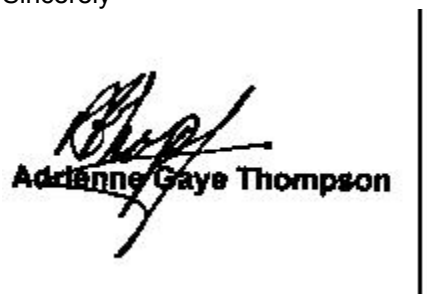
----- Original Message -----
From: Adrienne Thompson
To: Lousewies van der Laan, Chef de Cabinet, ICC Presidency
Cc: Vice-Chancellor Professor C. Duncan Rice ; University Secretary Steve Cannon ; Academic Registrar Dr. Gillian Mackintosh ; Former Engineering HOD Professor Steve Reid ; Engineering HOD Professor Tom O' Donoghue ; Prosecutor Luis Moreno-Ocampo ; ASP Director Renan Villacis ; Chief of Staff to the President ; Odo Ogwuma ; Lotte Akkerman ; Secretariat, ICC Assembly of States Parties ; Jim Mitchell ; Ian G. Craw ; Professor Graham Hall ; The Hon. Derrick Smith MP

Sent: Tuesday, April 28, 2009 9:02 AM
Subject: Fw: Programme of Apartheid: University of Aberdeen Scotland. ICC Ref: OTP-CR-313/04

Dear Ms. van der Laan:

Please note the following message to the University of Aberdeen, which I copied, in error, to your predecessor Jurg Lauber yesterday.

Sincerely



Adrienne Gaye Thompson

----- Original Message -----
From: Adrienne Thompson
To: Vice-Chancellor Professor C. Duncan Rice ; University Secretary Steve Cannon ; Academic Registrar Dr. Gillian Mackintosh ; Former Engineering HOD Professor Steve Reid ; Engineering HOD Professor Tom O' Donoghue
Cc: Prosecutor Luis Moreno-Ocampo ; ASP Director Renan Villacis ; Chief of Staff to the President ; Odo Ogwuma ; Lotte Akkerman ; Secretariat, ICC Assembly of States Parties

Sent: Monday, April 27, 2009 11:54 AM
Subject: Programme of Apartheid: University of Aberdeen Scotland. ICC Ref: OTP-CR-313/04

Dear Secretary Cannon:

With regard to the University of Aberdeen's theft of property in respect of my 1983 BSc. Engineering Honours Thesis "Interactive Graphics Package Demonstrating: Sampling Convolution and the FFT" under your programme of Apartheid, you're invited to preview the rewritten Fortran program of the Thesis "C-Graphv2-preview.f90" :
http://www.codeartnow.com/code/download/c-graph-1/c-graph-version-2-preview

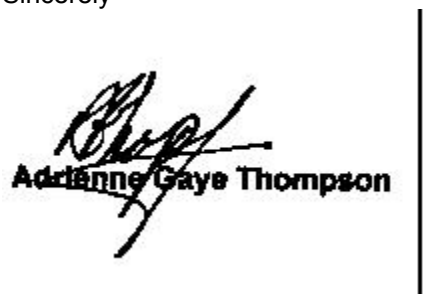
I am sure that the license file has not escaped your notice:

http://www.codeartnow.com/code/download/c-graph-1/c-graph-version-2-preview/C-Graph-license.txt?attredirects=0

If you download and print the file "C-Graphv2-preview.f90" you get what is known as a "computer printout".

As you are aware, the ICC, Scotland Yard, and other law enforcement agencies, influenced by the relevant elements of the British Government, have been pursuing a futile path of obstruction of justice to protect you from criminal responsibility. To refresh your memories, I have included, below, pages 67 to 72 of my Pre-indictment brief filed with the Office of the Prosecutor of the International Criminal Court 5 October 2006, by email and Federal Express AirBill No. 855473333900. At present, The ICC and other qualified parties have access to this document on my legal action website "Caprica" http://sites.google.com/site/caprica313113/icc/Pre-IndictmentBrief05.10.2006.doc?attredirects=0.

Sincerely



Adrienne Gaye Thompson
...
Jamaica

email: visionat@mail.infochan.com
Website: http://codeartnow.com

Excerpt from Pre-Indictment Brief filed under ICC reference No. OTP-CR-313/04

I. Article 53 Confers a Reasonable Basis to Proceed

The criteria prescribed by the Statute to determine whether or not the Prosecutor has a ‘‘reasonable basis’’ to initiate investigation into the Complaint and, upon investigation, to pursue prosecution of the Defendants, are enumerated in Article 53 paragraphs 1 and 2. Both these paragraphs require the Prosecutor to carry out a three-pronged test, examining:

a. Whether there is a legal/factual basis for exercising the jurisdiction of the Court;
b. Whether the case is admissible under Article 17; and
c. Whether investigation and prosecution would serve the interests of justice.

A. Jurisdiction and Evidence

As paragraph 1.C of the Annex postulates, Article 53 (1) (a) refers to the factual/legal basis for belief that the information communicated points to the commission of crimes within the jurisdiction of the Court.

The Complainant contends that with regard to the crimes committed at the University of Aberdeen, the evidence submitted constitutes ‘‘substantiated information’’ (as required by Article 42 (1) of the Statute) that is beyond the ‘‘reasonable basis’’ threshold required to initiate investigation. The Complainant contends that the factual basis component (Article 53 (1) (a)) of the test to determine whether or not there is a reasonable basis to proceed with investigation was, in effect, accomplished vicariously by principal officers of the Commission for Racial Equality (the CRE) in the United Kingdom during 1983 to 1985. The evidence shows that former Principal Complaints Officer Kuttan Menon established reasonable grounds for inferring that racial discrimination may have occurred in the award of engineering degree classes in 1983, while former Principal Education Officer Gerry German proved the case of institutionalized discrimination on a balance of probabilities (preponderance of evidence).

Menon’s referral of the matter in February 1984 to the Education Department of the CRE for investigation would have required a minimum evidentiary finding of reasonable grounds in accordance with well-settled principles governing initiation of investigations into unlawful conduct.[1] His failure to articulate the evidentiary standard as the basis for his referral should only be construed as reflecting his unwillingness to take responsibility for initiating proceedings before the Courts, against elite defendants and, as it transpired, against the opposition of Defendant CRE Chairman Sir Peter Newsam. The Complainant contends that Menon’s decision not to institute proceedings before the Courts was not on the merits of the case, but because he anticipated adverse pressure from State authorities intent on shielding the Defendants. As the Complainant asserted in her Reply of 7 October 2002 to the University, remedy also lay in contract, whether or not there would have been difficulty under the existing Race Relations legislation.

The Complainant submits that Menon’s analysis of the information and evidence from the University, under section 65(1) of the Race Relations Act 1976, identified an evidentiary standard establishing a prima facie case of racial discrimination – beyond the reasonable grounds standard sufficient to trigger investigation - and that, accordingly, he referred the matter to the Education Department because he recognised that the CRE was vested with an obligation to conduct an investigation into the matter.

The Complainant contends that Menon’s assertion on 10 February 1984 (supported by Complaints Officer Roy Martin) that the 1983 engineering degree class distribution was ‘‘the clearest thing’’ pointed to knowledge that this evidence, by itself, accorded with the prima facie evidentiary standard in respect of racial discrimination against the black/ non-white group belonging to the engineering class of 1983. This degree class distribution, taken from paragraph 4 (d), Annexure A of the University’s RR651b Reply, is included below:[2]

Race/Nationality	Degree Class				
	I	II-I	II-2	III	No award
Scottish and English	3	9	11	5	1
Black or other ethnic origins	0	1	12	1	0
Total	3	10	23	6	1

Distribution of Degree Class according to ethnicity : Engineering Class of 1983, University of Aberdeen.

Statistical disparity from which one may reasonably infer improper purpose suffices to establish a prima facie standard. In *Enderby v Frenchay Health Authority*, the European Court of Justice found that a prima facie case of gender discrimination was established where the statistics disclosed an appreciable difference in pay between two jobs of equal value, one of which was carried out almost exclusively by women and the other predominantly by men.[3] In *Johnson v California*,[4] the United States Supreme Court, approving *Batson v Kentucky*,*[5]* ruled that the California Supreme Court's acknowledgment that "it certainly looks suspicious that all three African-American prospective jurors were removed from the jury" was an inference sufficient to establish a prima facie case. The California Supreme' Court's observations are consonant with Menon"s acknowledgment to the Complainant (with which Roy Martin agreed) assessing the above-tabulated degree class distribution as "the clearest thing". It was this recognition of a prima facie case of racial discrimination, which formed the basis for Menon"s assertion in the final paragraph of his letter of 6 February 1984 that the matter "[could] only be tackled by our Education Department by way of investigations".[6]

Following Menon"s analysis, Principal Education officer Gerry German initiated an informal investigation intending this to be preliminary to the CRE"s exercise of their powers of formal investigation. In his letter of 10 May 1992 to former MIT Provost, Professor Mark S. Wrighton, German asserted this: [7]

> Her case revealed what appeared to be on the basis of information available instances of individual and institutional discrimination on racial grounds….
>
> It appeared that overseas students (black, non-white) were admitted with qualifications as good as if not better than their native, white counterparts and that their academic performance over the next three years of the course was also better. However, the final degrees that were awarded seemed to favour white students despite their previous relatively lowlier academic performance.
>
> I suggested to the University authorities that there were good grounds for believing that racial discrimination was taking place and that the Commission could use its powers under the Act to mount a formal investigation to ascertain whether this was so. I suggested that they might examine the records themselves and cooperate with me informally to eliminate discriminatory practices. Despite a lengthy correspondence they proved in the end unwilling to do so.

In statistical terms, German's analysis of data on the graduating classes of engineering students disclosed a bimodal shift from the expected values projected from examination achievement during years 1 to 3. This bimodal shift was realised by an elevated white mode encompassing the entire first class honours interval, and a demoted black/non-white mode. Here, the statistical disparity sufficed to establish the general prima facie case (of which the graduating class of 1983 was only representative) of systematic fraud pursuant to a policy of institutionalized racial discrimination.

It is well-settled that discrimination is proved as a matter of law once a prima facie case is established and the respondent fails to adequately rebut the factual presumption of discrimination found. The case for a shifting burden of proof to the respondent was argued recently in *Nachova v Bulgaria[8]* in briefs submitted by the European Roma Rights Centre (the ERRC Amicus Brief)[9] and the International Centre for the Legal Protection of Human Rights (the Interights Amicus Brief). [10] The Open Society Justice Initiative also submitted a brief (the OSJI Amicus Brief)[11] asserting that the prohibition against racial discrimination had achieved the status of *jus cogens*, and accordingly, a procedural duty to investigate and prosecute acts of racially motivated violence, which should be exercised *ex officio* according to a "reasonable suspicion standard", was inherent in Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (the ECHR).[12] These interventions into the written procedure were noted by the Chamber and Grand Chambers (in *Nachova 1* and *Nachova 2* respectively) of the European Court of Human Rights (the ECtHR).[13]

Nachova concerned applications to the European Commission of Human Rights against Bulgaria alleging the shooting deaths of two Romani men, Mr. Kuncho Angelov and Mr. Kiril Petkov at the hands of the Bulgarian Police on 19 July 1996. The Grand Chamber reversed (by eleven votes to six) the Chamber's finding of a violation of Article 14 of the ECHR in conjunction with the substantive aspects of Article 2 guaranteeing the right to life, but found, unanimously, that there had been a violation of Article 14 together with Article 2 in its procedural aspect, in that the authorities failed to investigate possible racist motives behind the events that led to the deaths of Angelov and Petkov.

The Grand Chamber held that while proof of the discriminatory effect of a policy or decision will dispense with the need to prove intent in employment or the provision of services,[14] the approach was difficult to transpose to a case of alleged racially motivated violence, the actions of the authorities having failed to reveal "strong, clear and concordant inferences"[15] that the authorities would have acted differently in a non-Roma neighbourhood. Accordingly, the Grand Chamber recognised both the shifting burden of proof in cases where there is proof that a policy or decision has discriminatory effect, as well as a procedural obligation on the part of the defendant to investigate the presumption of discrimination found.

The Interights Amicus Brief drew the Grand Chamber's attention to the standard of proof established by the legislation and case law of international and national jurisdictions as the establishment of a prima facie case of discrimination by the claimant, upon establishment of which, the burden of proof shifts. Among the cases cited by the Interights Amicus Brief was *Chedi Ben Ahmed Karoui v. Sweden*, where the United Nations

Human Rights Committee held that "substantive reliable documentation" would shift the burden of proof to the Respondent State.[16] The Court of Justice of the European Communities (the ECJ) upholds the principle of a shifting burden of proof on establishment of a prima facie case,[17] the European Community have subsequently adopted similarly premised Burden of Proof, Race and Framework Directives,[18] and the national jurisdictions of Canada, the USA, South Africa, New Zealand, Australia, and Britain have approved this approach.[19]

Applying the afore-mentioned principles, in responding to German's representations that there were "good grounds" for believing that racial discrimination was taking place, the University not only failed to attempt explanation in race-neutral terms, or to provide any justification whatsoever, but proved unwilling to "cooperate with [German] informally to eliminate discriminatory practices". While the University had a procedural obligation (whether under Article 14 of the ECHR or otherwise), the University's failure to investigate of their own accord, while of itself not being required as the standard for shifting the burden of proof, served to corroborate the absence of justification.[20] There being no rebuttal of the presumption of racial discrimination established by the prima facie evidence, there is no question that German proved the case of institutionalized, racial discrimination on a preponderance of evidence (Balance of Probabilities) in accordance with the civil standard of proof. German's findings, however, go beyond that required to establish civil liability. The prima facie case is circumscribed by facts disclosing intent to maintain a regime of systematic institutionalized fraud. Clearly the presumption of criminal purpose in the general case is further informed by the proof beyond reasonable doubt afforded by the Complainant's individual case, where the fraud includes theft.

The "reasonable basis" threshold falls below the "balance of probabilities" standard. The Court will accordingly take note that under the Article 53 (1) (a) test, the finding of a reasonable basis to believe that crimes within the jurisdiction of the Court have been committed, is an exercise that has already been performed (albeit vicariously) by reason of the professional competence of CRE principals, Kuttan Menon and Gerry German,[21] the institutionalized discrimination being conduct which – being amenable to the territorial, temporal, subject matter and personal jurisdiction of the Statute - the Court is competent to prosecute.

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[1] See Menon's letter to the Complainant 6 February 1984, final para., Appendix A III.5, Appendix B X.E.1.a, Appendix C AGT 3.d.

[2] Appendix A III.3, Appendix B VIII.C.1.a, p. 6.

[3] *Enderby v Frenchay Health Authority* [1993] ECR 673, para. 16, cited in the Interights Amicus Brief, below at note 238, para. 23.

[4] *Johnson v California* 545 U.S. __ (2005) (*Johnson*), *available at* http://supreme.justia.com/us/545/04-6964/case.html (visited 9 September 2006).

[5] *Batson v Kentucky* 476 U.S. 79 (1986), *available at* http://supreme.justia.com/us/476/79/case.html (visited 9 September 2006).

[6] See *Johnson*, above note 232; Menon, 6 February 1984, 1 March 1984, above note 229.

[7] Appendix A III.9, Appendix B VII.A.3, Appendix C AGT 7.b.

[8] *Nachova et. al. v Bulgaria*, 26 February 2004, Application Nos. 43577/98 and 43579/98 ECHR 90, Chamber Judgment, European Court of Human Rights (*Nachova 1*) *available at* http://www.worldlii.org/eu/cases/ECHR/2004/90.html (visited 9 September 2006) *; Nachova et. al. v Bulgaria*, 6 July 2005, Application Nos. 43577/98 and 43579/98 ECHR 465, Grand Chamber Judgment, European Court of Human Rights (*Nachova 2*) *available at* http://www.worldlii.org/eu/cases/ECHR/2005/465.html (visited 9 September 2006).

[9] The European Roma Rights Centre, Written Comments in *Nachova 1*, 21 May 2001, (ERRC Amicus Brief) *available at* http://www.errc.org/db/00/C0/m000000C0.doc (visited 9 September 2006).

[10] Interights, Written Comments in *Nachova* 2, 2 November 2004, (Interights Amicus Brief) *available at* http://www.interights.org/doc/Nachova%20Written%20comments%202%20November.doc (visited 9 September 2006).

[11] The Open Society Justice Initiative, Written Comments in Nachova 2, 2 November 2004, (OSJI Amicus Brief) *available at* www.justiceinitiative.org/db/resource2/fs/?file_id=15013 (visited 9 September 2006).

[12] European Convention for the Protection of Human Rights and Fundamental Freedoms, 213 E.T.S. 222, entered into force Sept. 3, 1953, as amended by Protocols Nos. 3, 5, 8, and 11 which entered into force on 21 September 1970, 20 December 1971, 1 January 1990, and 1 November 1998 respectively (ECHR), *available at* http://conventions.coe.int/treaty/en/Treaties/Html/005.htm (visited 9 September 2006).

[13] The Chamber referred to the ERRC Amicus Brief at paras. 152 – 154 of the *Nachova 1*. For the Grand Chamber's reference to the Interights and OSJI Amicus Briefs, see *Nachova 2* at paras. 140 – 143.

[14] *Nachova 2*, para. 157.

[15] Id., para. 147.

[16] *Chedi Ben Ahmed Karoui v. Sweden*, Case No. 185/2001 ICCPR, 25 May 2002, cited in the Interights Amicus Brief at note 6.

[17] See Interights Amicus Brief, note 34, citing: [Bilka Kaufhause GmbH v Weber von Hartz [1987] ICR 110]; *Handels-og Kontorfunktionaerenes Forbund I Danmark v. Dansk Arbejdsgiverforening* ("*Danfoss")* [1989] ECR 3199; N*imz v. Freie und Hansestadt Hamburg* [1991] ECR 1-297*; Kowalska v. Freie and Hansestadt Hamburg* [1990] E.C.R. I-2591.

[18] EU Council Directive 97/80/EC, 15 December 1997, establishing that in cases of gender discrimination the burden of proof shifts to the defendant once the applicant has provided evidence of a prima facie case (the Burden of Proof Directive), *available at* http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Directive&an_doc=1997&nu_doc=80 (visited 9 September 2006); EU Council Directive 2000/43/EC, 29 June 2000, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (the Race Directive), *available at* http://europa.eu.int/eur-lex/pri/en/oj/dat/2000/l_180/l_18020000719en00220026.pdf (visited 9 September 2006); EU Council Directive 2000/78/EC, 27 November 2000, establishing a general framework for equal treatment in employment and occupation (the "Framework Directive"), *available at* http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:EN:HTML (visited 9 September 2006).

[19] See Interights Amicus Brief, notes 36 – 38, citing: The United States Civil Rights Act 1991, section 105(a); The Canadian Human Rights Act, section 15; The South African Promotion of Equality and Prevention of Unfair Discrimination Act of 2000, section 13; section 54A; The New Zealand Human

Rights Act 1993, section 92F; and *McDonnell Douglas Corp. v. Green*, 411 U.S. 492 (1973; *Texas Department of Community Affairs v. Burdine*, 450 U.S. 248 (1981); *British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights),* [1999] 3 S.C.R. 868 [*Grismer]*.

[20] See *Batson*, at note 6.

[21] Despite Defendant Peter Newsam's deliberate disregard of the prima facie case evidenced, in order to obstruct justice by suppressing the formal investigation warranted in accordance with the UK Race Relations Act 1976. Newsam registered his intent in his letter of 22 May 1984, to Robert Hughes MP, Appendix A III.7, Appendix B X.E.2, Appendix C AGT.3.e.