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PRESS STATEMENT:

Khulumani Welcomes Judge Scheindlin's April 8, 2009 Decision to Allow the South African Apartheid Litigation to Proceed.

At 13:00 today, April 9, 2009, a press conference will be held in the Boardroom of COSATU at Community House, 41 Salt River Road, Salt River, Cape Town following Judge Scheindlin's landmark decision in the South African Apartheid Litigation, issued late yesterday, April 8, 2009. Khulumani plaintiffs' lawyer Michael Hausfeld of Hausfeld LLP in Washington, D.C., has hailed the decision as "a major advancement in international human rights law", which has opened the way for the South African apartheid litigation to proceed.

The suits, initially filed in November 2002, allege that named multinational corporations, knowingly aided and abetted the apartheid regime in committing gross human rights abuses. Judge Scheindlin found that indeed Daimler Chrysler, Ford, General Motors, IBM, Fujitsu and Rheinmetall have a case to answer for injuries to "legally protected interests" suffered by individual plaintiff victims, representing classes of victims who sustained these injuries.

Very significantly, quoting from the Amicus Curiae brief of the TRC Commissioners, Judge Scheindlin found that contrary to the position of the South African government that these matters should be addressed within South Africa's political and legal processes, there "is absolutely nothing in the TRC process, its goals or the pursuit of the overriding goal of reconciliation, linked with truth, that would be impeded by this litigation. To the contrary, such litigation is entirely consistent with these policies and the findings of the TRC." Judge Scheindlin furthermore asserted that the TRC was explicitly not exclusive. She stated that the defendant corporations have pointed to no other South African forum that has, can or will adjudicate these claims. She has also stated that a reasonable plaintiff may have assumed that the defendants (the charged corporations) would participate in the TRC process. If the defendants had in fact participated in the TRC process, plaintiffs would have had no need to have conducted an independent investigation into their conduct, such as has now come before the court. Judge Scheindlin also denied the motion to dismiss on the basis of the statute of limitations, stating that plaintiffs could not have brought this suit prior to the conclusion of the TRC. She has given plaintiffs in the South African Apartheid Litigation until May 1, 2009 to amend certain aspects of their cases.

The ruling has certainly breathed new life into a class of human-rights litigation seeking to establish that corporations have obligations under international law to not be complicit in human

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rights violations. It sends a signal that “corporations can be held accountable for contributing to human rights abuses around the globe.”

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