

TO: LEGAL RESOURCES CENTRE

Appellants

ATT: Steve Kahanovitz

BY EMAIL: steve@lrc.org.za

TO: THE STATE ATTORNEY, PRETORIA

First and Second Respondents

BY EMAIL: ecapes@justice.gov.za

TO: MINISTER OF POLICE

Second Respondent

BY EMAIL: tuntulwanam@saps.gov.za

TO: NATIONAL PROSECUTING AUTHORITY,

CAPE TOWN

BY EMAIL: cclerk@npa.gov.za

REF: Advocate Tarantaal 9/255/1 – 252/15

20 May 2016

Dear Sirs,

**RE: MHLUNGWANA AND OTHERS // STATE AND OTHERS // CASE NUMBER
A431/15**

1. We act for Maina Kiai, acting in the capacity of United Nations Special Rapporteur on the rights to freedom of assembly and of association. We have become aware of the above matter and are in possession of the notice filed therein in terms of

Rule 16A in the High Court of South Africa, Western Cape Division, Cape Town (“High Court”).


2. The Special Rapporteur has an interest in the above matter and would like to join as *amicus curiae* if his submissions would be of assistance to the Court.
3. As per the mandate, the Special Rapporteur examines, monitors, advises and publicly reports on the freedoms of assembly and association worldwide. He does this by receiving individual complaints, conducting country visits, issuing thematic reports, providing technical assistance to governments, and engaging in public outreach and promotional activities – all with the ultimate goal of promoting and protecting the rights to freedom of peaceful assembly and of association worldwide. It is against this background and within this mandate that the Special Rapporteur seeks to contribute to this case where the right to freedom of peaceful assembly is at stake. His Statement of Identity, providing more details about the position and role of the Special Rapporteur and his tenure of the mandate, is attached hereto and marked “A”.
4. The Special Rapporteur would be able to provide the Court with relevant submissions on international law standards and principles currently in place to protect the right to freedom of peaceful assembly. More specifically, the Special Rapporteur would also be able to provide submissions that would clarify issues of notification and authorisation for assemblies and allowable restrictions under international law, including considerations of criminal sanctions.
5. We note that the 20 day period, afforded to those who seek to be admitted as *amici* in terms of Rule 16A, has elapsed. However, because the parties to the application have not yet filed submissions, we have not been – and still are not – in a position to assess which topic of intervention by the Special Rapporteur’s intervention would be of most assistance to the Court.
6. Therefore, with this letter we wish to inform you about the Special Rapporteur’s intentions. If possible, we kindly request a copy of the record, copies of any other

papers that have been filed in the matter as well as an indication from your end on when submissions will be filed and when the matter is likely to be heard.

7. In addition, we request that you share with us your respective submissions as soon as they become available. Once we have read the parties' submissions, we will be in a position to assess precisely what submissions the Special Rapporteur would seek to make and therefore request the parties' consent for him to be admitted as *amicus curiae* on that basis.

8. We look forward to your response.

Yours faithfully,

A handwritten signature in black ink, consisting of several overlapping loops and a vertical line, positioned above the printed name.

Kemogetswe Thobakgale

Attorney