

**REPUBLIC OF SOUTH AFRICA
WESTERN CAPE HIGH COURT
CAPE TOWN**

CASE NUMBER:

4153 / 12

In the matter between:

JEREMY DAVID ACTON

1st PLAINTIFF

RAS MENELEK BAREND WENTZEL

2nd PLAINTIFF

CARO LEONA HENNEGIN

3rd PLAINTIFF

and

**NATIONAL DIRECTOR
OF PUBLIC PROSECUTIONS**

1st DEFENDANT

**MINISTER OF JUSTICE AND
CONSTITUTIONAL DEVELOPMENT**

2nd DEFENDANT

MINISTER OF HEALTH

3rd DEFENDANT

MINISTER OF SOCIAL DEVELOPMENT

4th DEFENDANT

**MINISTER OF INTERNATIONAL RELATIONS
AND COOPERATION**

5th DEFENDANT

MINISTER OF TRADE AND INDUSTRY

6th DEFENDANT

MINISTER OF POLICE

7th DEFENDANT

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COMBINED SUMMONS

TO THE SHERIFF OR HIS DEPUTY**NOTE: All Defendants to be served notice in Cape Town.**

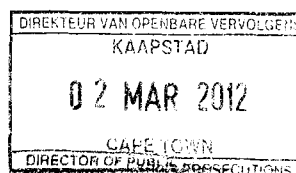
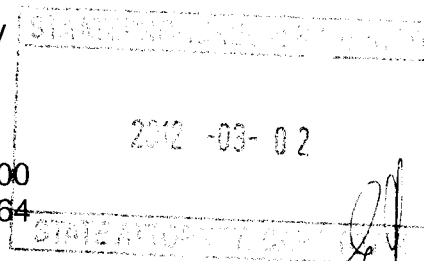
Inform:

The **NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS** at**Cape Town:** 115 Buitengracht Street

Cape Town

Tel (021) 487 9700

Fax (021) 487 7167

**Pretoria:**Victoria and Griffiths Mxenge Building
123 Westlake Avenue
(Cnr Westlake and Hartley)
Weavind Park,
Silverton
Pretoria
0194The **MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT** at**Cape Town:**c/o State Attorney
4 th Floor,
22 Long Street
Cape Town
Tel (021) 441 9200
Fax (021) 421 9364**Pretoria**Momentum Building
329 Prinsloo Street
Cnr Prinsloo and Pretorius Streets
Pretoria

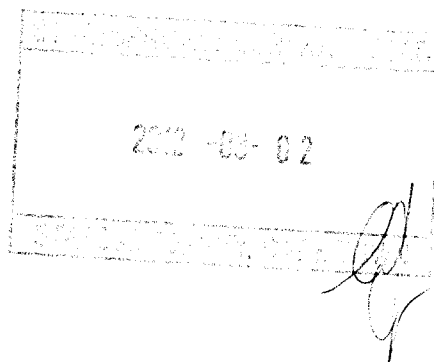
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The **MINISTER OF HEALTH** at:

Cape Town c/o State Attorney
4 th Floor,
22 Long Street
Cape Town
Tel (021) 441 9200
Fax (021) 421 9364

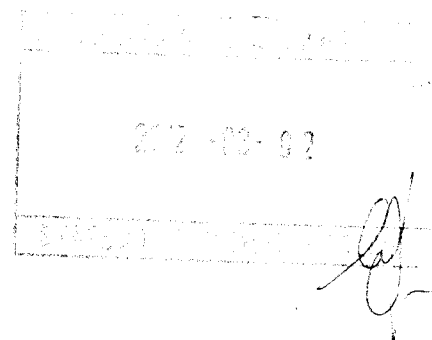
Pretoria Civitas Building
Floor 20
Cnr Struben and Andries Streets
Pretoria



The **MINISTER OF SOCIAL DEVELOPMENT** at:

Cape Town c/o State Attorney
4 th Floor,
22 Long Street
Cape Town
Tel (021) 441 9200
Fax (021) 421 9364

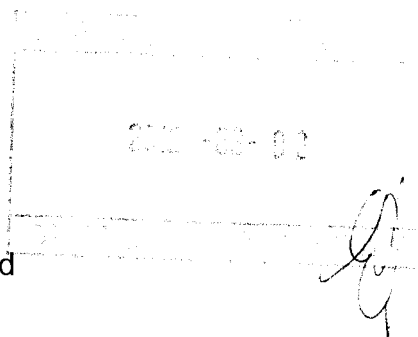
Pretoria HSRC Building
North Wing
134 Pretorius Street
Pretoria



The **MINISTER OF INTERNATIONAL RELATIONS AND COOPERATION** at:

Cape Town c/o State Attorney
4 th Floor,
22 Long Street
Cape Town
Tel (021) 441 9200
Fax (021) 421 9364

Pretoria 460 Soutpansberg Road
Rietondale
Pretoria



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The **MINISTER OF TRADE AND INDUSTRY** at:

Cape Town

c/o State Attorney
4 th Floor,
22 Long Street
Cape Town
Tel (021) 441 9200
Fax (021) 421 9364

Pretoria

77 Meintjies Street
Cnr Meintjies and Esselen Streets
DTI Campus
Block A
3rd Floor
Sunnyside
Pretoria

The **MINISTER OF POLICE** at:

Cape Town

c/o State Attorney
4 th Floor,
22 Long Street
Cape Town
Tel (021) 441 9200
Fax (021) 421 9364

Pretoria

Wachthuis,
7th Floor,
231 Pretorius Street,
PRETORIA.

(hereinafter called the defendants)

That:

JEREMY DAVID ACTON, a major male resident at Kruispad Farm, Ouberg Pass Road, Montagu, 6720 and working as a farmer, writer, artist, Cannabis rights activist and as leader of IQELA LENTSANGO: The Dagga Party of South Africa.

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RAS MENELEK BAREND ABRAHAM WENTZEL, a major male resident at No 40 Kloof Street, Dorpsig, Robertson, Western Cape, 6705, and working as a farmer, musician, general construction laborer and artisan and as Executive Committee member of IQELA LENTSANGO: The Dagga Party of South Africa.

CARO LEONA HENNEGIN, a major female currently resident at Ruiterbos Farm, in the Mossel Bay district and working as a farmer.

(Hereinafter called the plaintiffs)

Institute action against them in which action the plaintiffs claim relief on the grounds set out in the particulars annexed hereto).

Inform the defendants further that if the defendants dispute the claim and wish to defend the action, the defendants shall -

(i) Within 20 days of the service upon the defendants of this summons, file with the registrar of this High Court at CAPE TOWN, and with the plaintiffs, notice of defendant's intention to defend and serve a copy thereof on the plaintiffs, which notice shall be give an address (not being a post office or post restante) referred to in rule 19(3) for the service upon the defendants of all notices and documents in the action. JDA

(ii) Thereafter and within 30 (thirty) days after filing and serving notice of intention to defend as aforesaid, file with the registrar and service upon the plaintiff a plea, exception, notice to strike out, with or without counter claim.

Inform the defendants further that if the defendants fail to file and serve notice as aforesaid, judgment as claimed may be given against the defendants without further notice to the defendants, or if having filed and served such notice, the defendants fail to plead, except, make application to strike out or counterclaim, Judgment may be given against the defendants.

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Immediately thereafter serve the defendants a copy of this summons and return the same to the registrar with whatsoever you have done thereupon.

Dated and signed at _____ on this _____ day of _____ 2012.


REGISTRAR OF THE HIGH COURT

CAPE TOWN.

Jeremy D. Acton

Email: jeremyacton@gmail.com

Kruispad Farm
Ouberg Pass Road
PO Box 404
Montagu
6720

Telephone: 023 614 2745
Cellphone : 084 623 3389

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PARTICULARS OF CLAIM

THE PARTIES:-

The first plaintiff:

- 1.1 is **JEREMY DAVID ACTON;**
- 1.2 Is a major male;
- 1.3 Resides at Kruispad Farm, Ouberg Pass Road, Montagu;
- 1.4 Is a small-scale farmer, artist, writer, cultivator of medicinal and beneficial plants, and a community rights activist.
- 1.5 Is the leader of IQELA LENTSANGO: The Dagga Party of South Africa, which is a registered political party in the Langeberg Municipality in the Western Cape.

2.

The second plaintiff

- 2.1 is **RAS MENELEK BAREND ABRAHAM WENTZEL;**
- 2.2 is a major male;
- 2.3 Resides at No 40 Kloof Street, Dorpsig, Robertson, Western Cape, 6705.
- 2.4 Is a subsistence farmer, musician, and handyman/builder.
- 2.5 Is a member of the House of Zion of the Rastafarian Nyabbinghi Order.
- 2.6 Is a member of the Executive Committee of IQELA LENTSANGO: The Dagga Party of South Africa which is a registered political party in the Langeberg Municipality in the Western Cape.

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The third plaintiff

- 3.1 Is **CARO LEONA HENNEGIN;**
- 3.2 Is a major female;
- 3.3 Resides at Ruiterbos Farm, in the Mossel Bay district.
- 3,4 Is a farmer.

4.

- 4.1 The first defendant is the
NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS.
- 4.2 The first defendant's office in the Western Cape is situated at 115 Buitengracht Street, Cape Town, Cape Town.
- 4.3 The first defendant is represented in Cape Town by the State Attorney, to whom these papers are served, situated at the 4th Floor, 22 Long Street, Cape Town, 8001.
- 4.4 The first defendant's main office is situated at Victoria and Griffiths Mxenge (VGM) Building, 123 Westlake Avenue, Weavind Park, Silverton, Pretoria.
- 4.5 The first defendant is cited herein in his official capacity as head of the National Directorate of Public Prosecutions.
- 4.6 At a national level the first defendant is responsible for the institution and conduct of criminal proceedings on behalf of the State, the carrying out of such criminal proceedings, and the discontinuance of such proceedings.

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5.

5.1 The second defendant is the

MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT.

5.2 The second defendant's Ministry and Office is situated in the Western Cape at 120 Plein Street, Cape Town.

5.3 The second defendant is represented in Cape Town by the State Attorney, to whom these papers are served, situated at 4th Floor, 22 Long Street, Cape Town, 8001.

5.4 The second defendant's main office is situated at Momentum Building, 329 Prinsloo Street (corner of Prinsloo and Pretorius Streets, Pretoria.

5.5 The second defendant is cited herein in his official capacity as head of the Department of Justice and Constitutional Development.

5.6 At a national level the second defendant is responsible for executive functions of justice and constitutional development.

6.

6.1 The third defendant is the **MINISTER OF HEALTH.**

6.2 The third defendant's ministry and office in the Western Cape is situated at 120 Plein Street, Cape Town.

6.3 The third defendant is represented in Cape Town by the State Attorney, to whom these papers are served, situated at 4th Floor, 22 Long Street, Cape Town, 8001.

6.4 The third defendant's ministry and main office is situated at Civitas Building, Floor 20, cnr Struben and Andries Streets, PRETORIA.

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- 6.5 The third defendant is cited herein in his official capacity as Head of the Department of Health.
- 6.5 At a national level the third defendant is responsible for matters relating to health, more specifically the legislation relevant in this matter.

7.

- 7.1 The fourth defendant is the **MINISTER OF SOCIAL DEVELOPMENT**.
- 7.2 The fourth defendant's Ministry and office in the Western Cape is situated at 120 Plein Street, Cape Town.
- 7.3 The fourth defendant is represented in Cape Town by the State Attorney, to whom these papers are served, situated at 4th Floor, 22 Long Street, Cape Town, 8001.
- 7.4 The fourth defendant's main office is situated at HSRC Building, North Wing, 134 Pretorius Street, PRETORIA.
- 7.5 The fourth defendant is cited herein in his / her official capacity as executive head of Social Development.
- 7.6 At a national level the fourth defendant is responsible for the promotion of a caring and integrated system of social development services that facilitates human development and improves the quality of life in matters relating to social development.
As such he/ she has an interest in the administration of laws which deal with prohibited drugs and the treatment of addicted persons.

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8.1 The fifth defendant is the

MINISTER OF INTERNATIONAL RELATIONS AND COOPERATION.

8.2 The fifth defendant's Ministry and office in the Western Cape is situated at 120 Plein Street, CAPE TOWN.

8.3 The fifth defendant is represented in Cape Town by the State Attorney, to whom these papers are served, situated at 4th Floor, 22 Long Street, Cape Town, 8001.

8.4 The fifth defendant's main office is situated at 460 Soutpansberg Road, Rietondale, PRETORIA.

8.5 The fifth defendant is cited herein in her official capacity as head of the Department of International Relations and Cooperation.

8.6 At a national level the fifth defendant is responsible for bilateral and multilateral interactions to protect and promote South African National interests, and values; conducts and co-ordinates South Africa's international relations and promotes its foreign policy objectives, monitors international developments and advises government on foreign policy and related domestic matters; contributes to the formulation of international law and enhances respect for the provisions thereof, and promotes multi-lateralism to secure a rules based international system. As such, she has an interest in any matter that may have an effect on South Africa's compliance with international agreements in the area of crime prevention and law enforcement

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9.

- 9.1 The sixth defendant is the **MINISTER OF TRADE AND INDUSTRY**.
- 9.2 The sixth defendant's ministry and offices in the Western Cape are situated at 120 Plein Street, CAPE TOWN.
- 9.3 The sixth defendant is represented in Cape Town by the State Attorney, to whom these papers are served, situated at 4th Floor, 22 Long Street, Cape Town, 8001.
- 9.4 The sixth defendant's main legal and secretarial services office is situated at 77 Meintjies Street, (cnr Meintjies and Esselen Streets), DTI Campus, Block A, 3rd Floor, Sunnyside, PRETORIA.
- 9.5 The sixth defendant is cited herein in his official capacity as executive head of the Department of Trade and Industry.
- 9.6 At a national level the sixth defendant is responsible to promote structural transformation, towards a dynamic industrial and globally competitive economy, provide a predictable, competitive, equitable and socially responsible environment, conducive to investment, trade and enterprise development and to broaden participation in the economy to strengthen economic development. The sixth defendant is cited herein by virtue of the fact that trade in products such as alcohol had traditionally been assigned to this ministry.

10.

- 10.1 The seventh defendant is the **MINISTER OF POLICE**.
- 10.2 The seventh defendant's Ministry and office in the Western Cape is situated at 120 Plein Street, CAPE TOWN.

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- 10.3 The seventh defendant is represented in Cape Town by the State Attorney, to whom these papers are served, situated at 4th Floor, 22 Long Street, Cape Town, 8001.
- 10.4 The seventh defendant's main office is situated at Wachthuis, 7th Floor, 231 Pretorius Street, PRETORIA.
- 10.5 The seventh defendant is cited herein in his official capacity as head of the South African Police Services.
- 10.6 At a national level the ~~first~~ ^{SEVENTH} defendant is responsible to prevent, combat and investigate crime, maintain public order, protect and secure the inhabitants of the Republic and their property, uphold and enforce the law, create a safe and secure environment for all people in South Africa, prevent anything that may threaten the safety and security of any community, investigate any crimes that threaten the safety or security of any community, ensure criminals are brought to Justice, and to participation in efforts to address the causes of crime.

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- 11.1 For the past 10 -30 years the plaintiffs have variously and freely been using Cannabis (dagga) for their own personal, private, recreational, medicinal, spiritual, therapeutic, creative and religious purposes.
- 11.2 All plaintiffs have been charged with possession of Dagga and bring this action in claim of their own rights to use Dagga, in dispute of the constitutionality of all laws prohibiting Dagga, and in defense of the charges against them.
- 11.3 The first plaintiff is a 47 year old citizen of South Africa and a small-scale farmer, artist, writer and community rights activist. He is landless and presently an unsalaried citizen.

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- 11.4 The first plaintiff has an extensive knowledge of medicinal plants and different healing practices used by various cultures, and of the medical uses of Dagga in folk medicine and modern medical research.
- 11.5 The first plaintiff has an extensive knowledge of human religions, spiritual beliefs and practices, and of the role of Dagga in human spirituality through history.
- 11.6 The first plaintiff has an extensive knowledge of the history of Dagga prohibition, and its motivations, in the contexts of South African history, American history, and the present global ban of the Dagga plant (*Cannabis sp.*) by States.
- 11.7 The first plaintiff has been smoking pure Dagga heavily for 20 years without harm. He smokes it and sometimes eats it for its known medical benefits and as a part of his own personal spiritual beliefs and practices. He regularly consumes dagga seeds as part of his diet and as a health supplement.
- 11.8 The first plaintiff has observed the effects of Dagga and the prohibition thereof on his own life and on the lives of other citizens from all cultural groups in South Africa.
- 11.9 The first plaintiff's extensive research into the medical benefits and economic potential of Cannabis, and into the history of its prohibition, has required him to act upon his conscience to help the people of the Dagga Culture in South Africa, who value and use the Dagga tree, and with whom he identifies, to gain their rights to respect and their freedom to use the Dagga plant for their own benefit.
- 11.10 The first plaintiff is dedicated to building a culture and spirituality that is centered upon the Dagga tree as the Tree of Life which provides a direct personal access to communion with the Creator without the need for membership of formal religious structures and their prescriptions.
- 11.11 In 2009 the first plaintiff founded and registered IQELA LENTSANGO: The Dagga Party of South Africa and, with the help of good friends in the Dagga Culture, has been trying to work for the legalization of dagga for the public benefit.

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- 11.12 The first plaintiff is the Leader of IQELA LENTSANGO: The Dagga Party of South Africa, which is a registered political party in the Langeberg Municipality of the Western Cape.
- 11.13 Through the establishment of the Dagga Party platform, the first plaintiff and other citizens began to distribute information to the public and the South African Police about the potential benefits of the Plant and about its scientifically unjustified prohibition. Many citizens do not actually know about the medical effects of dagga or its potential as a valuable economic resource that would enable all citizens to participate in a sustainable carbon-neutral economy.
- 11.14 Just before the Dagga Party was officially registered in the Langeberg Municipality, Western Cape, the political activities of the first plaintiff became noticed and he was arrested for the first time ever for the possession of 6 grams of dagga seeds (including the mass of the envelope) on 3 January 2011.
- 11.15 The first applicant regularly eats Dagga seeds as a health supplement because they are the most healthy and nutritious seed on Earth for human and animal consumption. Dagga seeds are not narcotic and contain up to 24% protein with all the amino acids necessary for human nutrition, and they contain omega 3, 6 and 9 fatty acids in a perfect balance for human cardiac and mental health and functioning
- 11.16 Although the first applicant was charged with possession of an 'illegal substance' in the form of Dagga seeds, he with justification believes that the South African Police stole his food, and had arrested him and charged him in violation of his basic human rights.
- 11.17 The first plaintiff refused to pay the R50 admission of guilt fine and in his plea statement on 17 March 2011, he claimed that the law against Dagga and the persecution of members of the Dagga Culture of South Africa violated rights in the Bill of Rights, and was therefore unconstitutional. For the first plaintiff's original **Plea Statement**, refer to **Lever Arch File Dagga 1, Submission 1**, submitted herewith, and which is here also included as an appendix "**JDA 3**" in this action.

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- 11.18 The first plaintiff was given permission by the magistrate to submit documentation in substantiation of his claims.
- 11.19 During the May 2011 local elections campaign for the Dagga Party, the first plaintiff's house was raided again on 30 April 2011, while he was away from home and a warrant was issued for his arrest for the Dagga seeds allegedly found in his house.
- 11.20 The first plaintiff was arrested in Montagu on 3 May 2011 and later charged a second time that day after another visit to his home, where, to stop the wasting of the valuable time of the police, he gave the SAP 15 grams of ultra-low-quality cannabis leaf, which he had no intention of consuming. The first plaintiff was thus issued two summonses on SAP 496 forms that day to appear in court on Tuesday 10 May.
- 11.21 After the local elections on 18 May the first plaintiff was again arrested at his home on 25 May 2011 for possession of cannabis seed and spent 24 hours in the Montagu Police Station holding cells before appearing in court.
- 11.22 The additional cases were all combined with the first.
- 11.23 On 14 July 2011, the first plaintiff submitted his final documents in support of his claim of right to have his case heard in the Constitutional Court, and also a copy of the application of **Stobbs and Clarke in the North Gauteng High Court in Pretoria, Case 27601/11**, their application being for postponement of their prosecution in the Krugersdorp Magistrate's Court and for the opportunity to petition the High Court for referral to the Constitutional Court regarding similar charges of possession of Dagga.
- 11.24 On 21 July 2011 the first applicant also submitted to the magistrate of the Montagu Court a Pretoria News report that the Stobbs and Clarke High Court application was granted, and he claimed this successful application by Stobbs and Clarke as a precedent for his own cases to be referred by the Magistrate's Court to a Higher Court.
- 11.25 The case was postponed till 19 August 2011 for the magistrate and the prosecutor to peruse the submissions of the First Applicant in support of his request for a Constitutional Court hearing regarding the constitutionality of the criminal prohibition of Dagga.

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- 11.26 On 19 August 2011, after reading and considering the documentation submitted by the First Applicant, the magistrate granted the first plaintiff a 6 month postponement to submit an application to the Western Cape High Court for a similar judgment granting access to the Constitutional Court as the Stobbs and Clarke application in the North Gauteng High Court.
- 11.27 In the light of the precedent established by Stobbs and Clarke, and in claim of their own rights to a fair hearing in the Constitutional Court in defense of the charges against them, and for the rights of all citizens of the Dagga Culture, and the right of all other citizens of South Africa to possess, cultivate, trade and use Dagga in the interests of the greater public benefit, this matter is here brought as an action before the honorable High Court of the Western Cape by the plaintiffs in order to be referred by the Honorable High Court to the Constitutional Court.
- 11.28 In further motivation for the granting by the Honorable High Court the remedies sought by the plaintiffs, the first plaintiff submits herewith to the Court, in **Lever Arch files Dagga 1- 4**, the documentation previously provided to the Magistrate's Court.
- 11.29 These files here submitted are intended by the first applicant to ultimately be lodged at the Constitutional Court as reasonable and rational motivation for the remedies sought by the plaintiffs in this application.
- 11.30 In presenting this case the first plaintiff, author and collator of the written submissions, has divided up his argument into a number of article submissions which focus on various aspects around the issue with which he is charged, namely the possession of Cannabis (Dagga). Each article is written as an independent article on a specific issue, with the intention that, if read together, the necessary points are made that the illegality of Cannabis is unconstitutional and invalid, and that, in the interest of human rights and Justice, there is good reason for the Constitutional Court to find that the prohibition of Cannabis must come to an end.

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- 11.31 List of Written Submissions submitted to the Montagu Magistrate's Court and to this Honorable High Court of the Western Cape in Lever Arch file Dagga1, on Compact disc, and attached as Appendices to this :

Submissions

1. Plea Statement

By Jeremy Acton

First read at Montagu Magistrate's Court on 17 March 2011.

Appendix 3 to this application

2. Cannabis Rights in relation to the Bill of Rights of the Constitution of South Africa"

By Jeremy Acton. July 2011

Appendix 4 to this application

3. Comments on the Single Convention on Narcotics in relation to the Scheduling and Prohibition of Cannabis.

By Jeremy Acton, 1 April 2011

Appendix 5 to this application

4. Propaganda, Perjury and Prejudice in the Constitutional Court: A Citizen's Evaluation of the Judgments given in *Prince vs. The Minister of Justice. Case CCT 36/00*

By Jeremy Acton

Appendix 6 to this application

5. Findings by Cannabis Commissions

By Jeremy Acton, April 2011

Appendix 7 to this application

6. Cannabis Legalization vs. Vested Interests

By Jeremy Acton, June 2011

Appendix 8 to this application

7. A Claim of Right

by Jeremy Acton, June 2011

Appendix 9 to this application

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- 11.32 All of these written Submissions are required reading in the evaluation of the merits of this action. These written submissions are supplemented by **Annexures in Lever Arch Files Dagga 1 - 4** which provide substantiation of the facts and claims made in these written submissions.
- 11.33 The Annexures that are shaded in grey in the List of Annexures below must also be read through in full to gain a fuller understanding of the Cannabis issue itself, and/ or the historical and economic motivations behind its prohibition.
- 11.34 Due to the bulkiness of the files containing the First Applicant's written submissions and the substantiating Annexures, all documentation submitted as hard copy in the serving of notice to the various Respondents and to the Honorable High Court is also provided in digital form on a Compact Disc with the above files.
- 11.35 A full list of the Substantiating Annexures to the first plaintiff's written submissions is provided overleaf:

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11.36 List of Annexures in substantiation of Written Submissions:

A. Background Information1. **Wikipedia on Cannabis**

- Cannabis (Botanical Information).
- Hemp (Industrial uses of Cannabis)
- Cannabis, drug.
- Religious and Spiritual Use of Cannabis
- Legality of Cannabis

Accessed June 2011

B. History of Cannabis Use and Prohibition2. **"Marijuana: The First 12 000 Years"**

By Earnest L. Abel, 1980

3. **The Emperor Wears No Clothes**

By Jack Herer

4. **The History of the Non-Medical Use of Drugs in the United States.**

by Charles Whitebread, Professor of Law, USC Law School

5. **Unraveling An American Dilemma: The Demonization Of Marihuana**

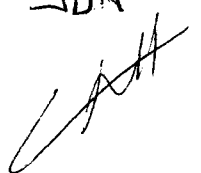
By John Craig Lupien, April, 1995.

6. **The Forbidden Fruit And The Tree Of Knowledge: An Inquiry Into The Legal History Of American Marijuana Prohibition**

By Richard J. Bonnie & Charles H. Whitebread II

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List of Annexures cont'd

C. Cannabis and the Law

7. **THE REPORT. Cannabis: *The Facts, Human Rights and the Law***
by D'Oudney, K. and D'Oudney, J.
8. **Prince vs. The Minister of Justice, Constitutional Court**
Case CCT 36/00

D. Cannabis and the Environment

9. **COMMENTARY AND FEEDBACK ON THE CLIMATE CHANGE GREEN PAPER for IQELA LENTSANGO: The Dagga Party of South Africa**
By Jeremy Acton
10. **The Cannabis Biomass Energy Equation**
Part Two of THE REPORT. Cannabis: *The Facts, Human Rights and the Law*
by D'Oudney, K. and D'Oudney, J.
11. **"Cannabis Cures Climate Change."
IQELA LENTSANGO: The Dagga Party of South Africa**
Presentation to the Parliamentary Committee for the Green Paper on Climate Change.
By Jeremy Acton.

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List of Annexures con'td

E. Commissions of Inquiry into Cannabis

12. **The Report of the Canadian Government Commission of Inquiry into the Non-Medical Use of Drugs(Le Dain Commission) 1972**
13. **Marihuana: A Signal of Misunderstanding
National Commission on Marihuana and Drug Abuse (Shafer Commission, USA) 1972**
14. **A REPORT OF THE NATIONAL COMMISSION ON GANJA TO
THE PRIME MINISTER OF JAMAICA, 2000.**
15. **Conclusions and Recommendations of the Beckley
Foundation Global Cannabis Commission 2009**

F. Medical Cannabis Research

16. **"An Introduction to the Medical Benefits of Cannabis"**
Collated by Jeremy Acton, April 2011

Submitted 14 July 2011

17. **Further Information on the Medical Benefits of Cannabis**
By Jeremy Acton, July 2011.
18. **A Substantive Due Process Challenge to the War on Drugs**
By Warren Redlich
19. **War on Drugs
Report Of The Global Commission On Drug Policy**
June 2011

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List of Annexures cont'd

20. **Prohibition & Resistance: A Socio-Political Exploration of the Changing Dynamics of the Southern African Cannabis Trade, c. 1850 – the present.**
A thesis in fulfillment of the requirements for the degree of Master of Arts in History at Rhodes University
By Craig Paterson, December 2009
21. **A Critical Analysis of Prince and an Objective Justification for the Decriminalisation of Marijuana in South Africa**
By Paul-Michael Keichel
22. **Local Election Posters, Langeberg Municipality, May 2011**
IQELA LENTSANGO: The Dagga Party of South Africa
23. **The Politics of Hemp and Dagga in South Africa**
By Jeremy Acton February 2009
24. **'Die Daggablad' Pamphlets in Afrikaans and English**
Issued by the Dagga Party of South Africa
25. **Application by Stobbs and Clarke in the North Gauteng High Court for referral to the Constitutional Court, Case 27601/11.**
26. **Notice of Withdrawal by State Attorney for Respondents to Stobbs and Clarke application.**
27. **Copy of Judgement by Justice Bertelsman in the North Gauteng High Court, Case 27601/11**
28. **Application by Acton, Wentzel and Hennegin in the Western Cape High Court for access to High Court, Case 25431/11.**
29. **Notices of Withdrawal by State Attorney for Respondents in the Western Cape High Court, Case 25431/11**
30. **Transcript of Hearing and Judgment by Justice Weinkove in the Western Cape High Court, Case 25431/11**

11.37 The plaintiffs claim the precedent set and all equal rights resulting from the granting of the order by Judge Bertelsman to **Stobbs and Clarke, Case 27601/2011**, namely the right to evaluate and call into question the Constitutionality of the laws prohibiting human access to Dagga in a High Court.

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- 11.38 The plaintiffs present here this action in solidarity with the similar action by **Stobbs and Clarke, Case Number 58668/2011**, which is pending in the North Gauteng High Court, Pretoria.
- 11.39 On the strength of the precedent of the order granted to Stobbs and Clarke by the honorable Mr. Justice Bertelsman on 19 July 2011 in the North Gauteng High Court in Pretoria (Case Number 27601/2011); and despite the refusal on 8 February 2012 by Mr. Acting Justice L. Weinkove in the Western Cape High Court, Cape Town, to grant the plaintiffs a similar order and equal rights to Stobbs and Clarke (Case 21354.11Acton, Wentzel and Hennegin vs Minister of Justice, The Director of Public Prosecutions and the Magistrates of Montagu, Robertson and Mossel Bay, Court A,), for which leave to appeal against the judgment by Justice L. Weinkove has been made..... ;
- 11.40the plaintiffs, in full knowledge of their rights and duties as citizens in a Constitutional democracy, hereby challenge and bring into question the Constitutionality of the criminal prohibition of Dagga as provided for in Sections 4(b), 5(b) read with Part III of Schedule 2 of the Drugs and Drug Trafficking Act, 1992 (Act No. 140 Of 1992) on the basis that:
- 11.40.1 It is irrational and unjustified and unjust, and therefore inconsistent with the fundamental principles of justice and the rules of law and with legality;
 - 11.40.2 It violates a number of the plaintiffs' Constitutional rights under Chapter 2, the Bill of Rights, of the Constitution of South Africa;
 - 11.40.3 The prohibition owes its existence to outdated and unfounded and false convictions on the harmfulness and dependence-producing effects of Cannabis, motivated in part by a now defunct racist political agenda,
 - 11.40.4 The prohibition is also motivated by false and unscientific propaganda in support of a global corporate and State anti-competitive conspiracy for profit-motivated control of resource markets, which is intended to deny citizens access to a natural resource, the plant, ***Cannabis sp***, known in South Africa as "Dagga."

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11.40.5 The prohibition cannot be reasonably justified as a necessary limitation of rights in terms of Section 36 of the Constitution.]

11.41 The plaintiffs also approach the court in terms of section 38 of the Constitution of the Republic of South Africa, 1996 (No 108 of 1996):

11.41.1 On behalf of persons who cannot act in their own name;
And

11.41.2 In protecting the interests of a group of which they are members, or a group or class of persons, especially those afflicted by the criminal prohibition of the possession and use of Cannabis; and

11.41.3 Are acting in the public interest, including for the rights of future generations.

11.42 The plaintiffs bring this action to protect their own interests and rights, and the interests and rights of all those members of the public that use or wish to use Cannabis, and also to protect the interests and rights of all other members of the public who do not use Cannabis.

JURISDICTION

12.

12.1 In terms of Section 167 read with Section 169 of the Constitution of South Africa, the High Court has jurisdiction to rule on the constitutionality of legislation of parliament.

12.2 The defendants all have ministries and offices and legal representation in Cape Town in the Western Cape.

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- 12.3 The plaintiffs were all arrested, charged and prosecuted within the area of jurisdiction of this Court, namely the Western Cape.

BACKGROUND

13.

- 13.1 For the past 20 -30 years the plaintiffs have variously been using Cannabis for recreational, medicinal, spiritual, therapeutic, divinatory, and creative purposes, with respect for the rights of others, according to their own individual freedom, their knowledge of ~~the~~ human rights, and their knowledge of the plant, Cannabis.
~~THEIR~~ *is this.*
- 13.2 It is well known that many otherwise law abiding members of South African society use Cannabis on a regular basis without harming others for a range of reasons relating to health, culture, religion and merely as a relaxant.
- 13.3 Sections 4(a) and (b), 5 (a) and (b) read with Schedule 2 of the Drugs and Drug Trafficking Act, 1992 (Act 140 of 1992) prohibits the use possession, dealing in and cultivation of any "dangerous dependence-producing substance" or any "undesirable dependence-producing substance".
- 13.4 Cannabis (Dagga), the whole plant or any portion or product thereof, is listed in Schedule 2 of the Act (Act 140 of 1992) as an "undesirable dependence-producing drug."
- 13.5 Section 21 of the Drug and Drug Trafficking Act, 1992 (Act No 140 of 1992) creates various presumptions relevant to inter alia the prosecution of offences relating to Cannabis (Dagga).
- 13.6 Section 22A(10) of the Medicines and Related substances Act 1965 (Act No. 101 of 1965), read with Schedule 8 of that Act, and Sections 4(a) and (b) read with Schedule 2 of the Drugs and Drug Trafficking Act , 1992 (Act 140 of 1992) (hereinafter collectively

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referred to as "the prohibition"), therefore prohibits and criminalizes the plaintiffs' conduct and exposes them to arrest, criminal prosecution and possible detention.

13.7 As stated, the plaintiffs challenge the constitutional validity of the prohibition (in so far as it applies to the possession and use of Cannabis (Dagga) by adults, or minors under the direct supervision of their adult parents, on the basis that:

13.7.1 The prohibition is irrational and malicious and inconsistent with the fundamental principles of law and legality;

13.7.2 The prohibition violates of the plaintiffs' constitutional rights under Chapter 2 of the Constitution (the Bill of Rights);

13.7.3 The prohibition of Cannabis owes its existence to outdated and unfounded convictions on the harmfulness and dependence-producing effects of Cannabis, motivated in part by a now defunct racist political agenda

13.7.4 The prohibition of Cannabis is also maintained by the governments of nations, including South Africa, as an anti-competitive and criminal protection of the interests of various controlling global corporations and industries who presently profit from the prohibition of Cannabis, these industries being the pharmaceutical, biotech, soya, fossil fuel (coal, oil, shale-gas etc), logging, synthetic fiber, cotton, tobacco and alcohol industries, and others, to the great detriment of the rights and well-being of individual citizens and the environment. (Refer to Written Submission 6 "**Cannabis Legalization vs. Vested Interests**" by Jeremy Acton, June 2011, attached hereto as Appendix 8, and Annexure3 "**The Emperor Wears no Clothes**" by Jack Herer, in this regard.)

13.7.5 The prohibition of Cannabis does not prevent harms that are claimed to arise from the use of Cannabis but instead the prohibition inflicts unnecessary harms upon society through the criminal prosecution of the personal use of the harmless and medically beneficial herbal substance which is Cannabis.

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- 13.7.6 The prohibition of Cannabis cannot be scientifically or morally or rationally justified as a legitimate and necessary limitation of rights in terms of Section 36 of the Constitution 'Limitation of Rights'.

THE PROHIBITION IS IRRATIONAL:-

14.

- 14.1 The legislative prohibition of the use and possession of Cannabis is irrational insofar as it prohibits the use and possession thereof by adults.
- 14.2 The prohibition is therefore inconsistent with the basic requirements of the South African Constitution that requires all exercise of public power to adhere to the principles of legality and rationality.
- 14.3 It is irrational for the following reasons:
- 14.3.1 The legislative history of the prohibition of Cannabis shows that it has at all times been motivated by reasoning that:
- 14.3.1.1 Denied the mores of indigenous African societies;
- 14.3.1.2 Relied on racist and imperialist notions of what medicinal and recreational substance use is acceptable;
- 14.3.1.3 Relied on quasi-scientific evidence and false propaganda for assumptions of harmfulness and addictiveness that has never been widely accepted in the scientific world and which is no longer regarded as good science, and which have been clearly shown by research to be false and malicious;

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- 14.3.1.4 Sought to destroy aspects of indigenous African societies' uses of Cannabis which were essential to their culture and economies.
- 14.3.1.5 Sought to introduce notions of the superiority of European customs and culture into the local legislative framework
- 14.3.15 Presently enforces the anti-competitive behavior of global corporations who seek to maintain their present market share for products which would easily be replaced by citizens' access to the Cannabis resource and Cannabis-based products.

14.3.2 And which legislation:

- 14.3.2.1 Had the effect of criminalizing behavior that was perfectly acceptable in many indigenous African societies;
- 14.3.2.2 Had the effect of criminalizing many persons who were otherwise law abiding and well functioning members of society;
- 14.3.2.3 Served no legitimate purpose, but in fact served, and still serves, many illegitimate purposes;
- 14.3.2.4 Continues to cause the arrest and incarceration of tens of thousands of persons every year, which persons are mostly black and poor, and as a result the prohibition wastes criminal law and penal resources while it neither serves nor achieves any legitimate purpose or goal of the criminal law system.
- 14.3.2.5 Denies the rights of citizens with certain illnesses to have access to the well-researched and documented medical benefits of Cannabis and medications containing Cannabis extracts.

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- 14.3.2.6 maliciously violates the rights of and inflicts substantial harms on individual citizens and on society as a whole, these harms not being rationally and scientifically evaluated, or even acknowledged, by the State.

14.3.3 The content of the legislation prohibiting the use of Cannabis:

- 14.3.3.1 Has no rational basis for the classification of Cannabis as a dangerous, harmful, or 'undesirable' substance for all persons, or even a majority of persons, or in fact any person, including minors.
- 14.3.3.3.2 Has no rational basis for regarding Cannabis as a dependence-producing substance in any way comparable with truly dependence-producing substances such as nicotine, alcohol, opiates and other substances.

THE LEGISLATIVE PROHIBITION OF CANNABIS UNJUSTIFIABLY INFRINGES ON FUNDAMENTAL RIGHTS:-

15.

The plaintiffs also allege that the prohibition is an unjustifiable infringement of the following fundamental rights under Chapter 2 of the Constitution (the Bill of Rights), namely:

- 15.1 The (Section 9) right to equality; and
- 15.2 The (Section 10) right to inherent dignity and the right to have dignity respected and protected; and
- 15.3 The (Section 12) right to freedom and security of the person; and

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- 15.4 The (Section 12(1) (e)) right to not be treated or punished in a cruel, inhuman or degrading way; and
- 15.5 The (Section 14) right to privacy; and
- 15.5 The (Section 15 (1)) right of freedom of thought, belief, opinion, conscience and religion in relation to the use, possession and cultivation of Cannabis for all these purposes by adults; and
- 15.6 The (Section 16 (d)) right to academic freedom and freedom of scientific research by citizens in relation to Cannabis
- 15.7 The (Section 18) right to freedom of association; and
- 15.8 The (Section 24 (a)) right to an environment that is not harmful to their health or well-being; and
- 15.9 The (Section 24 (b) (iii)) right to ecologically sustainable development and use of natural resources; and
- 15.10 The (Section 27(1) (a)) right of access to health care services; and
- 15.11 The (Section 27(1) (b)) right of access to sufficient food and water; and
- 15.12 The (Section 30) right of citizens to participate in the cultural life of their choice; and
- 15.13 The (Section 31 (a)) right of citizens to not be denied the right to freely to form, join and maintain cultural associations with other members of the Dagga Culture or any other secular, cultural or religious grouping that uses Cannabis; and
- 15.14 The (Section 31 (b)) right of citizens to not be denied the right, with other members of their chosen community, to enjoy their culture and/or practice their religion;

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16.

- 16.1 The prohibition infringes the plaintiffs' Section 9 right to Equality.
- 16.2 The prohibition infringes the right of the plaintiffs and other Cannabis users to equality in that it discriminates unfairly against users of Cannabis while society and legislation condones and profits from the manufacture and distribution of much more harmful and dependence-producing substances such as alcohol and tobacco, and over-the-counter prescription drugs.
- 16.2 Section 9 (2) states that "Equality includes the full and equal enjoyment of all rights and freedoms." This statement does not specifically exclude the right to use Cannabis, and therefore includes and equates the right of Cannabis users to use Cannabis on an equal basis with those who might choose to use alcohol or tobacco.
- 16.3 Legislation permits the use of alcohol and tobacco by citizens subject to certain regulations intended to minimize harms to society yet the use of Cannabis is entirely prohibited and is subject to vehement criminal prosecution. This constitutes a violation of the Section 9(2) rights of Cannabis users in that Cannabis users are treated differently in law from users of alcohol and nicotine.
- 16.4 When the scientifically established physical harms to individuals which result from the use of alcohol and tobacco, and the numbers of fatalities in the population (thousands of deaths annually) arising from such use are compared with the scientifically established harms that arise from the use of Cannabis, (zero fatalities in the history of humankind) then the present prohibition of Cannabis cannot be rationally defended, and the laws in relation to alcohol and tobacco versus the prohibition of Cannabis violate the Section 9 (1) rights of Cannabis users to Equality and to equal protection and benefit before the law.
- 16.5 When the relative harms to society as a whole which result directly (e.g. alcoholism, cancers, costs of treatments etc) and indirectly (e.g. alcohol-induced road traffic fatalities, crime, domestic violence, assault, murder etc) from the use of alcohol and

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tobacco are evaluated against the scientifically established harms to society caused by the use of Cannabis, the State, without scientific justification, violates the right of Cannabis users to Equality and to equal protection and benefit before the law, and is thus in violation of Section 9.

- 16.6 The State's prohibition of Cannabis constitutes unfair discrimination in relation to the religions, conscience, beliefs, and culture of the users of Cannabis and of those who identify with the Dagga Culture in South Africa and is thus in violation of Section 9 (3)
- 16.7 The prohibition therefore represents an unjustifiable, unjust and malicious violation of the Plaintiffs Section 9 rights and the Section 9 rights of all Cannabis users to Equality in society and before the law.

17.

- 17.1 The prohibition infringes the Section 10 right to inherent dignity and the right to have dignity respected and protected.
- 17.2 The effect of the prohibition of Cannabis is that users of Cannabis are stigmatized in the eyes of broader society as criminals.
- 17.3 As a result of the criminal offence, people who use Cannabis are at risk of arrest, prosecution and conviction for a victimless offense, simply because they seek to engage in conduct which is in fact medically beneficial to the Cannabis user, which is of no consequence or harm to others, and which is a ~~which is~~ part of their experience of being human.
- 17.4 The prohibition thus builds insecurity and vulnerability into the lives of Cannabis users.

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- 17.5 The existence of the prohibition, which is not premised on any legitimate government purpose, and which punishes individuals for a victimless offense, degrades and devalues Cannabis users in broader society.
- 17.6 As such the prohibition constitutes a palpable invasion of the dignity of Cannabis users and constitutes a breach of the plaintiffs' and other Cannabis users' Section 10 right to dignity.

18.

- 18.1 The prohibition infringes the Section 12 right to freedom and security of the person including the Section 12 (1) (a) right to not to be deprived of freedom arbitrarily or without just cause, the prohibition being not for a just cause, the cause being the protection of corporate financial interests by the dissemination of unscientific propaganda in motivation of malicious persecution under legislation of, and prosecution by the State.
- 18.2 The prohibition also denotes an intrusion into the Section 12 (2) (b) right to bodily autonomy and self-determination of Cannabis users.
- 18.3 Under circumstances where the use of Cannabis affects only the user and nobody else, the State has no business whatsoever in regulating what an individual does if what he does not adversely affect that person, or other members of society, or place a burden upon the State.
- 18.4 Conviction based on the prohibition can, and often does, lead to imprisonment of Cannabis users and further violations in prison of the constitutional rights of Cannabis, including their rights to bodily autonomy.
- 18.5 The prohibition infringes the Section 12(1) (e) right to not be treated or punished in a cruel, inhuman or degrading way.

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- 18.6 The sanctions, namely arrest, prosecution and conviction for a victimless 'offense' is cruel, inhuman and degrading, and such conviction results in further discrimination against Cannabis users in everyday life e.g. in finding employment, in recognition of sporting achievement, in access of Cannabis users to parental custody and rights of access to their children etc.
- 18.7 The punishment far outweighs the "crime" as the use of Cannabis cannot objectively be seen as a wrong committed against either the public or the State.

19.

- 19.1 The prohibition infringes the Section 14 right to privacy.
- 19.2 The prohibition contained in Sections 4(b), 5(b) and Part III of Schedule 2 of the Drugs and Drug Trafficking Act, 1992 (Act 140 of 1992) infringes the plaintiffs' Section 14 right to privacy as it prohibits an activity that is engaged in privately and triggers a range of law enforcement powers that authorize the invasion of such private areas.

20.

- 20.1 The prohibition violates the Section 15 right of freedom of thought, belief, opinion, conscience and religion (Section 15 (1)) in relation to the use, possession and cultivation of Cannabis for all these purposes by adults.
- 20.2 The use of Cannabis for spiritual and religious purposes goes back to the beginning of human history and features or has featured in Judaism, Islam, Sufism, Hinduism, Sikhism, Rastafarianism, Taoism, Shintoism, Zoroastrianism, Bhuddism, Tantra, Gnosticism, Germanic paganism, Cantheism, Western alchemy, traditional African spirituality and cultures, and shamanism on all continents. (See Annexures 1, 2 and 3 in the Lever Arch files Dagga 1-4.)

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- 20.3 The laws that prohibit Cannabis on false claims of harm or the need to “protect the population from harms arising from the abuse of drugs” (Dagga is not a drug, cannot be abused, is not addictive and is not hallucinogenic)) not only violate the Section 15 rights of citizens to freedom of thought, belief, opinion, conscience and religion but also exist as a real attempt by the State to close this particular door of direct spiritual contact that humans can have with the Creator which is facilitated by the consumption of the Dagga herb, and to place law above the Spirit from which it arises.
- 20.4 For this reason, the prohibition’s violation of Section 15 rights is fundamentally unconstitutional, as is the majority judgment in *Prince vs. The Minister of Justice* Case no. CCT 36/2000. No laws or limitation of Section 15 rights should ever be permitted to separate a human’s spiritual connection with their Creator, or criminalize the use of natural substances used for this purpose, especially when that means of connection also provides medical benefit and causes no harm to the individual or others.
- 20.5 The first plaintiff holds the view that if even one citizen expresses their belief or opinion that cannabis provides a spiritual link to knowledge of the Creator, then every law in a just state must respect that as true, and that practice must be protected and upheld in the Bill of Rights, to only be subject to the Section 31 (2) requirement of respect for the rights of others, and to NEVER be subject to any Section 36 limitation of this right.
- 20.6 The first plaintiff finds that the use of cannabis enhances and is essential to the ability to appreciate his own perception of his own true spiritual identity through the consciousness induced by the use of Cannabis.
- 20.7 The first plaintiff does not consider his relationship with cannabis to be ‘psychological dependence’, but considers it to be a natural expression of his own self, and thus is forced to claim without shame or reservation all the rights enjoyed by all citizens in all sections of the Constitution to BE who he is.

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- 20.8 The first plaintiff's personal spiritual pathway and conscious use of Cannabis as a medium for insight, contemplation and artistic inspiration, over the last 20 years, results in his consideration that cannabis is a fundamental aspect of his daily life, and his relationship with his own inner self, and his relationship with the culture with whom he identifies (the Dagga Culture, also known as the AmaDaggaDagga), and his relationship with his nation, and his relationship with his Creator.
- 20.9 The first plaintiff furthermore considers the Dagga tree to be the Tree of Life as mentioned in the Bible Genesis, and as a plant with its roots in the soil of Earth and its flowers in the light of Creation, the consumption whereof enables personal communion with and a deeper understanding of the Creator and of the Creation.
- 20.10 The first plaintiff respects and values the Section 31 (2) rights of others, and only when the plaintiff does not respect the rights of others does the State have any reason or right to hold him accountable, not for the consumption of Cannabis, but for any activity which might violate others' rights.
- 20.11 The judgment of the majority in *Prince vs. the Minister of Justice* Case CCT 36/2000 placed the vested interests of the State and its controllers above the rights of the Rastafarian grouping of citizens in the Dagga Culture, and all other religious groups in which many thousands of citizens would reasonably claim their use of Cannabis for spiritual, medicinal, cultural and other personal purposes.
- 20.11 The first plaintiff rejects all notions held by the State that it has the right the via prohibition of Cannabis or in any other way, to intervene in his fundamental right to communicate with his Creator and fellow citizens in his own way, to imagine, visualize or see visions, to meditate or even to hallucinate as he pleases, alone and in the company of other humans, while using Cannabis.

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21.

- 21.1 The prohibition infringes the Section 18 right to freedom of association as Cannabis users often belong to cultural, religious or social groups that congregate for activities that may include the use of Cannabis.

22.

- 22.1 The prohibition infringes the Section 24 (a) right to an environment that is not harmful to their health or well-being, in that the mega-scale planting of Cannabis would most effectively enable the replacement of polluting fossil fuels and many of the toxic products derived from fossil carbon deposits with a sustainable, carbon-neutral energy feedstock.
- 22.2 The prohibition infringes the Section 24 (b) (i) right to reasonable legislative and other measures that prevent pollution and ecological degradation, in that if planted on an adequate scale, Cannabis, in addition to providing a carbon-neutral energy feedstock that can be grown anywhere by everyone, could effectively sequester excess carbon from the atmosphere and fix it as an energy resource for future generations, or in the form of resources for material wealth such as construction materials, textiles, and a myriad of other affordable beneficial products.
- 22.3 The legalization of Cannabis and its inclusion in agricultural crop rotations and as an interplanting between existing crops would greatly improve the sustainability and economic viability of agriculture through increased overall water efficiency and solar energy capture. The inclusion of Cannabis into agriculture will prevent the encroachment of weeds in agricultural lands, and help to prevent the degradation and erosion of soils.
- 22.4 The prohibition infringes the Section 24 (b) (iii) right to reasonable legislative and other measures that "secure ecologically sustainable development and use of

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natural resources" as Cannabis is a natural product that can be used to stimulate equitable economic activity and employment in agriculture and a range of secondary industries and services.

- 22.5 The enforcement of the prohibition also **costs** South African taxpayers huge amounts every year which could be better used for job creation, social security programs, social development and education.
- 22.6 The prohibition prohibits the development of the hemp fiber (a by-product of the Dagga plant) industry which would create sustainable and environmentally benign employment in the agriculture, food processing, bio-fuel, textile, construction, medical and tourism industries.

23.

- 23.1 The prohibition infringes the Section 27(1) (a) right to access to health care services.
- 23.2 The prohibition is oppressive in that it prohibits and criminalizes citizens' access to a very safe and effective medicine which will prevent and alleviate much illness and suffering.
- 23.2 Despite the false claims of the State and the corporate pharmaceutical industry to the contrary, Cannabis has proven and well-documented beneficial medical effects, even when smoked. Among these are the alleviation of nausea and vomiting, the stimulation of appetite in chemotherapy and AIDS patients, glaucoma of the eye (by lowering intra-ocular eye pressure)), as well as in treating chronic gastro-intestinal illnesses (Crohn's disease and Irritable Bowel syndrome) and it also has substantial effectiveness as an analgesic.
- 23.3 Cannabis is now also well documented as an essential treatment and cure for many cancers and tumors, and is also very successful in treating asthma, autoimmune diseases such as arthritis and rheumatism, insomnia, inflammation, influenza, migraine, multiple sclerosis, Alzheimer's disease, dementia, ADHD, autism, Asperger's syndrome, fibromyalgia, bipolar syndrome, and high blood pressure.

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- 23.4 These claims by the plaintiffs of the extensive medical benefit of Cannabis are listed and substantiated in:

Annexure 3 **"The Emperor Wears No Clothes"** by Jack Herer,

Annexure 7. **"THE REPORT. Cannabis: The Facts, Human Rights and the Law"**
by D'Oudney, K. and D'Oudney, J

Annexure 16 **"An Introduction to the Medical Benefits of Cannabis"**
Collated by Jeremy Acton (the first plaintiff), April 2011

Annexure 17 **"Further Information on the Medical Benefits of Cannabis"**
by Jeremy Acton, July 2011.

- 23.5 The plaintiffs insist that all doctors should be able to legally prescribe whole Cannabis and any extraction of Cannabis as medication to all who suffer ailments, including minors, with the consent of a minor's parent.
- 23.6 The plaintiffs, recognizing that all intentional use of pure Cannabis is harmless and medically beneficial, claim their right to grow their own Cannabis for medical purposes at any time, and to produce their own Cannabis medications and, in view of the absolutely proven safety of Cannabis, to consume Cannabis medically with or without the supervision of a medical doctor, and to gift it according to conscience, or in contract with any person who seeks Cannabis medication.
- 23.7 The plaintiffs furthermore claim that this right to the access and the use of whole Cannabis or any of its natural extractions as medicine, is a fundamental human right to health that should not be subjected to intellectual property control by or for any pharmaceutical corporations for profit, or to any restrictions of access by the State. If citizens can freely medicate on aspirin, and multi-vitamins, and other health supplements, or eat food or drink water, this freedom to self medicate for preventive or curative reasons must be extended to the use of medical Cannabis by all adults. This right is further claimed as a fundamental and non-derogable right that must be added to the Bill of Rights.

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24.

- 24.1 The prohibition of Cannabis also infringes the plaintiffs' right of access to sufficient food and water (section 27(1) (b)); in particular the rights to food, which is safely and easily provided by the Cannabis plant in the form of hempseed, which is the most nutritious and complete plant food on Earth.
- 24.2 Cannabis is the most water-efficient, drought resistant, productive and beneficial agricultural crop ever domesticated by humankind in that it provides healthy food, medicine, fibers and energy, all in one growing season of 3 to 4 months.
- 24.3 The prohibition protects the interests of the biotech, soya, and livestock feed industries at the expense of farmers, families, and citizens rights by preventing the attainment of food security and by enforcing, through malicious prosecution, all citizens' reliance upon the corporate-controlled profit motivated food chain.
- 24.4 The enforcement of the prohibition of Cannabis in the face of poverty and hunger, and the denial of people's right to hempseed for food is rationally and ethically unjustifiable, and requires urgent reconsideration, especially since overall food supply per person is now on a downward trend worldwide.

25.

- 25.1 The prohibition infringes the plaintiffs' Section 30 rights to participate in the cultural life of their own choice, in any manner consistent with the provisions of the Bill of Rights;

26.

- 26.1 The prohibition also infringes the plaintiffs' Section 31 (1) rights to enjoy their culture and practice their religion with other members of their chosen culture or religion.

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- 26.2 The prohibition also denies the rights of the plaintiffs to form, join and maintain cultural, religious and linguistic associations and other organs of civil society in relation to their use of Cannabis and their membership of the Dagga Culture.
- 26.3 The use of Cannabis is central to the lifestyles and to the cultural and religious convictions and practices of the plaintiffs.
- 26.4 The prohibition represents an unjustifiable breach of the plaintiffs' cultural and religious convictions and practices, as individuals and as members of a community.

27.

- 24.1 The manner in and extent to which the prohibition infringes the aforesaid rights is not warranted by any justifiable limitation of these rights as described in Section 36 of the Constitution in that:

- 27.1.1 It serves no scientifically verified or legitimate government purpose;
- 27.1.2 The measures of prohibition are not rationally connected to any government purpose;
- 27.1.3 To the extent that there may be any legitimate government purpose, the infringement is disproportionate to the interests being served;
- 27.1.4 There are alternatives to the State which are less intrusive;
- 27.1.5 Comparing legislative developments and prosecutorial policy in other democracies, the prohibition can no longer be considered as justifiable in South Africa;
- 27.1.6 The prohibition ignores the emerging global consensus in international discourse that the criminal prohibition of Cannabis is counterproductive and in fact supports the existence of organized crime.

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- 28.1 The Plaintiffs will give notice of these proceedings in terms of Rule 16A of the uniform rules of court but will also ensure that notice of these proceedings will be given to all other known interested and affected organizations in civil society.

29.

- 29.1 The applicants, in bringing their claims of right to the Honorable Court, shall propose to the Honorable Justices of that Court a possible legal, social and economic paradigm whereby the legalization of Cannabis within South Africa will:
- 29.1.1 Promote solidarity, co-operation and hope in all communities.
 - 29.1.2 Maximize the economic benefits of cannabis and provide employment to all who seek it.
 - 29.1.3 Minimize harms, including the harms caused by prohibition.
 - 29.1.4 Provide an environmental solution to the problems of dwindling fossil fuels and climate change.
 - 29.1.5 Enhance the productivity of agriculture and promote tourism.
 - 29.1.6 Reduce crimes related to poverty.
 - 29.1.7 Be of minimum cost and hassle to the State.
 - 29.1.8 Positively affect South Africa's balance of payments in the global economy.

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30.

30.1 WHEREFORE the plaintiffs claim for an order in the following terms:

- 30.1.1 Declaring that the legislative prohibition against the possession and use of Cannabis (dagga) by adults is inconsistent with the Constitution and therefore invalid;
- 30.1.2 That all mention of Cannabis must be removed from the list of substances listed in Part III of Schedule 2 of the Drugs and Drug trafficking Act, 1992 (Act No.140 of 1992);
- 30.1.3 That Cannabis be removed from the list of substances in Schedule 8 of the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965);
- 30.1.4 That all references to Dagga in Section 21 of the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992) be entirely expunged;
- 30.1.5 That the State be required to institute a public Commission of Inquiry into the formulation of appropriate legislation for the regulation of Cannabis for the greater public benefit.
- 30.1.6 That membership of such a Commission of Inquiry be granted to the first plaintiff, and to other nominated representatives of the Dagga Culture.
- 30.1.7 That within 6 months of the granting of this order, all citizens presently incarcerated for the use or possession of Cannabis shall forthwith be released from prison by the Department of Correctional Services, and that all sentences for which charges relating to the possession of dagga are included with other charges, shall be reduced by the prison term required to be served for the Dagga conviction.

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- 30.1.8 That within one year of the granting of this order all previous convictions for Cannabis use or possession in all citizens' criminal records shall be wiped clean from all State and police records;
- 30.1.9 That all citizens who in the past suffered grievous physical harm and/or loss of kin and and/or abuse of human rights as upheld in the Bill of Rights (Chapter 2) of the Constitution due to the application of the prohibition against Cannabis may be entitled to appropriate redress and reparation for the losses and the suffering caused by the violation of their basic human rights.
- 30.1.10 That the government of South Africa be instructed to immediately secede from the Single Convention on Narcotics.
- 30.1.11 That the declaration of invalidity and the further relief in consequence thereof be suspended for a maximum period of two years to enable the legislature to pass appropriate legislation which is the result of a fair and open public consultative process, which includes the interests of all members of the presently oppressed Dagga Culture in South Africa, and which is for the equitable socio-economic benefit of all the citizens of South Africa.
- 30.1.10 Costs of suit;
- 30.1.11 Further and/or alternative relief.

BAW

JDA
CH

Dated and signed at Cape Town on this 15th day of MARCH, 2012

Signed:

JD ACTON
 Jeremy David Acton, First Applicant

Thus signed and sworn before me at CAPE TOWN on this 15th day of MARCH 2012, the deponent, having acknowledged that he/she knows and understands the contents of this affidavit, that it is both true and correct to the best of his/her knowledge and belief, that he/she has no objection to taking the prescribed oath and that the prescribed oath will be binding on his/her conscience.

[Signature]

COMMISSIONER OF OATHS

Full Names A. S. Pinter

Designation W/O



Signed:

RAS MENELEK BAREND ABRAHAM WENTZEL
 Ras Menelek Barend Abraham Wentzel, Second Applicant

Thus signed and sworn before me at CAPE TOWN on this 1 day of MARCH 2012, the deponent, having acknowledged that he/she knows and understands the contents of this affidavit, that it is both true and correct to the best of his/her knowledge and belief, that he/she has no objection to taking the prescribed oath and that the prescribed oath will be binding on his/her conscience.

[Signature]

COMMISSIONER OF OATHS

Full Names A. S. Pinter

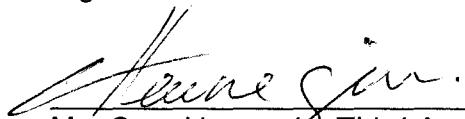
Designation W/O



BAW

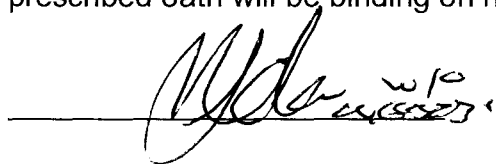
JDH
[Signature]

Signed:



Ms. Caro Hennegia, Third Applicant.

Thus signed and sworn before me at CAPE TOWN on this 1ST day of MARCH, 2012, the deponent, having acknowledged that he/she knows and understands the contents of this affidavit, that it is both true and correct to the best of his/her knowledge and belief, that he/she has no objection to taking the prescribed oath and that the prescribed oath will be binding on his/her conscience.



COMMISSIONER OF OATHS

Full Names AJ. PretoriaDesignation w/o

BAW

