community and which is build with the bricks of the Madiba Magic of 1994, the so-called Rainbow Nation, National reconciliation and Ubuntu in South Africa. That President Barrack Obama will clearly see the Auschwitz part of the new South Africa behind the facade of racial peace in and the thousands of raped and tortured corpses of the white minority behind these walls and which are the victims of the new South African autocracy and the mutilated and raped corpses as proof of this ANC atrocity. That President Obama be requested to exercise his USA duties as the champions of Human Rights which the USA so proudly and justifiably exercised through the years through their intervention into man made atrocities and through which they have saved hundreds of thousands of lives.
- The International community to be informed of the grave results of their inaction and the possibility of the creation of a 2nd Zimbabwe and 45 million victims of which 90% will be Black people. The cost to support the 45 million victims with UN Aid will be astronomical. The cost of human suffering will be tantamount to that of the Holocaust.

I therefore also appeal to and beg the United Nations Security Council (pending investigation) to pass a resolution whereby the Security Council would approve the following:

- The urgent deployment of qualified UN and International Investigators under the leadership of Dr Francis Deng in the rural farming areas in every Province of South Africa and for the purpose of monitoring the extremely gruesome and violent and torturous acts of murder committed against these Afrikaner Farmers during the last 16 years and to report the findings and statistics to the Office of the Special Advisor of the Secretary-General on the Prevention of Genocide, The UN General Assembly and the UN Security-Council and the International Community at large.
- A resolution to Protect the White minority against the very effective and nationally implemented government sanctioned clandestine, low intensity criminal acts of Genocide and Crimes Against Humanity committed under a facade of extremely high crime rates;
- A resolution preventing the ANC Regime to nationalize privately owned farm land, privately owned mines and the commercial banks in South Africa.
- A resolution to investigate and test the draconic South African (Affirmative Action) Black Economic Empowerment laws against international law and convention and which enforce quotas on the white minority and excluding white men from the

workforce and this resolution to be tested against the UNHR Declaration and to declare this ANC draconic BEE laws a Crime Against Humanity.

- A resolution providing for emergency funding for rural farmers to upgrade their security and for the hiring of private security firms to protect them against the cruel and deadly farm attacks and as an interim solution.
- A resolution whereby the ANC will reinstate the South African Commando structures which they removed and which was one of major causes of the rapid increase in the farm murders;
- A resolution forcing the ANC government to remove the former Umkonto We Siswe veterans from active service in the South African Police Services.
- A resolution declaring the high killing rate of Afrikaner Boer Farmers as Genocide and a crime Against Humanity.
- Any further resolutions as deemed necessary by the Security Council and the UN and as dictated by their investigation.