Annexure “C”

IN THE SUPREME COURT OF THE KINGDOM OF NORWAY

NSC Case #: _____
Oslo District Crt #: 11-188627MED-OTIR/05

In the Application of:

LARA JOHNSTONE	Application for Review

In the matter between:

OSLO DISTRICT COURT	First Respondent
KINGDOM OF NORWAY	Second Respondent
ANDERS BEIHRING BREVICK	Third Respondent
VICTIMS FAMILIES	Fourth Respondent

NOTICE OF MOTION: Application for REVIEW and DECLARATORY ORDER:

PLEASE TAKE NOTICE that the applicant intends to apply for leave to review against parts of the judgement by Rettens Leder: Wenche Elizabeth Arntzen, Fagdommer: Arne Lyng; Meddommere: Ernst Henning Eielsen, Diana Patricia Fynbo and Anne Elisabeth Wisloff, delivered on 24 August 2012 (herein after referred to as the "Oslo District Court: Breivik Judgement").

Please take notice that the applicant intends to apply to this court for an order in the following terms:

{I} REVIEW ORDERS REQUESTED:

The following 'Oslo District Court: Breivik Judgement' decisions are reviewed:

[A.1] Set Aside the Judgements 'Necessity (Nødrett) Ruling' (pg.67[1]):

6.2 De sakkyndiges arbeid og konklusjoner

[..] Tiltalte har anført at han må frifinnes på grunn av nødrett fordi han gjennomførte «preventive» angrep for å nå sine politiske mål, slik disse er redegjort for ovenfor i pkt. 3.1. Til denne anførselen vil retten kort bemerke at verken straffelovens bestemmelser om nødrett eller internasjonale menneskerettigheter, som tiltalte også

6.2 The committee's work and conclusions

[..] The defendant has argued that he should be acquitted because of necessity because he performed "preventive" attack to achieve their political goals, as they are described above in section 3.1. To this argument, the court will briefly note that neither the criminal law provisions on necessity or international human rights, which defendant also claims, allows the

[1] http://issuu.com/js-ror/docs/120824_nvb-judmnt?mode=window&viewMode=singlePage

påberoper seg, tillater drap av statsansatte, politisk engasjerte ungdommer eller andre for å fremme ekstreme politiske målsettinger. Anførselen kan åpenbart ikke føre frem.

killing of government, politically active young people or others to promote extreme political objectives. Argument can obviously did not succeed.

[A.2] Set Aside Defendant's Conviction (Finding of Guilt) and Remit to Oslo District Court for hearing of Further Evidence to conclude Objective and Subjective Necessity Test Evidentiary Enquiry.

The finding of guilt, in the absence of full Objective and Subjective Necessity Test Conclusions renders the Guilt Finding Inadequate and plausibly requires submittal of Further Evidence.

[A.3] If Defendant refuses to cooperate with Further Evidence proceedings; an order to change his plea to 'guilty'; and/or 'Non-Precedent' Setting Declaratory Order

In the event that the Accused declines to cooperate with the court to subpoena the relevant 'Further Evidence' experts the Accused based their objective and subjective necessity conclusions upon; to issue (a) an order that the Accused plea be changed to 'guilty', since clearly the Defendant does not subjectively believe his 'Necessity' defence, if he refuses to uphold his alleged subjective belief in his 'necessity motivated criminal act' for the court to objectively and subjectively test his necessity defence evidence; and/or (b) a declaratory order that the Defendant's apathetic failure to uphold his demand that the court objectively and subjectively test his necessity defence evidence, not be set as a precedent for other political activists to be denied their necessity rights for a court to objectively and subjectively test their evidence.

[A.4] If Failure of Justice Irregularity Does not Influence Conviction and/or Sentence Verdict; a 'Non-Precedent Setting' Declaratory Order

If the failure of Justice[2] Irregularity[3] of the court to provide the Defendant with an impartial objective and subjective test of his necessity defence, and if the Defendants evidence of guilt is so conclusive or overwhelming that the court can with reasonable certainty say that, without the irregularity or defect, the same decision would have inevitably been reached; to issue a Declaratory Order that the denial of an objective and subjective test of the Defendant's necessity defence in this matter; should not set a precedent for other political

[2] The term does not merely apply to manifest departures in court from the rules and principles governing the conduct of proceedings before a judicial officer, but also the irregular obtaining of a plea of guilty in the absence of the magistrate. The further overall requirement is that a failure of justice must have resulted from the alleged irregularity or illegality. If however, the court of appeal is satisfied that the accused has been actually and substantially prejudiced by an irregularity or defect, it is difficult to see how it can avoid the conclusion that there has been a failure of justice (R v Rose 1937 A.D 467 at 477; R v Matsego 1956 (3) S.A 411 (A.D) at 418, etc).

[3] Irregularity: Where a Mistake of Law is fundamental in the sense that a lower court has declined to exercise the function entrusted to it by statute and, as a result of such conduct, a party has been denied the right to a fair hearing, such error may constitute an irregularity.

activists or common law citizens who plead to necessity, to be denied an impartial objective and subjective test of the evidence for and against their necessity defence.

[B] Set Aside the Judgements Failure to disclose the pending Judicial Ethics violation complaint against Rettens Leder: Wenche Elizabeth Arntzen, filed on 06 June 2012 to the Secretariat for the Supervisory Committee for Judges[4], as a violation of Aarhus Convention Article 3.(3)(4)(5)[5] principles, and general ECHR public accountability Transparency (Lithgow & others v United Kingdom)[6] principles:

> Complaint against Judge Wenche Elisabeth Arntzen: **Violation of Ethical Principles for Norwegian Judges: 1. (Rule of Law), 2. (Independence), 3 (Impartiality), 4 (Integrity), 5 (Equality), 7 (Formulation of Court Decisions), 12 (Judges relation to the media).** (PDF[7])

[C] The respondents who oppose this application are ordered jointly and severally to pay their own costs in terms of this application.

{II} GROUNDS FOR REVIEW:

The application for review is based on the grounds of (A) Irregularities[8] & Illegalities in the Proceedings before the Oslo District Court: in terms of (1) A Failure of Justice[9] and Failure of a True and Correct Interpretation of the Facts[10]; (2) Judicially Un-Investigated Facts[11]; (3) Failure of Application of Mind[12] and (4) Rejection of Admissible or Competent Evidence: (i) Prosecutor & Judges failure to examine objective and subjective necessity test; and (ii) Courts denial of due process to applicants Habeus Mentem and Amicus Curiae applications[13].

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[4] http://ecofeminist-v-breivik.weebly.com/secr-supv-comm-judges.html
[5] Convention on Access to Information, Public Participation in Decisioin-making and Access to Justice in Environmental Matters http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf
[6] The rule of law requires legislation (or judgements or court officials decision-making) to be adequately accessible and sufficiently precise to enable people to regulate their affairs in accord with the law (Lithgow & others v United Kingdom).
Lithgow & others v. United Kingdom (1986) * EHRR 329 § 110 http://www.unhcr.org/refworld/publisher,ECHR,,GBR,3ae6b7230,0.html
[7] http://issuu.com/js-ror/docs/120530_tilsynsutvalget_arntzen?mode=window&viewMode=doublePage
[8] Irregularity: Where a Mistake of Law is fundamental in the sense that a lower court has declined to exercise the function entrusted to it by statute and, as a result of such conduct, a party has been denied the right to a fair hearing, such error may constitute an irregularity.
[9] If the court is satisfied that an irregularity was committed in the *court a quo*, it becomes the duty of the court to decide whether, on the evidence unaffected by the irregularity, proof exists beyond reasonable doubt of the guilt of the accused. (Schreine J.A. quoted in *S v Zulu,* 1967 (4) S.A 499 (T)).
In *S v Tuge* 1966 (4) SA 565 (A.D) at 568, Holmes JA expressed the 'failure of justice' test as follows: the court hearing the appeal must consider, on the evidence, unaffected by the irregularity or defect, that there is proof of guilt beyond reasonable doubt. If not, there is a resultant failure of justice (This test has subsequently been applied in a myriad of cases, such as *Twigger v Starweave (Pty) Ltd* 1969 (4) sa 369 (N), etc.).
The learned judge of appeal pointed out in *S v Yusuf* 1968 (2) SA 52 (A.D) at 57 that the advantage of this test is its directness of thinking as well as in its application of a traditional legal concept, namely, proof of guilt beyond reasonable doubt.
[10] In *S v Ndala* 1996 (1) 218 (C) 224 d-g, the court held that if the right of an Accused to a true and correct interpretation of the proceedings has, prima facie, been irrevocably infringed and such an infringement is brought to the attention of the Supreme Court, the court must intervene.
[11] In *S v Roux* 1974 (2) SA 452 (N) 455 A, the court held that the power of a Court of Appeal to hear further evidence stems from the fact that it is neither in the interests of the administration of justice nor in the interests of legal certainty that questions of fact which have already been judicially investigated and pronounced upon should be re-opened and amplified or supplemented, and vice versa.
[12] A mistake of law per se is not an irregularity, but its consequences amount to a gross irregularity where a judicial officer, although perfectly well intentioned and bona fide, does not direct his mind to the issue before him and so prevents the aggrieved party from having his case fully and fairly determined (Goldfields Investment, Ltd. V City Council of Johannesburg, 1938 T.P.D. 551; Local Road Transportation Board v Durban City Council 1965 (1) S.A. 586 (A.D.) at 598A-C).
[13] http://ecofeminist-v-breivik.weebly.com/oslo-district-court.html

[A.1.a] Necessity Judgement fails to provide any necessity criminal provisions that prohibit killing of Government Officials in case of Necessity.

Judgement provides no details of any Norwegian or International specific necessity criminal provision which specifically prohibits the killing of government or politically active young people, in the event of objective and subjective reasonably determined necessity.[14]

[A.1.b] Necessity Judgement Ignores that Criminal Necessity provisions do not prohibit the killing of Government Officials in case of objective and subjective Necessity.

Applicant is unaware of any International or Norwegian specific necessity criminal provision which specifically prohibits the killing of government or politically active young people, in the event of objective and subjective reasonably determined necessity.

[A.1.c] Necessity Judgement's Erroneous interpretation of Necessity related criminal law provisions and international necessity related human rights law.

Necessity criminal provisions do not specifically allow or disallow the killing of government or politically active young people. Necessity criminal provisions provide for an objective and subjective test that examines each alleged criminal act to objectively and subjectively determine whether necessity existed within the particular criminal act's relevant circumstances.

[A.1.d] Necessity and Guilt Judgement's Failure to conduct required Objective and Subjective Tests for Defendant's Necessity Defence:

The court, prosecution and defence counsel failed to conduct the required subjective and objective tests [LE-2012-76983 Eidsivating Appeal – Judgment of 29 May 2012[15]] to determine (I) objectively whether the defendant's claims – simplistically rephrased as - 'Titanic Europe is on a demographic/immigration collision course with Islam Iceberg'; and (II) secondly whether the defendant subjectively perceived the Titanic Europe/Islam Iceberg circumstances this way.

[14] LAW-1998-03-20-10-§ 5: Forskrift om sikkerhetsadministrasjon | Regulations relating to security management allows for "security breaches without criminal liability if the terms of the principle of necessity or self defence in criminal law law § 47 or § 48 is met."

[15] In LE-2012-76983 Eidsivating Appeal – Judgment of 29 May 2012, an Eritrean man was accused of several Perjury related Immigration offences to help his sister to come to Norway. He admitted the facts, but claimed necessity. In court he was found guilty on all counts and sentenced to 90 days' imprisonment. The Court of Appeal suspended the appeal to test his conviction on one point (whether the court a quo had seriously enquired into his necessity defence).
The court agreed with the Defendant's argument that asserted that the court a quo had not considered the circumstances that were invoked as the basis for the existence of a principle of necessity situation. The judgement stated that it is clear that "the courts statement of reasons does not show that the court has considered this argument. Thus it is also clear that the Court's statement of reasons in so far are inadequate."
It would appear that Norwegian law has both a subjective and objective enquiry test into the necessity defence, which is similar to South African law; namely to test whether objectively there was a situation of necessity, and secondly whether subjectively the defendant sincerely believed there was a real situation of necessity thereby motivating his conduct.

If Defendant subjectively views Europe metaphorically as ‘Titanic Europe’ then an objective test by means of relevant expert witness testimony and vigorous cross examination of such experts, would need to determine:

(a) Is Islam an Iceberg or a mirage/illusion on the horizon?

(b) If an iceberg: Is Titanic Europe unsinkable or an icebreaker?

(c) If not: how large, how far, how deep is Islam Iceberg and if moving, how fast, in what direction?

(d) What is the distance between Titanic Europe and Islam Iceberg and at what speeds are they moving towards impending collision?

(e) Is collision inevitable based on current speed, current and course; or is there still time for altering course and speed; and if so, how much time, before collision is inevitable?

(f) Subjective Reasonableness Test: If an ‘African nationalist’ passenger on Titanic Africa’s subjective reality is that the collision of Titanic Africa’s 770 million passengers with the Greedy Colonial Europe Iceberg is inevitable in the absence of drastic alteration of course and speed within ‘for example: 10 000 minutes’; but Titanic Africa’s ‘Media PR brainwashed Captain’ captain and crew all mistakenly believe Titanic Africa is an unsinkable icebreaker and the Colonial Europe Iceberg is a tall ship on the horizon; and the only message the ‘Media PR brainwashed Captain’ listens to is ‘If it Bleads, it Leads’ dead bodies; would an objectively reasonable military minded European / Arab / Latin American / nationalist individual advise the African nationalist passenger to (i) sacrifice 77 Colonial Europe passengers to awaken 770 million Titanic African passengers to the urgency of demanding the captain immediately drastically alter course and speed before the point of imminent collision is reached, or (ii) focus their energy on their own liferaft and make peace with the impending death of Titanic Africa’s ignorant and unprepared 770 million?

[A.1.e] Necessity and Guilt Judgement’s Absence of Objective and Subjective Test Enquiry and Conclusions Renders it Inadequate

It is clear that the Court's statement of reasons does not show the results of the courts objective and subjective enquiry into the Defendant’s claim of necessity. Thus, it is also clear that the Court's statement of reasons, are inadequate.

[A.1.f] Necessity and Guilt Judgement's Absence of Clarification Upon which party the Onus of Proof lies in a Case of Necessity; and how or why their evidence was insufficient renders the Judgements Conclusions inadequate.

The Judgement fails to disclose Norwegian law's Onus of Proof requirements in a case of necessity: i.e. upon which party – Defendant or State - does the Onus of Proof lie in case of Necessity? In South Africa, the proof in a defense of necessity, ruling out the reasonable possibility of an act of necessity, lies on the State. In the absence of the State ruling out the reasonable possibility of an act of necessity, the accused claim of necessity stands.

[A.1.g] Necessity and Guilt Judgement's Absence of Objective and Subjective Test Enquiry and Conclusions Renders it Discriminatory Precedent

The Court's statement of reasons does not show the results of the courts objective and subjective enquiry into the Defendant's claim of necessity. Thus, it is also clear that the Court's statement of reasons, are not only inadequate, but if not corrected, would set a bad precedent, encouraging other courts to deny necessity defendants their rights to an objective and subjective test of their necessity defence.

[A.1.h] Necessity Judgements 'Extreme Political Objectives' conclusion is unsupported in the Absence of Objective and Subjective Necessity Test

For example: Subjectively speaking as a 'European Indigenous Militant Nationalist': Saving the lives of 770 million of your fellow 'European state' citizens is not an 'extreme political objective'; but a 'human rights objective'.

Whereas subjectively speaking as an honourable 'End Civilisation Linkolian-Primitivist EcoFeminist': Informing 770 million European industrial civilisation human parasites destroying the planets ecological habitat of Titanic Europe's impending collision with the Peak Oil and NNR Iceberg could be a 'Decisive Ecological Warfare[16] Wild Law[17] objective'.

Put differently: In the absence of a broader ecological perspective, a reasonable objective assessment of the left vs. right wing parasite leeching political breeding and resource war blame game would conclude that one man's freedom fighter is another man's terrorist; similarly one man's 'extreme political objective' can be another man's 'human rights objective'.

[16] Decisive Ecological Warfare: http://deepgreenresistance.org/dew/
[17] Wild Law is a new legal theory and growing social movement. It proposes that we rethink our legal, political, economic and governance systems so that they support, rather than undermine, the integrity and health of the Earth. http://www.wildlaw.org.au/

[A.1.i] Necessity Judgements 'Extreme Political Objectives' conclusion is unsupported in the Absence of Objective and Subjective Necessity Test; and is a Masculine (Reason and Logic) Insecurity Human Farming[18] Kaffir[19] Legislation' Social Trap[20]. Put simply: a Left vs. Right Wing Blame Game Parasite Leeching Polarization – not a Matriarchal Ecological and Psychological Integrity Root Cause Problem Solving – conclusion.

The Myth that Economic and Political Solutions Can Solve Any Problem[21]
From a broader ecological perspective, all human economics and politics are irrelevant.[22]

A Matriarchal Radical Problem Solving Accountability Enquiry would have examined both the underlying ecological reality environment, and the underlying psychological integrity environment of the dispute between the defendant and the victims.

A healthy ecological environment, with due regard for carrying capacity laws of sustainability is a *sine qua non*[23] for all other constitutional rights; similarly a psychological integrity environment of philosophical radical transparency courageous truth searching radical honesty relationships that inforlve sincere forgiveness is a *sine qua non*[24] for healthy, transparent relationships that result in the co-creation of a code of conduct that enables non-violent honest sincere resolutions to disagreements.

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[18] Human Farming: Story of Your Enslavement: http://youtu.be/gHAnrXCvavc

[19] Radical Honoursty Definitions of Kaffir are not Racial, but Behavioural: For Example:
*** 'Kaffir Behaviour'**: Cultural Beliefs and Procreation Behaviour Definition: Individuals who either independently or as a result of their cultural value systems, are incapable of, or unwilling to, practice sexual restraint and procreation responsibility; who consequently breed cockroach-prolifically without personal financial or psychological responsibility to, or emotional concern for, their offspring; and/or who abuse women and children as sexual or economic slaves procreated for such purpose; and/or whose cultural ideal of manhood endorses non-consensual sex (rape) as their sexual slavery entitlement, etc.
* **'Kaffir Etymology'**: Original Etymological Definition for 'Kaffir': The word kāfir is the active participle of the Semitic root K-F-R "to cover". As a pre-Islamic term it described farmers burying seeds in the ground, covering them with soil while planting; as they till the earth and "cover up" the seeds; which is why earth tillers are referred to as "Kuffar." Thus, the word kāfir implies the meaning "a person who hides or covers"; To conceal, deny, hide or cover the truth.

[20] The term social trap was first introduced to the scientific community by John Platt's 1973 paper in American Psychologist[1], building upon the concept of the "tragedy of the commons" in Garrett Hardin's pivotal article in Science[2], Platt and others in the seminar applied behavioral psychology concepts to actions of people operating in social traps. By applying the findings of basic research on "schedules of operant reinforcement" (B.F. Skinner 1938, 1948, 1953, 1957; Keller and Schoenfeld, 1950), Platt recognized that individuals operating for short-term positive gain ("reinforcement") had a tendency to over-exploit a resource, which led to a long-term overall loss to society. [1] (Platt, J. (1973) Social Traps, American Psychologist, 28, 641-65) [2] Hardin, G. (1968) The Tragedy of the Commons, Science, 162, 1243-1248

[21] **Economic and Political Solutions Can Solve Any Problem:**
Myth: Through enlightened economic and political policies and initiatives at the national and global levels, we will overcome all obstacles to global industrialism and enable a continuously improving industrialized lifestyle for our ever-increasing global population.
Reality: Unfortunately, the fundamental cause underlying our predicament is ecological—everincreasing NNR scarcity—it is not economic or political. The economic and political issues that we address and attempt to resolve are merely manifestations of our predicament—they are symptoms, not the disease.
Since none of the economic and political expedients that we employ to solve these problems can create additional NNRs—which are the primary enablers of our industrialized way of life—our economic and political "solutions" are irrelevant.
– **Scarcity**, by Chris Clugston (http://www.nnrscarcity.com/)

[22] In fact, from the broader ecological perspective, all human economics and politics are irrelevant.
Because the underlying cause associated with our transition from prosperity to austerity is ecological (geological), not economic or political, our incessant barrage of economic and political "fixes" – fiscal and monetary "stimulus" – is misguided and inconsequential. Our national economies are not "broken"; they are "dying of slow starvation" for lack of sufficient economically viable NNR inputs.
• Our industrial lifestyle paradigm, which is enabled by enormous quantities of finite, nonreplenishing, and increasingly scarce NNRs, is unsustainable – actually, physically impossible – going forward.
• Global humanity's steadily deteriorating condition will culminate in self-inflicted global societal collapse, almost certainly by the year 2050. We will not accept gracefully our new normal of ever-increasing, geologically-imposed austerity; nor will we suffer voluntarily the horrifically painful population level reductions and material living standard degradation associated with our inevitable transition to a sustainable, pre-industrial lifestyle paradigm.
- Scarcity is a comprehensive, multidisciplinary assessment of the realities, choices, and likely outcomes associated with ever-increasing nonrenewable natural resource (NNR) scarcity. NNRs are the fossil fuels, metals, and nonmetallic minerals that enable our industrialized existence. Scarcity is also the story of a species, Homo sapiens, whose superior intellect should have caused it to eschew natural resource utilization behavior through which lower order species often experience population "irruptions" followed by "die-offs". No such luck… Scarcity will enable you to make sense of a world that is experiencing the most profound paradigm shift in human history.
– **Scarcity**, by Chris Clugston (http://www.nnrscarcity.com/)

[23] *Opinion of Weeramantry J in the Case Concerning the Gabcikovo-Nagymaros Project (Hungary v Slovakia)* (1998) 37 International Legal Materials 162 206. http://www.icj-cij.org/docket/files/92/7383.pdf

[24] *Practicing Radical Honesty*, by Brad Blanton http://jus-sanguinis-ror.blogspot.com/2012/01/practicing-radical-honesty-being.html

A sustainable democracy or republic would only allow citizens who live below the nations carrying capacity in terms of procreation and consumption, the licence to vote. Any citizen whose consumption and/or procreation footprint is above the nations carrying capacity footprint is effectively robbing future generations of the nations resources that should be conserved and preserved for their future. We don't give robbers the code to the nations bank safes; so why do we give citizen ecological rapists and robbers a licence to vote and bribe politicians to rob future generations resources?

The Kaffir Matrix Court system is founded on 'Kaffir Legislation': Inalienable Right to Breed and Vote: Kaffir Law/Legislation provides citizens with the Inalienable 'Right to Breed' and 'Right to Vote', but demands that Citizens need a Licence to Own a Gun, a Licence to Drive a Car, a Licence to Practice Law, a television licence, a credit licence, a licence to earn a living, a university exemption licence, a licence to fish, a licence to hunt, a liquor licence, a business licence, a marriage licence.

The Masculine Insecurity Human Farming Kaffir[25] Legal Matrix avoid requiring voting[26] and breeding licences; because (A) their endorsement of the Inalienable Right to Vote, or Universal Suffrage for the Ignorant is their road to centralisation of power and tyranny[27]; and (B) their endorsement of the Inalienable Right to Breed, is their endorsement of the Economic and Military Cannon Fodder[28] - Iron Mountain[29] 'War is a Racket[30] - Tragedy of the Commons[31] use of women as human-factory-farming-cannon-fodder-brood-sows for their Kaffir Matrix profit from the Human Farming[32] Tragedy of the Commons[33] breeding war[34] resource wars[35].

[B] Judgement's Transparency Failure violates Aarhus Convention principles and public accountability impartiality principles.

[25] Human Farming: Story of Your Enslavement: http://youtu.be/Xbp6umQT58A
[26] "In order to achieve this goal [of world domination], we must introduce [the right to vote] universal suffrage beforehand, without distinctions of class and wealth. Then the masses of people will decide everything; and since it [universal suffrage] is controlled by us we will achieve through it the absolute majority, which we could never achieve if only the educated and possessing classes had the vote." -- Protocols of the Elders of Zion, 10th Sitting, Wallstein Pub. House, ISBN 3-89244-191-x, p. 60
[27] "In order to achieve this goal [of world domination], we must introduce [the right to vote] universal suffrage beforehand, without distinctions of class and wealth. Then the masses of people will decide everything; and since it [universal suffrage] is controlled by us we will achieve through it the absolute majority, which we could never achieve if only the educated and possessing classes had the vote." -- Protocols of the Elders of Zion, 10th Sitting, Wallstein Pub. House, ISBN 3-89244-191-x, p. 60
[28] The organizing principle of any society is for war. The basic authority of a modern state over its people resides in its war powers. . . . War readiness accounts for approximately a tenth of the output of the world's total economy." For Stone – and many others – it was clear that the government was a co-existence of various interest groups: the oil industry; the pharmaceutical industry; but mainly, the military-industrial complex… warmongers.
http://www.philipcoppens.com/ironmountain.html
[29] Report from Iron Mountain: On the Possibility and Desirability of Peace http://www.teachpeace.com/Report_from_Iron_Mountain.pdf
[30] War is a Racket, by USMC General Smedley Bulter http://warisaracket.org/dedication.html
[31] In this riddle, the lily pond has a potentially virulent lily that apparently will double in size each day. If the lily grows unchecked it will cover the entire pond in 30 days, choking off all other forms of life in the water by the time it covers the entire pond. If a skeptic waited until 50% of the pond was covered before taking any remedial action to save the pond, when would he act? The answer: on the 29th day of the month! But by then, it would be too late.
[See also: World Pop. Balance: Understanding Exponential Growth: Bacteria in a Bottle:
http://www.worldpopulationbalance.org/exponential-growth-tutorial/bacteria-exponential-growth.html
[32] Human Farming: Story of Your Enslavement: http://youtu.be/Xbp6umQT58A
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[See also: World Pop. Balance: Understanding Exponential Growth: Bacteria in a Bottle:
http://www.worldpopulationbalance.org/exponential-growth-tutorial/bacteria-exponential-growth.html
[34] "We must all understand that the most potent weapons of war are the penis and the womb. Therefore, if you cannot convince a group to control its population by discussion, debate, intelligent analysis etc., you must consider their action in using the penis and the womb to increase population an act of war." - Jason G. Brent, Former Judge and author of Humans: An Endangered Species http://www.jasonbrent.weebly.com/
[35] "We must all understand that the most potent weapons of war are the penis and the womb. Therefore, if you cannot convince a group to control its population by discussion, debate, intelligent analysis etc., you must consider their action in using the penis and the womb to increase population an act of war." - Jason G. Brent, Former Judge and author of Humans: An Endangered Species http://www.jasonbrent.weebly.com/

{3} OPPOSING THE APPLICATION:

Take notice further that if you intend opposing this application you are required (a) to notify the applicant in writing on or before the 10 September 2012 (b) and within fifteen days after you have so given notice of your intention to oppose the application, to file your answering affidavits, if any; and further that you are required to appoint in such notification an address (and email address) at which you will accept notice and service of all documents – per email service - in these proceedings.

TAKE NOTICE FURTHER THAT the applicant is representing herself Pro Se as 'paralegal of record' in this matter and appoints the address, including email address of P O Box 5042, George East, 6539, Tel: +27 (44) 870 7239; Cell: (071) 1954; Email: jmcswan@mweb.co.za, as the address at which she will accept notice and service of all documents/email notices, in these proceedings.

TAKE NOTICE FURTHER THAT the applicant shall approach various Norwegian Universities and International Ecological Concerned Organisations for Pro Bono Assistance of Counsel support in this matter; but obviously cannot guarantee that any such organisations shall provide such Pro Bono Assistance of Counsel.

TAKE NOTICE FURTHER THAT

- Respondents are called upon to show why the relief sought by the applicant should not be granted;
- the Oslo District Court is required to dispatch a copy of the record of the decisions listed in paragraph {l}[A.1] and {l}[A.2] above, together with any reasons for their decisions, to the registrar of this court within 15 days of the service of this application and to notify the applicants that they have has done so;
- the applicant may, within 10 days after the registrar has made the record of the proceedings available to them, by way of delivery of a notice and accompanying affidavit, add to or vary the terms of the notice of motion and affidavit.

TAKE NOTICE FURTHER THAT the applicants will rely on the attached affidavit of Lara Johnstone in support of this application for review.

TAKE NOTICE FURTHER THAT if you intend opposing this application for review, you are required:

(a) to notify the applicant within 15 court days of receiving this notice of your intention to oppose this matter and in that notice appoint an address and email at which you will accept notice and service of all documents in these proceedings; and

(b) within 30 court days after receipt of the applicants response affidavit, to file your answering affidavits, if any.

FINALLY: TAKE NOTICE FURTHER THAT If no such notice of intention to oppose is given, the applicant will request the Registrar to place the matter before the Chief Justice to be dealt with in terms of the relevant rules[36] in accordance to the Supreme Court Test[37], on a date suitable to the registrar and court, on or after 11 September 2012.

Dated at George, Southern Cape, South Africa on this 27th day of August 2012

LARA JOHNSTONE, Pro Se
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Email: jmcswan@mweb.co.za

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[01] PROSECUTION

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[02] DEFENDANT

TO: DEFENDANT: Anders Breivik
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Advokatfirmaet Lippestad AS
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Email: geir@advokatlippestad.no, tord@advokatlippestad.no, odd@advokatlippestad.no

[03] OSLO DISTRICT COURT: JUDGE ARNTZEN[38]

TO: REGISTRAR

[36] Orientering om saksførebuing, straffesaker 3 Spørsmål om ei sak er eigna som prøvesak || Presentation of case preparation, criminal cases 3 Questions about a case is suitable as a test case
http://www.domstol.no/nn-NO/Enkelt-domstol/Noregs-Hogsterett/Saksforberedelse/Orientering-om-saksforebuing-straffesaker/
[37] Høyesterettsprøven || Supreme Court Test http://www.domstol.no/no/Enkelt-domstol/-Norges-Hoyesterett/Hoyesterettsproven/
[38] Rettens Leder: Wenche Elizabeth Arntzen, Fagdommer: Arne Lyng; Meddommere: Ernst Henning Eielsen, Diana Patricia Fynbo and Anne Elisabeth Wisloff

Registrar of the Oslo District Court
Sorenskriver og administrasjon
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[04] VICTIMS FAMILIES:

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IN THE SUPREME COURT OF THE KINGDOM OF NORWAY

NSC Case #: _____
Oslo District Crt #: 11-188627MED-OTIR/05

In the Application of:

LARA JOHNSTONE	Application for Review

In the matter between:

OSLO DISTRICT COURT	First Respondent
KINGDOM OF NORWAY	Second Respondent
ANDERS BEIHRING BREVICK	Third Respondent
VICTIMS FAMILIES	Fourth Respondent

FOUNDING AFFIDAVIT: Application for REVIEW and DECLARATORY ORDER:

Table of Contents:

I the undersigned,

LARA JOHNSTONE

do hereby make oath and say:

1. I am an adult Problem Solving Radical Honoursty African Ecofeminist paralegal, member of the Radical Honesty culture (Annex A) resident at 16 Taaibos Avenue, Heatherpark, George, Southern Cape, South Africa; where I run a small EcoFeminist pedal-powered wormery business (www.sqworms.co.nr). I am duly authorized to make application on my own behalf.

2. The facts set out herein fall within my personal knowledge, unless otherwise indicated by the context, and are to the best of my belief true and correct.

3. Review: "Oslo District Court: Breivik Judgement"

4. I make this affidavit in support of an application for Review against parts of the judgement by Rettens Leder: Wenche Elizabeth Arntzen, Fagdommer: Arne Lyng; Meddommere: Ernst Henning Eielsen, Diana Patricia Fynbo and Anne Elisabeth Wisloff, delivered on 24 August 2012 (herein after referred to as the "Oslo District Court: Breivik Judgement").

    1. To Set Aside the Judgements [A.1] Necessity Ruling (pg.67[1]); and [A.2] the Defendant's conviction (finding of guilt) and remit the case back to Oslo District Court for hearing of further evidence to conclude an Objective and Subjective Necessity Test Evidentiary Enquiry.

    2. Declaratory Orders: The courts failure to Conduct Objective and Subjective Necessity Tests are Not to be Interpreted as Precedent for courts to Deny other Necessity Activists these Necessity tests: In the event that [A.3] the Defendant refuses to cooperate with the Further Evidence Proceedings, an order to change his plea to 'guilty'; and/or a Non-Precedent Setting declaratory order; or [A.4] the Failure of Justice Irregularity does not influence the conviction and/or sentence; a 'Non-Precedent Setting' Declaratory Order.

    3. To Set Aside the Judgement's Aarhus Convention[2] Transparency[3] Failure to disclose the pending Judicial Ethics violation complaint against Rettens Leder: Wenche Elizabeth Arntzen, filed on 06 June 2012 to the Secretariat for the Supervisory Committee for Judges[4].

[1] http://issuu.com/js-ror/docs/120824_nvb-judmnt?mode=window&viewMode=singlePage
[2] Convention on Access to Information, Public Participation in Decisioin-making and Access to Justice in Environmental Matters http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf
[3] The rule of law requires legislation (or judgements or court officials decision-making) to be adequately accessible and sufficiently precise to enable people to regulate their affairs in accord with the law (Lithgow & others v United Kingdom).
Lithgow & others v. United Kingdom (1986) * EHRR 329 § 110 http://www.unhcr.org/refworld/publisher,ECHR,,GBR,3ae6b7230,0.html
[4] http://ecofeminist-v-breivik.weebly.com/secr-supv-comm-judges.html

5. Legal Interest: Judicially Un-Investigated Facts:

6. I file this application for review in my capacity as the Radical Honoursty EcoFeminist Jus Sanguinis Norwegian African White Refugee applicant whose following applications are still pending a ruling from the Secretariat Supervisory Committee for Judges[5], regarding Judicial Ethics violations of Applicants due process rights in this matter, by First Respondents, and 170 complaints of CCBE Code of Ethics violations to the Bar Association Disciplinary Committee[6] (166) and Disciplinary Board for Advocates[7] (4), for their role in endorsing the censorship, obstruction and suppression of:.

    1. **30 November 2011 Application to Oslo District Court: Habeus Mentem**: On 30 November 2011, complainant filed an Application to the Oslo District Court: *Application for a [I] writ of Habeus Mentem on behalf of Anders Breivik psycho-cultural integrity right to a free and fair trial; and [II] writ of Certiorari/Review of the Psychiatric Evaluation Report of Psychiatrists: Synne Serheim and Torgeir Husby as to the Mens Rea political necessity criminal liability of Anders Breivik terrorist acts, on 22 July 2011.*

    2. **15 April 2012 Application to Oslo District Court: Amicus Curiae**: On 15 April 2012, Complainant filed an Application to the Oslo District Court: *Application to proceed as In Forma Pauperis Jus Sanguinis Norwegian African White Refugee Amicus Curiae for an Order (1) to approve the Applicant as an In Forma Pauperis Jus Sanguinis Norwegian African White Refugee Amici Curiae, and (2) Amending the Charges Against the Defendant and Applicant to include Treason in terms of Article 85 of Norwegian Constitution, and if found guilty, in a free and fair trial; to be executed by firing squad.*[8]

    3. **10 May 2012 Application to Norway Supreme Court: Review & Declaratory Orders**: On 10 May 2012, Complainant filed an Application to the Norway Supreme Court: *Application (1) to be admitted as a Jus Sanguinis Radical Honoursty African EcoFeminist White Refugee; (2) for An Order demanding the Norwegian Ministry of Culture to act in accordance to European Court of Human Rights ruling in Lithgow & others v. United Kingdom, and clarify in adequately accessible and sufficiently precise statement; whether Norway is (A) a 'Children of the*

[5] Judicial Ethics Violations Complaints against Judge Nina Opsahl, Wenche Arntzen and Tore Schei: Violation of Ethical Principles for Norwegian Judges: 1. (Rule of Law), 2. (Independence), 3 (Impartiality), 4 (Integrity), 5 (Equality), 7 (Formulation of Court Decisions), 12 (Judges relation to the media), 15 (Collegial Intervention).
http://ecofeminist-v-breivik.weebly.com/secr-supv-comm-judges.html
[6] http://ecofeminist-v-breivik.weebly.com/advfor-disc-comm.html
[7] http://ecofeminist-v-breivik.weebly.com/disc-brd-for-adv.html
[8] Radical Honoursty EcoFeminist 13 August letter to Knights Templar Mr. Breivik : "Radical Honoursty Definition of Honour: Honour is very important to me, like it is to you; although I don't know if we define it similarly. To me honour means I practice what I preach. So if I say I support the rule of law, then I must challenge myself to support the rule of law for those I consider my enemies. To support the rule of law for friends only means I support mobjustice, not the rule of law. Honour also means that I never gossip about someone, if I have a problem with anyone, I tell them of my opinions to their face. I don't pretend, and I don't do two-faced political correct sycophancy with anyone. Finally to me honour means you don't ask someone to do something you are not willing to do yourself. If I ask you to put yourself forward to be charged with treason and the death penalty, then I demonstrate my integrity, seriousness and commitment to the request, by asking of myself the same consequences. You are willing to die for your ideological beliefs, for saving your people and your culture; I am willing to risk death, to challenge your country to give you a free and fair trial, so that we can examine the truth about your evidence. I don't doubt your sincere belief that the evidence you wish to bring before the court is as serious as you believe it to be. My worldview seriously doubts certain of your allegations and perspectives; but I am willing to put my perspectives to the serious test. I would be happy to risk death in support of seeking the truth and to encourage others to support the rule of law, particularly for those whom they consider their enemies."
http://ecofeminist-v-breivik.weebly.com/rh-13-aug-2012.html

Rainbow'[9] *State legally committed to Multiculturalism, providing all cultures their right to invoke cultural law and hence granting the Applicant her rights to invoke Radical Honoursty cultural law; or (B) a Monocultural Indigenous European Supremacy Legal Hegemonic State, and that the Labour Party Immigration policy is a tactic to maintain their grip on power, by importing Non-Western immigrants as Labour Party vote-fodder; (3) to Review the Oslo District Court failure to act in accordance of due process to a Jus Sanguinis Radical Honoursty African EcoFeminist White Refugee Applicant member of the Radical Honesty culture*.

7. Legal Questions: Matriarchal Ecological Wild Law[10] Legal Principles Worldview:

8. When dealing with legal questions, I rely on a Patriarchal Human-Ego-Legal Worldview Matrix Qualification and Matriarchal Radical Honoursty and Ecological and Psychological Integrity Root Cause Problem Solving Wild Law[11] (Wild Law Summary: Annex B) Principles which – among others – does not recognize human's rights as greater than the rights of nature or other planetary species:

    1. A Paralegal Certificate, and Paralegal Diploma, both with Distinction, from the ***South African Institute of Legal Training*** and ***Damelin Correspondence Career Development College*.**

    2. **A Matriarchal Radical Problem Solving Accountability Enquiry examines both the underlying ecological reality environment, and the underlying psychological integrity environment of any dispute that requires resolution**: A healthy ecological environment, with due regard for carrying capacity laws of sustainability is a *sine qua non*[12] for all other constitutional rights; similarly a psychological integrity environment of philosophical radical transparency courageous truth searching radical honesty relationships that involve sincere forgiveness is a *sine qua non*[13] for healthy, transparent relationships that result in the co-creation of a code of conduct that enables non-violent honest sincere resolutions to disagreements.

    3. **Sustainable Democracy Wild Law[14] requires at minimum a 'Carrying Capacity Footprint' Licence to Vote, and until a national carrying capacity footprint is achieved, either a licence to Breed recognizing Judge Jason Brent's acknowledgement of the penis and womb as the most potent weapons of war and the ecologically irresponsible use of our penis and wombs to be considered**

[9] Europost: Children of the Rainbow against Anders Breivik http://www.europost.bg/article?id=4409
[10] Wild Law is a new legal theory and growing social movement. It proposes that we rethink our legal, political, economic and governance systems so that they support, rather than undermine, the integrity and health of the Earth. http://www.wildlaw.org.au/
[11] Wild Law is a new legal theory and growing social movement. It proposes that we rethink our legal, political, economic and governance systems so that they support, rather than undermine, the integrity and health of the Earth. http://www.wildlaw.org.au/
[12] *Opinion of Weeramantry J in the Case Concerning the Gabcikovo-Nagymaros Project (Hungary v Slovakia)* (1998) 37 International Legal Materials 162 206. http://www.icj-cij.org/docket/files/92/7383.pdf
[13] *Practicing Radical Honesty*, by Brad Blanton http://jus-sanguinis-ror.blogspot.com/2012/01/practicing-radical-honesty-being.html
[14] Wild Law is a new legal theory and growing social movement. It proposes that we rethink our legal, political, economic and governance systems so that they support, rather than undermine, the integrity and health of the Earth. http://www.wildlaw.org.au/

as acts of war[15]**; or adoption of Judge Jason Brent's anti-war one child per two adults only policy:** Humans: An Endangered Species: Shocking Proposal: "limit the right of any male to father only one live child and limit the right of every woman to one live birth. [..] Since survival of our species depends on the one child rule, under my proposal any attempt to evade the rule would result in death of the evader and of any second child. The rule to be fair must be absolute, without a single exception. [..] Population would continue to be reduced pursuant to the method [..] until it reached 300 million [or a number] based on the ability of the earth to provide resources for humanity to maintain an acceptable standard of living for a minimum of 25,000 years."[16] [Annex C: Sustainability Defined]

4. **Green**[17] **Carrying Capacity Footprint Licence to Vote:** A sustainable democracy or republic only allows citizens who live below the nations carrying capacity in terms of procreation and consumption, the licence to vote. Any citizen whose

[15] "We must all understand that the most potent weapons of war are the penis and the womb. Therefore, if you cannot convince a group to control its population by discussion, debate, intelligent analysis etc.; you must consider their action in using the penis and the womb to increase population, an ACT OF WAR." – Judge Jason G. Brent

[16] The action I am initially proposing is value neutral and does not favor or harm any individual or group. The action I am proposing will be applied to every person or group without favoring anyone. The action is very simple---limit the right of any male to father only one live child and limit the right of every woman to one live birth. In simple terms a couple is limited to one and only one child—not one child for the male and one child for the female.

These limitations would be applied to every single human being without regard to race, religion, national origin or anything else and it would be absolute, no exceptions. It would be applied without regard for wealth, or the lack of wealth, and it would be applied without regard for the country of birth or residence of either the male or female. It would be applied without regard to intelligence, or the lack thereof, and without regard of the ability of the male or female to function in society. (At a later date when a method was agreed upon relating to dividing human beings into two groups, the ability to function in society would be considered in relation to who could or could not reproduce.) The right to either father a child or for a female to give birth could not be sold or transferred; it would be personal to the individual. If a live child were born with a birth defect or with some other disability it would not permit either the father or mother to produce another child. Each couple would have the right to have all appropriate pre-natal tests to determine if the child in the womb would be born with a birth or genetic defect and if the chance existed that the child would be born with such a defect to have an abortion.

Since survival of our species depends on the one child rule, under my proposal any attempt to evade the rule would result in death of the evader and of any second child. The rule to be fair must be absolute, without a single exception. If the female cannot or refuses to provide the name of the father she and the child shall be immediately executed. All of the ideas set forth in this paragraph may be considered horrible and inhumane. However, since they will be applied equally, no individual or group is harmed except to the extent that an individual cannot either father or give birth to a second child. The harm caused to the individual and the harm caused to all of humanity by enforcing the one child rule set forth above is miniscule compared to the harm which all of humanity would suffer if population were not reduced.

Since the birth of a child is very hard to hide, there must be communal responsibility and accountability for any attempt to do so. Those who knowingly failed to report the birth of a second or any higher number of children would themselves be subject to the very same severe punishment that would be meted out to the parents of the second or higher numbered child—no religious, cultural or ethnic exemptions would obtain. Humanity cannot consider the evasion of the single child rule a game to be played with a minor penalty, if caught. No group or individual could be permitted any evasion of the one child rule a that would lead to a disparity among groups and among individuals causing irreparable harm to the entire system established to reduce population. Should this sanction seem barbaric or draconian, it is surely less draconian in its effects than the merciless verdict of nature upon a species that refuses to contain its expansion.

In order for this proposal to be fair, equitable and workable, society and governments would be required to take action today to provide the means for every human being to control his or her fertility, to give everyone on the face of the earth the ability to limit birth to a single child. Governments would be required to devote a whatever portion of their Gross Domestic Product is necessary to the provision of artificial birth control devices of any and all types including sterilization, at low or no cost as appropriate, to their citizens, no matter the age of the citizens once a citizen reaches the age he/she can physically reproduce. This would also include instruction as how to use the devices. This would also include education of both males and females that the birth of a second child would result in the execution of the father and mother as well as the child. Governments would be required to provide safe, as much as any medical procedure can be safe, and low cost or free access to abortion. If any person, either male or female, had more than two failures of birth control devices, it would be conclusively presumed that the person was unable to use birth control devices and the person would be physically and permanently sterilized.

If poor nations were unable to devote the necessary funds to accomplish the one child rule in five years, the rich nations of the world would be required to assist the poor nations, after an evaluation that the poor nations were doing the best they could under some reasonable standard.

Since survival of our species depends on reducing population below the current 6.7 billion humans now alive, the necessary funds to establish the system to control population must be made available. It should be emphasized that a "One-Child-Per-Family" (OCPF) law that is almost completely effective will not suffice. It must be totally and universally effective. After a five year preparation period, the rule must be enforced. The reduction in population would continue under the one child rule until all of humanity agreed upon the method and criteria necessary to implement the two group solution described herein. Population would continue to be reduced pursuant to the method and criteria of the two group solution until it reached 300 million or some other lower number agreed upon by humanity. The number finally agreed upon would be based on the ability of the earth to provide resources for humanity to maintain an acceptable standard of living for a minimum of 25,000 years. And 25,000 years is infinitely small when compared to the 160 million years the dinosaurs ruled the earth.
- **Humans: An Endangered Species**, by Judge Jason Brent http://www.jasonbrent.weebly.com/

[17] The only real 'green'.. irrespective of race, religion or culture are those who live below their nation/region's carrying capacity footprint in terms of [A] PROCREATION and [B] CONSUMPTION. Anyone who lives above their regions carrying capacity..... whether in terms of consumption and or procreation, or both.. IS NOT GREEN... but is PSEUDO-GREEN.... Most European PSEUDO-GREEN's... procreate below carrying capacity.. but CONSUME above carrying capacity... Most Non-European PSEUDO-GREEN'S ..... procreate above carrying capacity.. but consume below carrying capacity... The only person who is REALLY GREEN.. not in terms of their verbal diarrhea.. is that person who practices what they preach in terms of consumption AND procreation..

consumption and/or procreation footprint is above the nations carrying capacity footprint is effectively robbing future generations of the nations resources that should be conserved and preserved for their future. We don't give robbers the code to the nations bank safes; so why do we give citizen ecological rapists and robbers a licence to vote and bribe politicians to rob future generations resources?

5. **Green Carrying Capacity Footprint Licence to Legal Ethical and Psycho-Integrity Legal Credibility:** Citizens whose carrying capacity lifestyle is green in terms of procreation and consumption, i.e. who would or should be granted the licence to vote have higher legal ethical and psycho-integrity credibility in a court of law, or in any political or economic dispute, considering that they practice what they preach in terms of living a lifestyle that does not contribute to ecological degradation, resource depletion, overpopulation and local, national or international resource wars.

6. **Howard Law School Prof. Charlie Houston's Social Engineer Lawyer Maxim to expose legal parasitism[18] in a Feminist context is to expose the legal matrix's endorsement of cannon fodder warmongering foundation of patriarchal society[19]**: The Patriarchal legal matrix worldview that endorses Masculine Insecurity Human Farming[20] of Economic and Military Cannon Fodder, for the - Iron Mountain[21] 'War is a Racket[22] - Tragedy of the Commons[23] breeding war[24], which encourages the breeding of surplus youth bulge populations, to be converted into dumb, stupid animal pawns[25] cannon fodder soldier armies in support of Patriarchal Corporate Resource Theft Profiteering.

7. The Kaffir Matrix Court system is founded on 'Kaffir Legislation': Inalienable Right to Breed and Vote: Kaffir Law/Legislation provides citizens with the Inalienable 'Right to Breed' and 'Right to Vote', but demands that Citizens need a Licence to Own a Gun, a Licence to Drive a Car, a Licence to Practice Law, a television licence, a credit licence, a licence to earn a living, a university exemption licence, a licence to fish, a licence to hunt, a liquor licence, a business licence, a marriage licence.

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[18] 'Lawyers are either social engineers, or they are parasites. Social Engineer Lawyers aim to eliminate the difference between what the laws say and mean, and how they are applied; whereas legal parasites aim to entrench their parasitism from the difference between what the laws say and mean, and the application of such differences to their parasitic benefit.' - Prof. Charlie Houston, mentor of Justice Thurgood Marshall, Simple Justice: History of Brown v. Board of Education

[19] "War as a general social release. This is a psychosocial function, serving the same purpose for a society as do the holiday, the celebration, and the orgy for the individual---the release and redistribution of undifferentiated tensions. War provides for the periodic necessary readjustment of standards of social behaviour (the "moral climate") and for the dissipation of general boredom, one of the most consistently undervalued and unrecognized of social phenomena. War fills certain functions essential to the stability of our society; until other ways of filling them are developed, the war system must be maintained -- and improved in effectiveness." - Report from Iron Mountain: On the Possibility and Desirability for Peace (paragraphs found respectively on p45 & p4)

[20] Human Farming: Story of Your Enslavement: http://youtu.be/Xbp6umQT58A

[21] Report from Iron Mountain: On the Possibility and Desirability of Peace http://www.teachpeace.com/Report_from_Iron_Mountain.pdf

[22] War is a Racket, by USMC General Smedley Bulter http://warisaracket.org/dedication.html

[23] In this riddle, the lily pond has a potentially virulent lily that apparently will double in size each day. If the lily grows unchecked it will cover the entire pond in 30 days, choking off all other forms of life in the water by the time it covers the entire pond. If a skeptic waited until 50% of the pond was covered before taking any remedial action to save the pond, when would he act? The answer: on the 29th day of the month! But by then, it would be too late.
[See also: World Pop. Balance: Understanding Exponential Growth: Bacteria in a Bottle:
http://www.worldpopulationbalance.org/exponential-growth-tutorial/bacteria-exponential-growth.html

[24] "We must all understand that the most potent weapons of war are the penis and the womb. Therefore, if you cannot convince a group to control its population by discussion, debate, intelligent analysis etc., you must consider their action in using the penis and the womb to increase population an act of war." - Jason G. Brent, Former Judge and author of Humans: An Endangered Species http://www.jasonbrent.weebly.com/

[25] "Military men are just dumb, stupid animals to be used as pawns" -- Henry Kissinger. Date: August 9, 2005

8. The Masculine Insecurity Human Farming Kaffir[26] Legal Matrix avoid requiring voting[27] and breeding licences; because (A) their endorsement of the Inalienable Right to Vote, or Universal Suffrage for the Ignorant is their road to centralisation of power and tyranny[28]; and (B) their endorsement of the Inalienable Right to Breed, is their endorsement of the Economic and Military Cannon Fodder[29] - Iron Mountain[30] 'War is a Racket[31] - Tragedy of the Commons[32] use of women as human-factory-farming-cannon-fodder-brood-sows for their Kaffir Matrix profit from the Human Farming[33] Tragedy of the Commons[34] breeding war[35] resource wars[36].

9. The Parties:

1. The applicant's aforementioned Radical Honoursty EcoFeminist legal interests in this matter remain unresolved, pending a ruling from the Secretariat Supervisory Committee for Judges[37], regarding Judicial Ethics violations against the Applicants due process rights in this matter, by First Respondents, and 170 complaints of CCBE Code of Ethics violations to the Bar Association Disciplinary Committee[38] (166) and Disciplinary Board for Advocates[39] (4), against Counsel for the third and fourth respondents, for their role in endorsing the censorship, obstruction and suppression of the applicants applications.

2. The first respondents are the Oslo District Court Judges and Lay Judges who authored the Oslo District Court: Breivik Judgement on 24 August 2012: Rettens

[26] Human Farming: Story of Your Enslavement: http://youtu.be/Xbp6umQT58A
[27] "In order to achieve this goal [of world domination], we must introduce [the right to vote] universal suffrage beforehand, without distinctions of class and wealth. Then the masses of people will decide everything; and since it [universal suffrage] is controlled by us we will achieve through it the absolute majority, which we could never achieve if only the educated and possessing classes had the vote." -- Protocols of the Elders of Zion, 10th Sitting, Wallstein Pub. House, ISBN 3-89244-191-x, p. 60
[28] "In order to achieve this goal [of world domination], we must introduce [the right to vote] universal suffrage beforehand, without distinctions of class and wealth. Then the masses of people will decide everything; and since it [universal suffrage] is controlled by us we will achieve through it the absolute majority, which we could never achieve if only the educated and possessing classes had the vote." -- Protocols of the Elders of Zion, 10th Sitting, Wallstein Pub. House, ISBN 3-89244-191-x, p. 60
[29] The organizing principle of any society is for war. The basic authority of a modern state over its people resides in its war powers. . . . War readiness accounts for approximately a tenth of the output of the world's total economy." For Stone – and many others – it was clear that the government was a co-existence of various interest groups: the oil industry; the pharmaceutical industry; but mainly, the military-industrial complex… warmongers.
http://www.philipcoppens.com/ironmountain.html
[30] Report from Iron Mountain: On the Possibility and Desirability of Peace http://www.teachpeace.com/Report_from_Iron_Mountain.pdf
[31] War is a Racket, by USMC General Smedley Bulter http://warisaracket.org/dedication.html
[32] In this riddle, the lily pond has a potentially virulent lily that apparently will double in size each day. If the lily grows unchecked it will cover the entire pond in 30 days, choking off all other forms of life in the water by the time it covers the entire pond. If a skeptic waited until 50% of the pond was covered before taking any remedial action to save the pond, when would he act? The answer: on the 29th day of the month! But by then, it would be too late.
[See also: World Pop. Balance: Understanding Exponential Growth: Bacteria in a Bottle:
http://www.worldpopulationbalance.org/exponential-growth-tutorial/bacteria-exponential-growth.html
[33] Human Farming: Story of Your Enslavement: http://youtu.be/Xbp6umQT58A
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[See also: World Pop. Balance: Understanding Exponential Growth: Bacteria in a Bottle:
http://www.worldpopulationbalance.org/exponential-growth-tutorial/bacteria-exponential-growth.html
[35] "We must all understand that the most potent weapons of war are the penis and the womb. Therefore, if you cannot convince a group to control its population by discussion, debate, intelligent analysis etc., you must consider their action in using the penis and the womb to increase population an act of war." - Jason G. Brent, Former Judge and author of Humans: An Endangered Species http://www.jasonbrent.weebly.com/
[36] "We must all understand that the most potent weapons of war are the penis and the womb. Therefore, if you cannot convince a group to control its population by discussion, debate, intelligent analysis etc., you must consider their action in using the penis and the womb to increase population an act of war." - Jason G. Brent, Former Judge and author of Humans: An Endangered Species http://www.jasonbrent.weebly.com/
[37] Judicial Ethics Violations Complaints against Judge Nina Opsahl, Wenche Arntzen and Tore Schei: Violation of Ethical Principles for Norwegian Judges: 1. (Rule of Law), 2. (Independence), 3 (Impartiality), 4 (Integrity), 5 (Equality), 7 (Formulation of Court Decisions), 12 (Judges relation to the media), 15 (Collegial Intervention).
http://ecofeminist-v-breivik.weebly.com/secr-supv-comm-judges.html
[38] http://ecofeminist-v-breivik.weebly.com/advfor-disc-comm.html
[39] http://ecofeminist-v-breivik.weebly.com/disc-brd-for-adv.html

Leder: Wenche Elizabeth Arntzen, Fagdommer: Arne Lyng; Meddommere: Ernst Henning Eielsen, Diana Patricia Fynbo and Anne Elisabeth Wisloff.

3. The second respondents are State Prosecutors Svein Holden and Inga Bejer Engh who prosecuted the charges of terrorism and mass murder against the defendant; not by conducting a Terrorism Treason trial, but instead chose to host a Political Psychiatry Circus Show Trial on the world stage. This Political Psychiatry Circus Show Trial allowed them to – among others - refuse to conduct the required objective and subjective tests of the Defendant's Necessity Defence; and if the Onus of Proof in a case of Necessity in Norwegian law lies upon the state, failed to rule out the possibility of the Defendants criminal acts as an act of necessity.

4. The third respondent is the Accused Anders Behring Breivik who was charged with committing the 22 July 2011 Attacks against Norway: the bombing of government buildings in Oslo that resulted in eight deaths, and the mass shooting at a camp of the Workers' Youth League (AUF) of the Labour Party on the island of Utøya where he killed 69 people, mostly teenagers. The charges being "destabilising or destroying basic functions of society" and "creating serious fear in the population", acts of terrorism under the criminal law. He admitted to the acts, but pled not guilty based upon the defence of necessity (nodrett).

5. The fourth respondents are the Victims Families of the 22 July Attacks, who were robbed of a trial that included a Matriarchal ecological and psychological integrity root cause problem solving analysis and enquiry of the underlying – unhealthy ecological and psychological integrity - issues that contributed to and resulted in the death of their loved one's.

10. Failure of Justice: Judicially UnInvestigated Facts: Necessity and Guilt:

11. The applicant is unaware of any reference made during the court proceedings that provided any details of any Norwegian or International specific necessity criminal statute that specifically prohibits the killing of government or politically active young people, in the event of objective and subjective reasonably determined necessity.

12. Furthermore Applicant is unaware of the existence of any International or Norwegian specific necessity criminal statute which specifically prohibits the killing of government or politically active young people, in the event of objective and subjective reasonably determined necessity.

13. According to the applicants limited knowledge Necessity criminal statutes do not specifically allow or disallow the killing of government or politically active young people. Necessity criminal statutes generally provide for some kind of an objective and subjective test that examines each alleged criminal act to objectively and subjectively determine whether necessity existed, or the defendant honestly believed it existed, within the particular criminal act's relevant circumstances.

14. The court, prosecution and defence counsel failed to conduct the required subjective and objective tests to examine the evidence for the Defendant's necessity motivations to determine (I) objectively whether the defendant's claims – simplistically rephrased as - 'Titanic Europe is on a demographic/immigration collision course with Islam Iceberg'; and (II) secondly whether the defendant subjectively perceived the Titanic Europe/Islam Iceberg circumstances this way.

15. The Judgement fails to disclose Norwegian law's Onus of Proof requirements in a case of necessity: i.e. upon which party – Defendant or State - does the Onus of Proof lie in case of Necessity? In South Africa, the proof in a defense of necessity, ruling out the reasonable possibility of an act of necessity, lies on the State. In the absence of the State ruling out the reasonable possibility of an act of necessity, the accused claim of necessity stands.

16. It is clear that the Court's statement of reasons does not show the results of the courts objective and subjective enquiry into the Defendant's claim of necessity. Thus, it is also clear that the Court's statement of reasons for its 'necessity finding of guiilt', are inadequate. Hence the finding of guilt needs to be set aside for further evidence to objectively and subjective evaluate the defendants necessity defence.

17. Finally if the Courts statement of reasons remain uncorrected, they would set a bad precedent, encouraging other courts to deny necessity defendants their rights to an objective and subjective test of their necessity defence, including denying the defendant information clarifying upon whom the Onus of Proof in a defence of necessity lies.

18. Oslo Court: Breivik Defence of Necessity:

19. On 17 April 2012, the Oslo Court tweeted[40] to Journalists attending the Breivik trial: "Wrong translation in the 22-7 trial yesterday: Breivik said "nodrett", Correct translation: "Principle of Necessity", not "self defence".”

20. The principle of Necessity is enshrined in Norwegian Law in Section 47 of the Penal Code[41]: "No person may be punished for any act that he has committed in order to save someone's person or property from an otherwise unavoidable danger when the circumstances justified him in regarding this danger as particularly significant in relation to the damage that might be caused by his act."

21. Prosecutor Engh and Holden 'Refuse to touch Breivik's Principle of Necessity':

22. The following reports indicate that Prosecutor Engh and Holden violated their duty of objectivity in terms of (a) impartially enquiring into and/or responding to the Accuseds' Defence; and (b) providing the court with the Prosecution's evaluation and conclusion of the evidence for and against Breivik's invocation of his Necessity Defence.

[40] https://twitter.com/#!/Oslotingrett/status/192198581803945984
[41] http://www.ub.uio.no/ujur/ulovdata/lov-19020522-010-eng.pdf

23. In her closing statement, Prosecutor Engh acknowledge's that:

1. Norwegian prosecutors have a duty to conduct their investigation with objectivity;
2. Norwegian law allows for an accused to plead to necessity and/or self defence,
3. Where an accused does invoke necessity, it is the court and prosecutor's duty to investigate the accused's necessity defence arguments and evidence;
4. If an accused successfully invokes a necessity defence, this can and must result in either mitigation of sentence and/or a verdict of innocence;
5. Breivik invoked the defence of necessity;
6. Despite the fact that Breivik invoked the necessity defence, both Prosecutor Engh and Holden 'refuse to touch the principle of necessity'.

24. Document.NO: **Inga Bejer Engh Procedure Part.I (Inga Bejer Engh Procedure Part.I)**[42]

I Norge har vi fire vilkår for at noen kan straffes

Det må foreligge en handling som rammes av et straffebestemmelse, det må ikke foreligge nødrett, det må foreligge subjektiv skyld og gjerningsmannen må ha vært tilregnelig.

Jeg vil i min prosedyre ta opp faktum, min kollega vil ta opp tilregnelighet. Ingen av oss vil berøre nødrett. Til tross for at det var det han påberopte seg.

In Norway, we have four conditions that someone can be punished

There must be an act within the scope of a criminal provision, there must be no necessity, there must be subjective guilt and the perpetrator must have been sane.

I want my procedure to record the fact, my colleague will address accountability. None of us will touch the principle of necessity. Despite the fact that it was what he claimed.

25. NRK: **Rettssaken - dag 42 (The trial - day 42)**[43]

kl. 12.15
Engh: - I Norge har vi fire vilkår som må foreligge for at noen kan straffes: det må foreligge objektiv sett en handling som rammmes av et straffebud i straffeloven, det må ikke foreligge nødverge eller nødrett, og det må forligge subjektiv skyld hos gjerningsmannen.

at. 12.15
Engh: - In Norway, we have four conditions that must exist that someone can be punished: it must be objectively seen an act rammmes of a penal provision in criminal law, there must be no self-defense or necessity, and it must forligge subjective guilt of the perpetrator.

26. VG: **Ord-for-ord - dag 42 prosedyren til aktoratet (Word-for-word - day 42 procedure for prosecutors)**[44]

Nå skal jeg gå over til å si litt om hvordan vi har delt inn prosedyren, slik at det skal være lettere å følge I Norge har vi fire vilkår for at noen skal kunne straffes. Disse vilkårene vil danne grunnlaget for strafferammen. Fir det første må det foreligge en handling som rammes

Now I'll go over to say something about how we have divided the procedure, so it will be easier to follow Norway has four conditions for someone to be punished. These terms will form the basis for the penalty. Fir the first there must be an act within the scope of a penal provision in criminal

[42] http://www.document.no/2012/06/inga-bejer-engh-prosedyre-del-i/
[43] http://nrk.no/227/dag-for-dag/rettssaken---dag-42-1.8216159
[44] http://www.vg.no/nyheter/innenriks/22-juli/rettssaken/artikkel.php?artid=10066042

av et straffebud i straffeloven.

- For det andre må det ikke foreligge nødverge eller nødrett. For det tredje må det foreligge subjektiv skyld hos gjerningsmannen. Og sist, men ikke minst det vanskeligste: gjerningsmannen må ha vært tilregnelig når han begikk de straffbare handlingene. Jeg vil i min del av prosedyren går gjennom del én og tre. Og gå gjennom de lovbrudd som er gjenstand for vurderiung. Min kollega Holden vil ta for seg spørsmål om tiltalte er tilregnelig eller ikke, om vilkåret er tilstede.

- Når det gjelder villkår nummer 2, nødrett eller nødverge. Hverken jeg eller Holden vil berøre temaet nærmere. Dette til tross for at tiltalte påberopte seg dette for sin frifinnelse.

law.

- Second, there must be no self-defense or necessity. Thirdly, there must be subjective guilt of the perpetrator. And last but not least, the most difficult: the perpetrator must have been sane when he committed the offenses. I want my part of the procedure goes through part one and three. And go through the offenses that are subject to vurderiung. My colleague Holden will address the question whether the defendant is sane or not, whether the condition is present.

- When it comes to Conditions No. 2, necessity or self-defense. Neither I nor Holden will touch the topic further. This despite the fact that the defendant claimed that for his acquittal.

27. NRK: **Rettssaken - dag 43 (The Trial – Day 43)**[45]

kl. 09.10
Lippestad: - Spørsmålet som tiltalte har reist, er om det finnes straffefrihetsgrunner. Han sa innledningsvis at han påberopte seg nødrett.

kl. 09.29
Lippestad: - Så kommer jeg til å se på metodebruk og drøfte litt av de andre sakkyndige som har vært inne i saken. Så kommer helt kort litt om nødrett og til slutt litt om forvaring.

kl. 10.21
Bistandsadvokat John Christian Elden til NRK i pausen: – Jeg synes prosedyren er god fordi den fokuserer på det som er interessant for retten. Lippestad har sagt han ikke vil bruke så mye tid på nødrett og frifinnelse, men argumenterer tilregnelighetsspørsmålet.

kl. 11.28
Lippestad: - Helt kort til slutt, og av rent formalistiske grunner: Breivik sa selv at han skjønner at han blir starffet for disse handlingene, men han påberoper seg av formelle grunner nødrett.

kl. 14.45
Breivik: - Dommerne som sitter her i dag, kan dømme meg som de selv føler for. Hvis dere velger å anerkjenne min påstand om nødrett, vil dere på en svært effektiv måte sende sjokkbølger til alle de legitime regimer i Europa.

at. 09.10
Lippestad: - The question that the defendant has raised is whether there is impunity reasons. He said initially that he invoked the principle of necessity.

at. 09.29
Lippestad: - So I'm going to look at the methodology and discuss some of the other experts who have been inside the case. Then comes the very short bit about the necessity and finally a little bit about detention.

at. 10.21
Lawyer John Christian Elden to NRK during the break - I think the procedure is good because it focuses on what is of interest to the court. Lippestad has said he will not spend as much time on the principle of necessity and an acquittal, but argues sane safety issue.

at. 11.28
Lippestad: - Completely cards at the end, and of pure formalistic reasons: Breivik said that he realizes that he is starffet for these actions, but he invokes the principle of necessity formal reasons.

at. 14.45
Breivik: - The judges who sit here today, you can judge me as they feel. If you choose to acknowledge my claim of necessity, you will in a very efficient way to send shock waves to all the legitimate regimes in Europe.

[45] http://nrk.no/227/dag-for-dag/rettssaken---dag-43-1.8218343

kl. 14.51
Breivik: - Jeg kan ikke anerkjenne straffeskyld. Jeg påberoper meg nødrett for å ha kjempet for mitt folk, min kultur og mitt land.

kl. 14.51
Breivik: - Angrepet 22. juli var et preventivt angrep til forsvar for det norske urfolk.

kl. 14.51
Breivik: - Jeg krever derfor at jeg blir frifunnet for de aktuelle anklager.

at. 14.51
Breivik: - I can not acknowledge guilt. I claim necessity for having fought for my people, my culture and my country.

at. 14.51
Breivik: - The attack on 22 July was a preventive attack in defense of the Norwegian Indigenous Peoples.

at. 14.51
Breivik: - I require that I be acquitted of the charges in question.

28. Necessity in Norwegian Law:

29. **LAW-2005-05-20-28: Lov om straff (straffeloven). | Act on Punishment (Penal Code)**[46], says:

§ 17. Nødrett

En handling som ellers ville være straffbar, er lovlig når

a) den blir foretatt for å redde liv, helse, eiendom eller en annen interesse fra en fare for skade som ikke kan avverges på annen rimelig måte, og

b) denne skaderisikoen er langt større enn skaderisikoen ved handlingen.

§ 17 Necessity

An action that would otherwise be criminal, is legal when

a) it is being undertaken to save lives, health, property or any interest from the danger of injury that can not be averted in any other reasonable manner, and

b) the risk of injury is far greater than the risk of injury by the action.

30. **LAW-1998-03-20-10-§ 5: Forskrift om sikkerhetsadministrasjon | Regulations relating to security management**[47] allows for "security breaches without criminal liability if the terms of the principle of necessity or self defence in criminal law law § 47 or § 48 is met."

§ 5-3. Sikkerhetsbrudd ved nødrett og nødverge

Sikkerhetsbrudd foretas uten straffansvar dersom vilkårene for nødrett eller nødverge i straffeloven § 47 eller § 48 er oppfylt. Forholdet skal rapporteres i samsvar med § 5-4 til § 5-6.

§ 5-3. Security breaches at the principle of necessity and self-defense

Security breaches made without criminal liability if the terms of the principle of necessity or self-defense in criminal law § 47 or § 48 is met. The relationship must be reported in accordance with § § 5-4 to 5-6.

31. Norwegian Necessity Judgement: Subjective and Objective Test:

[46] http://www.lovdata.no/cgi-wift/wiftldles?doc=/app/gratis/www/docroot/ltavd1/filer/nl-20050520-028.html&emne=n%F8drett*&#17
[47] http://www.lovdata.no/cgi-wift/wiftldles?doc=/app/gratis/www/docroot/ltavd1/filer/sf-20010629-0723.html&emne=n%F8drett*&

32. In **LE-2012-76983 Eidsivating Appeal – Judgment**[48] of 29 May 2012, an Eritrean man was accused of several Perjury related Immigration offences to help his sister to come to Norway. He admitted the facts, but claimed necessity. In court he was found guilty on all counts and sentenced to 90 days' imprisonment. The Court of Appeal suspended the appeal to test his conviction on one point (whether the court a quo had seriously enquired into his necessity defence).

33. The court agreed with the Defendant's argument that asserted that the court a quo had not considered the circumstances that were invoked as the basis for the existence of a principle of necessity situation. The judgement stated that it is clear that "the courts statement of reasons does not show that the court has considered this argument. Thus it is also clear that the Court's statement of reasons in so far are inadequate."

34. It would appear that Norwegian law has both a subjective and objective enquiry test into the necessity defence, which is similar to South African law; namely to test whether objectively there was a situation of necessity, and secondly whether subjectively the defendant sincerely believed there was a real situation of necessity thereby motivating his conduct.

Hovedforhandling i saken ble holdt 23. februar 2012. Tiltalte erkjente å ha opptrådt som beskrevet i tiltalen, men nektet straffeskyld. Han påberopte dels nødrett, dels – i forhold til tiltalens post I og III a – at hans handlinger falt inn under straffrihetsbestemmelsen i utlendingsloven § 108 fjerde ledd bokstav b annet punktum.

[..] Når det gjaldt anførselen om nødrett, straffeloven § 47, fant tingretten ingen holdepunkter for at tiltaltes søster reelt sett hadde vært i noen nødrettssituasjon i Sudan, eller at tiltalte hadde oppfattet det slik.

[..] Slik lagmannsretten oppfatter støtteskrivet, gjøres det for det første gjeldende at tingretten ikke har oppfattet og tatt stilling til det som tiltalte gjorde gjeldende som nødrettssituasjon. Tingretten har vurdert om søsterens situasjon i Sudan var slik at hun var i en « paa anden Maade uafvændelig Fare ». Men det var ikke det tiltalte gjorde gjeldende. Han gjorde derimot gjeldende at søsterens plan om å flykte til Israel via Sinaiørkenen, noe hun truet ham med at hun ville utføre hvis han ikke hjalp henne til Norge, var jevngodt med å true med selvmord. Dermed var han i en nødrettssituasjon da han hjalp henne til Norge. I praksis var han også i en tilsvarende situasjon da han begikk de øvrige overtredelsene etter at hun hadde kommet inn i Norge. Grunnen var at han gikk ut fra at hvis han ikke fulgte opp historien overfor norske myndigheter, ville søsteren bli sendt tilbake til Sudan. Og i så fall

The main hearing in the matter was held on 23 February 2012. The defendant acknowledged having performed as described in the indictment, but denied culpability. He claimed partly necessity, partly - in relation to attractive's mail I and III - that his actions fell under straffrihetsbestemmelsen in the Immigration Act § 108 fourth paragraph, second sentence b.

[..] Regarding the argument about the principle of necessity, Penal Code, § 47, the court found no evidence that the defendant's sister in real terms had been in a situation of necessity in Sudan, or that the defendant had seen it that way.

[..] As the appellate court consider supporting letter, made for the first claim that the court has considered and taken a position on what the accused did the current situation as a necessity. The court has considered whether the sister's situation in Sudan was such that she was in an "on the candidate Maada uafvændelig Danger." But it was not the defendant was valid. He did however claim that her sister's plan to flee to Israel via the Sinai desert, which she threatened him that she would perform if he helped her to Norway, was tantamount to threatening suicide. Thus, he is in a situation of necessity when he helped her to Norway. In practice, he was also in a similar situation when he committed the other offenses after she had come to Norway. The reason was that he assumed that if he did not follow up the story to the Norwegian authorities, would his sister be sent back to Sudan. And so, she would take up the plan

[48] http://www.lovdata.no/cgi-wift/wiftldles?doc=/app/gratis/www/docroot/lr/lre/le-2012-076983.html&emne=n%F8drett*&

ville hun ta opp igjen planen om å flykte gjennom Sinai på nytt. [..]

Nødrettsanførselen
På bakgrunn av redegjørelsen i støtteskrivet oppfatter lagmannsretten det slik at denne delen av anken først og fremst reiser spørsmål om tingrettens saksbehandling, nærmere bestemt domsgrunnene. Det tiltalte i realiteten gjør gjeldende, er at tingretten ikke har vurdert de omstendighetene som ble påberopt som grunnlag for at det forelå en nødrettssituasjon.

Lagmannsretten oppfatter møtende aktors påtegning til statsadvokaten slik at aktor bekrefter at tiltaltes forklaring om nødrettssituasjonen var som anført av forsvareren i støtteskrivet. Det er på det rene at tingrettens domsgrunner ikke viser at tingretten har vurdert denne anførselen. Dermed er det også på det rene at tingrettens domsgrunner for så vidt er mangelfulle.

to escape through the Sinai again.
[..]

Nødrettsanførselen
On the basis of the statement in support letter perceive the Court of Appeal so that this part of the appeal primarily raises questions about the court proceedings, specifically judicial reasons. The defendant actually asserts is that the court has not considered the circumstances that were invoked as the basis for the existence of a principle of necessity situation.

The Court of Appeal consider attending prosecutor's endorsement of a public prosecutor that the prosecutor confirmed that the defendant's explanation of the principle of necessity situation was that led by the defense in the support letter. It is clear that the Court's statement of reasons does not show that the court has considered this argument. Thus, it is also clear that the Court's statement of reasons in so far are inadequate.

35. **Necessity Defence: International and Foreign Law**:

> The rationale of the necessity defense is not that a person, when faced with the pressure of circumstances of nature, lacks the mental element which the crime in question requires. Rather, it is this reason of public policy: the law ought to promote the achievement of higher values at the expense of lesser values, and sometimes the greater good for society will be accomplished by violating the literal language of the criminal law.[49]

36. The principle of the necessity defence is rooted in common law[50] and any accused pleading to necessity argues that their actions were justified or an exculpation for breaking the law. Defendants who plead to necessity – whether common law necessity, political necessity (civil disobedience) or military necessity - argue that they should not be held liable for their actions as being criminal, because their conduct was necessary to prevent some greater harm.

37. Most common law and civil law jurisdictions recognize this defense, but only under limited circumstances. Generally, the defendant must affirmatively show (i.e., introduce some evidence) that (a) the harm he sought to avoid outweighs the danger of the prohibited conduct he is charged with; (b) he had no reasonable alternative; (c) he ceased to engage in the prohibited conduct as soon as the danger passed; and (d) he did not himself create the danger he sought to avoid.

38. As argued in **THE NECESSITY DEFENSE IN CIVIL DISOBEDIENCE CASES: BRING IN THE JURY**, by William P. Quigley:

[49] WAYNE R. LAFAVE, CRIMINAL LAW, § 5.4, at 477 (3d ed. 2000).
[50] http://en.wikipedia.org/wiki/Common_law

> [..] The doctrine of necessity, with its inevitable weighing of choices of evil, holds that certain conduct, though it violates the law and produces harm, is justified because it averts a greater evil and hence produces a net social gain or benefit to society.[51]
>
> Glanville Williams expressed the necessity doctrine this way: "[S]ome acts that would otherwise be wrong are rendered rightful by a good purpose, or by the necessity of choosing the lesser of two evils."[52] He offers this example:
>
> > Suppose that a dike threatens to give way, and the actor is faced with the choice of either making a breach in the dike, which he knows will result in one or two people being drowned, or doing nothing, in which case he knows that the dike will burst at another point involving a whole town in sudden destruction. In such a situation, where there is an unhappy choice between the destruction of one life and the destruction of many, utilitarian philosophy would certainly justify the actor in preferring the lesser evil.[53]

39. According to ***Civil Disobedience and the Necessity Defence***[54]:

> [If] the [necessity] defense is allowed, the jury is called upon to weigh controversial political issues and to function as the "conscience of the community." "Reflected in the jury's decision is a judgment of whether, under all the circumstances of the event and in the light of all known about the defendant, the prohibited act, if committed, deserves condemnation by the law."[55] In cases **where judges have been persuaded to allow the necessity defense, juries have, often enough, delivered not guilty verdicts**.
>
> [..] When **judges have allowed the necessity defense to go to a jury in civil disobedience cases, more often than not the defendants are acquitted**.[56] There are a number of cases in which **charges were dropped after the judge announced that the necessity defense would be permitted**.[57]

40. In **Nuclear War, Citizen Intervention, and the Necessity Defense**[58], Robert Aldridge and Virginia Stark, document numerous cases of Common Law and Civil Disobedience Necessity Defence Cases which resulted in Innocence verdicts or severe Mitigation of Sentencing.

41. Common Law Necessity Defence Cases Resulting in Innocence Verdicts or Severe Mitigation of Sentencing:

42. In ***Regina v Dudley and Stephens*** (1884) 14 QBD 273, three crew members and a cabin boy escaped a shipwrech to spend eighteen days on a boat, over 1,000 miles from land, with no wanter and only two one pound tins of turnips. After four days, they caught and ate a small turtle. That was the only food that they had eaten prior to the twentieth day of being lost at sea. Ultimately, two of the crew members killed the ailing cabin boy and "fed upon the body and blood of the boy for four days." Four days later, they were rescued. Two of the men were charged with murder. The court found that the cabin boy

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[51] See Joseph J. Simeone, "Survivors" of the Eternal Sea: A Short True Story, 45 ST. LOUIS U. L.J. 1123, 1141 (2001).
[52] GLANVILLE WILLIAMS, THE SANCTITY OF LIFE AND THE CRIMINAL LAW 198 (1957).
[53] GLANVILLE WILLIAMS, THE SANCTITY OF LIFE AND THE CRIMINAL LAW 198 (1957). At 199-200
[54] http://www.scribd.com/doc/20520106/
[55] Everett v. United States, 336 F.2d 979, 985–86 (D.C. Cir. 1964) (Wright, J., dissenting).
[56] When the necessity defense is actually submitted to the trier of fact in civil disobedience cases, defendants have usually been acquitted. See Bernard D. Lambek, Necessity and International Law: Arguments for the Legality of Civil Disobedience, 5 YALE L. & POL'Y REV. 472, 475 (1986), note 7, at 473.
[57] People v. Gray, 571 N.Y.S.2d 851, 853 (N.Y. Crim. Ct. 1991).
[58] http://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=1887&context=lawreview

would likely have died by the time they were rescued and that the crew members, but for their conduct, would probably have died as well. The Queen's Bench Division Judges held that the defendants were guilty of murder in killing the cabin boy and stated that their obvious necessity was no defence. The defendants were sentenced to death, but this was subsequently commuted to six months' imprisonment.

43. In ***Spakes v. State***, 913 S.W.2d 597 (Tex. Crim. App. 1996), the Texas Criminal Appeals Court allowed the jury to be instructed on the necessity defense before deliberating the verdict for an inmate whose three cellmates had planned an escape and threatened to slit his throat if he did not accompany them. The defendant inmate argued that because of the terribly violent crimes of which his cellmates had been convicted (one had bragged about chopping his girlfriend up with an ax), it was a necessity that he break the law, by accompanying them in their escape.

44. In ***United States v. Ashton***, 24 F. Cas. 873, 873-74 (C.C.D. Mass 1834) (No. 14,470), sailors prosecuted for mutiny were found not guilty, after arguing the necessity for their mutiny based upon the dangerously leaky ship and that this danger had been concealed from them until after they left port. Circuit Justice Story found them not guilty of mutiny.

45. In ***United States v. Holmes***, 26 F. Cas. 360 (E.D. Pa. 1842) (No. 15,383), Holmes was involved in a shipwreck, where the crew were charged with manslaughter for throwing sixteen passengers overboard in a frantic attempt to lighten a sinking lifeboat. The Prosecutor argued the passengers should be protected at all costs, whereas the Defence placed the jurors in the sinking lifeboat with the defendant. The Defendant was found guilty, but the jurors requested leniency, to which the court complied by sentencing the defendant to six months in prison and a fine of twenty dollars.

46. In the 1919 Arizona decision of ***State v. Wooten***, commonly referred to as the Bisbee Deportation case, Professor Morris[59] describes the acquittal of a Sherrif based upon the 'necessity' for committing Kidnapping as follows:

    1. On April 26, 1917, soon after the United States entered World War I, the Industrial Workers of the World (IWW) called a strike of copper miners in Cochise County, Arizona. On July 12, 1917, the county sheriff led a posse that rounded up and deported over 1,000 members of the IWW. One of the posse was brought to trial on charges of kidnapping. He offered to prove that the strikers were trying to obstruct the war, had stored up a large amount of ammunition, and had threatened citizens; that help from federal troops had been sought to no avail; and that the leader of the local strike had told the sheriff he could no longer control his men. On these facts, he asserted the defense of necessity.

    2. The judge recognized the defense. He ruled that evidence of necessity could be excluded only if it were completely inadequate as a matter of law to establish the defense, and that the weight and sufficiency of the evidence were for the jury to decide—even in a case which "aroused great public interest."

[59] Norval Morris, The Verswami Story, 52 U. CHI. L. REV. 948, 989 (1985); see also The Law of Necessity as Applied in the Bisbee Deportation Case.

3. The jury heard the evidence, deliberated for fifteen minutes, and returned a verdict of “Not Guilty” on the first ballot.

47. In ***Surocco v. Geary***, 3 Cal. 69 (1853), a large fire threatened the unburned half of the then small town of San Francisco. A public officer ordered the destruction of houses to create a firebreak and was subsequently sued by one of the owners. On appeal, the California Supreme Court held that the action was proper because:

1. The right to destroy property, to prevent the spread of a conflagration, has been traced to the highest law of necessity, and the natural rights of man, independent of society and the civil government. "It is referred by moralists and jurists as the same great principle which justifies the exclusive appropriation of a plank in a shipwreck, though the life of another be sacrificed; with the throwing overboard goods in a tempest, for the safety of the vessel; with the trespassing upon the lands of another, to escape death by an enemy. It rests upon the maxim, *Necessitas inducit privilegium quod jura private*." [Necessity leads to privileges because of private justice].

48. Civil Disobedience Political Necessity Defence Cases Resulting in Innocence Verdicts or Severe Mitigation of Sentencing:

49. In ***State v. Mouer*** (Columbia Co. Dist. Ct., Dec. 12-16, 1977), dozens of protestors in Oregon who were conducting a civil disobedience sit-in at a nuclear power plant were arrested and charged with criminal trespass. At trial, the judge allowed the defendants to raise the state necessity defense (called the choice of evils defense) and the defendants were acquitted by the jury.

50. In ***People v. Brown*** (Lake County, Jan. 1979), protesters in Illinois blocked the entrance to a nuclear power plant and were charged with criminal trespass. Relying on the defense of necessity, they argued that they had not created the situation that they had sought to correct and had reasonably believed that their conduct was necessary to avoid the harm of a nuclear accident. A doctor testified for the defense about the damaging effects of low-level radiation. All of the defendants were subsequently acquitted.

51. In ***People v. Block*** (Galt Judicial Dist., Sacramento Co. Mun. Ct., Aug. 14, 1979), eleven California protestors were charged with trespass and resisting arrest in connection with a March 31, 1979 demonstration at the Rancho Seco Nuclear Power Plant. The defendants had climbed over a fence and staged a sit-in on the grounds of the plant. At trial, the judge allowed the necessity defense to be presented to the jury. “After seven weeks of trial, nine of the defendants received a split jury verdict and one was acquitted, apparently because he had a long history of activism and had convinced the jury that he had exhausted all legal means to stop the harm” posed by the power plant. The cases against those defendants who received a split jury verdict were eventually dropped.

52. In ***California v. Lemnitzer***, No. 27106E (Pleasanton-Livermore Mun. Ct. Feb. 1, 1982) the trial of a protestor who condemned the development of nuclear weapons at the Lawrence Livermore Lab in California ended in a hung jury after the court allowed the presentation

of evidence supporting the necessity defense. On retrial, the protestor, John Lemnitzer, was acquitted.

53. In ***Vermont v. Keller***, No. 1372-4-84-CNCR (Vt. Dist. Ct. Nov. 17, 1984) protestors staged a sit-in at the Vermont office of United States Senator Robert Stafford in an effort to get a public meeting about American policy in Central America. These actions resulted in their arrest on trespass charges. At trial, the court allowed the defendants to raise the defenses of necessity, international law, including the Nuremberg principles, and the First and Fourteenth Amendments. The court allowed a number of impressive experts[60] to testify about human rights atrocities in El Salvador and Nicaragua, as well as the important role of protest in American foreign policy. The defendants further testified they had attempted "every reasonable manner to communicate" with the Senator.[61] The jury acquitted all of the defendants.

54. In ***Michigan v. Jones et al.***, Nos. 83-101194-101228 (Oakland County Dist. Ct. 1984) the State of Michigan held nine separate trials prosecuting fifty-one defendants who blocked access to a plant where cruise missile engines were being manufactured. The defendants were charged with trespass, disturbing the peace, blocking access, and conspiracy. In a trial where the necessity defense was allowed, the jury acquitted the defendants of all charges except failure to obey a traffic officer. In other cases where the necessity defense was allowed, the juries acquitted the defendants on all charges. In trials where the judge did not allow necessity defenses, the defendants were convicted on several counts.

55. In ***Michigan v. Largrou***, Nos. 85-000098, 99, 100, 102 (Oakland County Dist. Ct. 1985), three protestors at a Michigan cruise missile plant were charged in 1985 with trespass and criminal damage to a fence. The court found that although the defendants willfully violated the law, they did so without malice and for the public purpose of protest. All three were acquitted.

56. In ***People v. Jarka***, Nos. 002170, 002196-002212, 00214, 00236, 00238 (Ill. Cir. Ct. Apr. 15, 1985), an Illinois jury acquitted twenty defendants who protested against the American military invasion of Central America by conducting a sit-in which blocked the road to the Great Lakes Naval Training Center. The protestors successfully invoked the doctrine of necessity and were allowed to put eight expert witnesses on the stand to offer evidence of the effect of nuclear weapons, American intervention in Central America, and international law. The trial judge gave the jury an instruction[62] that stated that the threat and use of nuclear weapons violated international law.

57. In ***Chicago v. Streeter***, Nos. 85-108644, 48, 49, 51, 52, 120323, 26, 27 (Cir. Ct., Cook County Ill. May 1985), a jury was faced with eight protestors who were charged with trespass for refusing to leave the office of the South African consul. The jury was allowed

[60] The expert witnesses included: Sonya Hernández (political violence in El Salvador), Janet Shenk (human rights in El Salvador), Phil Bourgois (Salvadoran refugees), Shaila Sherwin (refugees), David Rosenberg (United States/contra war on Nicaragua), David McMichael (contra aid), Richard Garfield (health programs of Nicaraguan Government), John Stockwell (CIA activities), Howard Zinn (history of American protest movements), Matthew Countryman (American military aid to Central America), Gladys Sánchez (government repression of Salvadoran churches), Richard Falk, and Ramsey Clark (citizens' role in American foreign policy). See also National Lawyers Guild 1985 Convention Workshop, Creative Defenses in Civil Disobedience Cases, 42 GUILD PRAC. 97-98 (1985)

[61] People v. Gray, 571 N.Y.S.2d 851, 861 (N.Y. Crim. Ct.1991) quoting Keller, No. 1372-4-84-CNCR.

[62] The jury was instructed: "The use or threat of use of nuclear weapons is a war crime or an attempted war crime because such use would violate international law by causing unnecessary suffering, failing to distinguish between combatants and noncombatants and poisoning its targets by radiation." FRANCIS ANTHONY BOYLE, THE CRIMINALITY OF NUCLEAR DETERRENCE 41 (2002).

to hear expert evidence about the defense of necessity and international crimes committed by the apartheid policies of South Africa. It took the jury two and a half hours to acquit the defendants.

58. In ***Washington v. Heller*** (Seattle Mun. Ct. 1985), eight doctors were charged with trespassing for protests staged on the porch of the home of the South African consul. They were allowed to raise the defense of necessity and admit expert testimony about the medical and other effects of apartheid. The Seattle jury acquitted after little more than an hour and made a post-trial statement supporting anti-apartheid protests.[63]

59. In ***Colorado v. Bock*** (Denver County Ct. June 12, 1985), twenty-two Pledge of Resistance members were charged with trespass for occupying the office of a United States Senator from Colorado to protest American policy in Central America. The jurors, who were allowed to hear evidence of necessity, were instructed that the defendants could use civil disobedience only as an "emergency measure to avoid imminent public or private injury" but that the injury did not have to be directed against the defendants. The jury acquitted all of the defendants.

60. In ***Massachusetts v. Carter***, No. 86-45 CR 7475 (Hampshire Dist. Ct. 1987), the daughter of former President Jimmy Carter, Amy Carter, was arrested with fifty-nine others and charged with trespass and disorderly conduct at Central Intelligence Agency (CIA) recruitment activities on the campus of the University of Massachusetts at Amherst. The fifteen defendants were allowed to present evidence to support the necessity defense, international law, and the Nuremberg principles. The defendants argued that the crimes they committed were of far lesser harm than those being committed by the CIA in Central America and offered testimony by a former contra leader and former CIA and government officials. The judge instructed the jury that they could acquit the defendants if they concluded that the defendants acted out of a belief that their protest would help stop the clear and immediate threat of public harm. The jury acquitted them in three hours.

61. In ***Washington v. Bass***, Nos. 4750-038, -395 to -400 (Thurston County Dist. Ct. April 8, 1987), several dozen students of Evergreen State College sat in the Washington State Capitol in support of an anti-apartheid disinvestment bill. Seven students refused orders to leave and were arrested and charged with trespass and disorderly conduct. At their trial, the defendants were allowed to admit statistical and expert evidence of necessity, international law, and the Nuremberg defense about the situation in South Africa. The jury acquitted all of the defendants.

62. In ***Illinois v. Fish*** (Skokie Cir. Ct. Aug. 1987) twenty-six people were arrested for trespassing at the Arlington Heights Army Reserve Training Center. The trial court allowed the jury to hear evidence about the necessity defense. All of the defendants were acquitted.

63. In ***State v. McMillan***, No. D 00518 (San Luis Obispo Jud. Dist. Mun. Ct., Cal. Oct. 13, 1987), fourteen protestors blockaded Diablo Canyon Nuclear Power Plant to prevent the loading of fuel rods. The trial judge allowed fourteen expert witnesses to offer testimony

[63] In post-trial comments, the jury stated: "only when arrests made in protests against apartheid were efforts made to reform the system." Val Varney, Eight Apartheid Protestors Win Acquittal, SEATTLE TIMES, Aug. 8, 1985, at D2.

about related potential harm for the area and allowed the defendants to testify about their own related fears. The judge applied the necessity defense and acquitted the defendants.

64. In 1988, a North Carolina court acquitted two Tuscarora Indians of charges in connection with their taking of twenty hostages at the office of a local newspaper to protest the alleged corruption of county officials.[64]

65. In ***Massachusetts v. Schaeffer-Duffy*** (Worcester Dist. Ct. 1989), five defendants tried to pass out leaflets to employees at a GTE nuclear weapons facility and prayed outside the building when they were denied entry. The judge denied the prosecutor's motion in limine to prevent evidence of necessity. The jury was allowed to hear the defendants' testimony about their personal efforts to stop nuclear weapons and their religious beliefs, and expert testimony about the threats of the MX missile, religious teachings against nuclear weapons, and the historical effectiveness of civil disobedience. The jury acquitted the defendants of trespass.

66. In 1990, in Omaha, Nebraska, a jury acquitted seventeen anti-abortion protestors because of the necessity defense. The trial judge relied on the defense to overturn the trespassing convictions of an additional eighteen defendants.[65]

67. IN ***West Valley City v. Hirshi***, No. 891003031-3 MC (Salt Lake County, Ut. Cir. Ct., W. Valley Dept. 1990), protestors were charged with criminal trespass after entering property on which Trident II nuclear missile engines were being manufactured in Salt Lake City. The trial judge permitted evidence and instructed the jury on defenses based on necessity, international law, the First Amendment, and the Nuremberg Principles. The jury acquitted the defendants.

68. In ***People v. Gray***, 571 N.Y.S.2d 851, 861-62 (N.Y. Crim. Ct.1991), a two-day bench trial resulted in the acquittal of six protestors for disorderly conduct because of the necessity defense. The protestors had blocked traffic in Manhattan to protest the opening of a bike and pedestrian lane to vehicular traffic. Judge Laura Safer-Espinoza issued a forty-two page decision reviewing dozens of decisions involving the necessity defense and provided the most extensive judicial overview of the necessity defense in state courts to date.

69. In 1991, a Chicago jury acquitted a Catholic priest of criminal charges for damage to the inner-city neighborhood where he was pastor after he admitted painting over three tobacco- and alcohol-related billboards. The defendant argued he should not be convicted because of the necessity defense. The jury deliberated ninety minutes before acquitting the defendant.[66]

70. In 1993, a jury acquitted a Chicago AIDS activist charged with illegally supplying clean needles because of the necessity defense.[67]

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[64] Two Carolina Indians Acquitted in Hostage Taking, N.Y. TIMES, Oct. 15, 1988, at 9.
[65] Judge Says Actions of Anti-abortionists at Clinic Justified, OMAHA WORLD-HERALD, July 17, 1990. In a seventeen-page order discussing necessity and the priority of life over property rights, District Judge Robert Burkard reversed the convictions for trespassing. An additional seventeen abortion protestors were acquitted by a jury on similar grounds in June 2000.
[66] Terry Wilson, Acquittal Answers Pfleger's Prayers, CHI. TRIB., July 3, 1991, at 3.
[67] Andrew Fegelman, AIDS Activist Found Innocent of Charges in Needle Exchange, CHI. TRIB., Jan. 28, 1993, at 4.

71. In ***California v. Halem***, No. 135842 (Berkeley Mun. Ct. 1991), the jury came to the same conclusion after hearing evidence that dispensing clean needles without a prescription, though illegal, was necessary to protect people from the spread of the AIDS virus.

72. In ***Washington v. Brown***, No. 85-1295N (Kitsap County Dist. Ct. N. 1985), twenty-four protestors held a vigil in Washington State in protest of a "white train" carrying nuclear weapons. The state arrested twenty of the protestors and charged them with criminal trespass and conspiracy. The defendants filed extensive briefs on the right to present particular defenses to the jury, in support of their motion to dismiss conspiracy charges, and in opposition to the government's motion in limine. The judge dismissed the conspiracy charges and did not admit evidence on the necessity defense, but it did allow Daniel Ellsberg to testify as an expert on why first-strike nuclear warheads on a train are a potential threat to peace. One defendant pled guilty to both charges. The jury acquitted the remaining nineteen defendants.

73. In ***Washington v. Karon***, No. J85-1136-39 (Benton County Dist. Ct. 1985), four defendants blockaded a federal Plutonium-Uranium extraction facility at Hanford Nuclear Reservation. They were arrested and charged with disorderly conduct and failure to disperse. The defendants filed motions in limine to raise necessity, Nuremberg principles, and the Geneva and Hague Conventions as defenses. The trial judge allowed Nuremberg and necessity defenses, permitted expert testimony regarding radiation contamination, and refused expert testimony regarding nuclear war. The court agreed to give international law instructions to the jury. Immediately after the court ruling permitting scientists to testify on radiation contamination, the prosecution moved to dismiss the case and the court granted the motion.

74. In ***United States v. Braden*** (W.D. Ky. 1985), twenty-nine demonstrators entered the office of a United States senator as part of the Pledge of Resistance. At their arraignment, the defendants announced their intent to use Nuremberg, necessity, and First Amendment defenses (freedom of speech includes freedom to be heard; today the only way to be heard is to act). The government dropped all charges prior to trial.

75. In ***California v. Jerome***, Nos. 5450895, 5451038, 5516177, 5516159 (Livermore-Pleasanton Mun. Ct., Alameda County, Traffic Div. 1987), more than thirty protestors blocked the main gate to the Lawrence Livermore Nuclear Weapons Lab in a nonviolent sit-in. They were arrested for traffic offenses of blocking and delaying traffic. The Traffic Commissioner agreed to consider expert testimony on the necessity defense and international law (including Nuremberg Principles, Geneva Protocols, and the Hague Convention) via affidavits. The defendants filed affidavits for Daniel Ellsberg (on the effectiveness of nonviolent protests in arousing citizen action), Frank Newman (on international law) and Charles Schwartz (on the role of Livermore Lab in promoting the arms race). Before trial, the judge granted the prosecution's request to drop all charges.

76. **Military Necessity and International Humanitarian Law**:

77. As stated at Crimes of War[68] and Diakona[69]:

> Military necessity is a legal concept used in international humanitarian law (IHL) as part of the legal justification for attacks on legitimate military targets that may have adverse, even terrible, consequences for civilians and civilian objects. It means that military forces in planning military actions are permitted to take into account the practical requirements of a military situation at any given moment and the imperatives of winning. The concept of military necessity acknowledges that even under the laws of war, winning the war or battle is a legitimate consideration, though it must be put alongside other considerations of IHL.

78. **Wikipedia: Reasonable Laypersons Understanding of Military Necessity**:

79. Wikipedia's description of Military Necessity says – among others - the following:

80. "Military necessity is governed by several constraints: an attack or action must be intended to help in the military defeat of the enemy, it must be an attack on a military objective, and the harm caused to civilians or civilian property must be proportional and not excessive in relation to the concrete and direct military advantage anticipated.

81. Luis Moreno-Ocampo, Chief Prosecutor at the International Criminal Court, investigated allegations of War Crimes during the 2003 invasion of Iraq and he published an open letter[70] containing his findings. In a section titled "Allegations concerning War Crimes " he did not call it military necessity but summed up the term:

1. Under international humanitarian law and the Rome Statute[71], the death of civilians during an armed conflict, no matter how grave and regrettable, does not in itself constitute a war crime. International humanitarian law and the Rome Statute permit belligerents to carry out proportionate attacks against military objectives, even when it is known that some civilian deaths or injuries will occur. A crime occurs if there is an intentional attack directed against civilians (principle of distinction) (Article 8(2)(b)(i)) or an attack is launched on a military objective in the knowledge that the incidental civilian injuries would be clearly excessive in relation to the anticipated military advantage (principle of proportionality) (Article 8(2)(b)(iv).
2. Article 8(2)(b)(iv) criminalizes:
3. Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
4. Article 8(2)(b)(iv) draws on the principles in Article 51(5)(b) of the 1977 Additional Protocol I to the 1949 Geneva Conventions, but restricts the criminal prohibition to cases that are "clearly" excessive. The application of Article 8(2)(b)(iv) requires, inter alia, an assessment of:
5. (a) the anticipated civilian damage or injury;

[68] http://www.crimesofwar.org/a-z-guide/military-necessity/
[69] http://www.diakonia.se/sa/node.asp?node=888
[70] http://www2.icc-cpi.int/NR/rdonlyres/F596D08D-D810-43A2-99BB-B899B9C5BCD2/277422/OTP_letter_to_senders_re_Iraq_9_February_2006.pdf
[71] http://en.wikipedia.org/wiki/Rome_Statute

6. (b) the anticipated military advantage;

7. (c) and whether (a) was "clearly excessive" in relation to (b).

8. — Luis Moreno-Ocampo

82. Military Necessity: use of Nuclear Weapons for Self-Preservation:

83. "Some commentators who rightly reject Kriegsrason still advocate a scope of military necessity that would, under certain circumstances, go beyond express exceptional clauses. For example, in Julius Stone's view, military necessity does - or should, in any event - entitle a state at war to depart from its duties under international law on account of self-preservation. Stone clearly embraced the criticism of what he called military necessity in "such an extended German sense." His doubts concerned whether this criticism, while valid in relation to Kriegsrason, could be defensibly extended so as to exclude self-preservation.

84. "In its advisory opinion on the legality of the threat or use of nuclear weapons, the International Court of Justice (ICJ) observed that such threat or use would generally be contrary to international humanitarian law. The opinion went on to state, however, that the court "cannot lose sight of the fundamental right of every State to survival, and thus its right to resort to self-defence . . . when its survival is at stake." The court held, by seven votes to seven, with its president's casting vote, that it "cannot conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self defence in which the very survival of a State would be at stake.""

85. Simplistically concluded: If the goal of demographic self preservation by avoiding an impending collision of Titanic Europe with Islam iceberg is affirmed as legitimate, "what is deemed materially necessary in view of that legitimate goal becomes prima facie permissible and what is deemed materially unnecessary becomes impermissible."

86. Military Necessity in Nuremberg German High Command Trial:

87. In the **TRIAL OF WILHELM VON LEEB AND THIRTEEN OTHERS**: UNITED STATES MILITARY TRIBUNAL, NUREMBERG, 30TH DECEMBER, 1947-28TH OCTOBER, 1948[72]

88. Wilhelm von Leeb and the other thirteen accused in this case were former high-ranking officers in the German Army and Navy, and officers holding high positions in the German High Command (OKW). All of them were charged with Crimes against Peace, War Crimes, Crimes against Humanity and with Conspiracy to commit such crimes. The War Crimes and Crimes against Humanity charged against them included criminal responsibility in connection with the implementation and execution of the so-called Commissar Order, the Bar-barossa Jurisdiction Order, the Commando Order, the Night and Fog Decree, the Hostages and Reprisals Orders,

[72] http://www.worldcourts.com/imt/eng/decisions/1948.10.28_United_States_v_von_Leeb.pdf

murder and ill-treatment of prisoners of war and of the civilian population in the occupied territories and their use in prohibited work; discrimination against and persecution and execution of Jews and other sections of the population by the Wehrmacht in co-operation with the Einsatzgruppen and Sonderkommandos of the SD, SIPO and the Secret Field Police; plunder and spoliation and the enforcement of the slave labour programme of the Reich.

89. They were acquitted of some of the charges, where it was ascertained that military necessity existed objectively and/or subjectively in the particular circumstances.

90. The Tribunal argued that "The devastation prohibited by the Hague Rules and the usages of war is that not warranted by military necessity. This rule is clear enough but the factual determination as to what constitutes military necessity is difficult. Defendants in this case were in many instances in retreat under arduous conditions wherein their commands were in serious danger of being cut off. Under such circumstances, a commander must necessarily make quick decisions to meet the particular situation of his command. A great deal of latitude must be accorded to him under such circumstances. What constitutes devastation beyond military necessity in these situations requires detailed proof of an operational and tactical nature. We do not feel that in this case the proof is ample to establish the guilt of any defendant herein on this charge."

91. [..] The second remark of the Prosecution would command universal respect, but the Tribunal would appear to have rejected the argument that the accused could never plead military necessity in the course of a criminal war;(1) it conceded that the plea of military necessity did, in the circum-stances proved, serve to exculpate the accused on certain charges concerning spoliation. It was emphasized that the defendants were "in many instances in retreat under arduous conditions wherein their commands were in serious danger of being cut off. Under such circumstances, a com-mander must necessarily make quick decisions to meet the particular situation of his command. A great deal of latitude must be accorded to him under" such circumstances. What constitutes devastation beyond military necessity in these situations requires detailed proof of an operational and tactical nature."(2)

92. Thus, in dealing with Reinhardt's alleged responsibility for plunder and spoliation, the Tribunal said: "The evidence on the matter of plunder and spoliation shows great ruthlessness, but we are not satisfied that it shows beyond a reasonable doubt, acts that were not justified by military necessity."

93. Military Necessity: The Rendulic Rule: Importance of the Subjective Test:

94. In **The Law of Armed Conflict: International Humanitarian Law in War**, Gary D Solis provides an overview of the Rendulic Rule in evaluation of the subjective test in evaluating a defence of Military Necessity:

95. “Now, the moral point of view derives its legitimacy from the perspective of the actor. When we make moral judgements, we try to recapture that perspective.”

96. “In October 1944, Generaloberst Lothar Rendulic was Armed Forces Commander North, which included command of Nazi Forces in Norway. (Between World Wars I and II, Rendulic had practiced law in his native Austria.) Following World War II, he was prosecuted for, among other charges, issuing an order “for the complete destruction of all shelter and means of existence in, and the total evacuation of the entire civilian population of the northern Norwegian province of Finmark...” Entire villages were destroyed, bridges and highways bombed, and port installations wrecked. Tried by an American military commission, Rendulic's defence was military necessity. He presented evidence that the Norwegian population would not voluntarily evacuate and that rapidly approaching Russian forces would use existing housing as shelter and exploit the local population's knowledge of the area to the detriment of retreating German forces. The Tribunal acquitted Rendulic of the charge, finding reasonable his belief that military necessity mandated his orders. His case offers one of the few adjudicated views of what constitutes military necessity.

97. “Obviously, it is especially difficult to render convincing second opinions when assessing, after the fact, the necessity and economy of battlefield tactical decisions. Nevertheless, the very fact that military and civilian tacticians have been accountable to second opinions - for example, to the 'reasonable commander' test - must have some restraining effect on the choice of measures employed in battle.

98. “These extracts are from the record of Rendulic's trial.

99. *From Count two of the group indictment:*

100. 9.a. On or about 10 October 1944, the Commander in Chief of the 20th Mountain Army, the defendant Rendulic, issued an order to troops under his command and jurisdiction, for the complete destruction of all shelter and means of existence in, and the total evacuation of the entire civilian population of, the northern Norwegian province of Finmark. During the months of October and November 1944, this order was effectively and ruthlessly carried out. For no compelling military reasons, and in literal execution of instructions to show no sympathy to the civilian population, the evacuated residents were made to witness the burning of their homes and possessions and the destruction of churches, public buildings, food supplies, barns, livestock, bridges, transport facilities, and natural resources of an area in which they and their families had lived for generations. Relatives and friends were separated, many of the evacuees became ill from cold and disease, hundreds died from exposure or perished at sea in the small boats and fishing smacks used in the evacuation, while still others were summarily shot for refusing to leave their homeland - in all, the thoroughness and brutality of this evacuation left some 61,000 men, women, and children homeless, starving and destitute.

101. *From the opening statement of the Chief Prosecutor, Brigadier General Telford Taylor*:

102. Late in October 1944, the German High Command... issued the following order to Rendulic....

103. “Because of the unwillingness of the northern Norwegian population to voluntarily evacuate, the Fuehrer has.. ordered that the entire Norwegian population east of the fiord Lyngen be evacuated by force in the interest of their own security and that all homes are to be burned down and destroyed.

104. “[Rendulic] is responsible that the Fuehrer's order is carried out without consideration. Only by this method can it be prevented that the Russians with strong forces, and aided by these homes and the people familiar with the terrain, follow our withdrawal operations... This is not the place for sympathy for the civilian population.

105. “It must be made clear to the troops engaged in this action that the Norwegians will be thankful in a few months that they were saved from bolshevism...”

106. .... This ruthless and in large part unnecessary decision was carried out by Rendulic's forces according to plan. Northern Norway, from Kirkenes nearly to Tromso, was turned into an Arctic desert.

107. *From the opening statement of Dr. Hans Laternser, one of the accuseds defense counsel*:

108. In the case of the measures with which the defendants here are being charged the principle of military necessity plays an important role. This principle, which formed the basis of all German military measures, was formulated in paragraph 4 of the American “Rules of Land Warfare” as the highest general principle of warfare and recognized to a very far-reaching degree.

109. This principle, however, must not be scrutinized in an abstract manner, but must be considered in connection with the conditions with which the accused were confronted and under which they had to discharge their task.... Nothing of what forms the subject of this trial can be understood if considered apart from the fundamentals, as is done by the prosecution.

110. *From the testimony of the accused justifying the destruction carried out at his order, that portion offered here being only a small portion of his testimony*:

111. Everybody [in the German forces] was aware of the difficulty of the position. From censorship of soldiers male we learned that the morale of the soldiers sometimes bordered on panic... There was a very dangerous crisis among the [German] soldiers especially with regard to confidence in their leaders which could have led to catastrophe... At first sight on might suppose that marching [pursuing Russian] troops would only need the localities along the march route for quarters, but that is not the case... The villages along the march route were never sufficient for the accommodation of the marching troops.

112. Instead, these troops also had to use those places which were a good distance away from the march route.. when it was necessary to quarter them in houses, etc., and that would have undoubtedly been necessary at that time in Finmark because of the climate...

113. The inhabited localities along the coast and along the fjords were of the same significance... It further has to be considered that an army does not only march; it also has to live, especially when it is supposed to prepare for an attack. Then the army is apt to spread over the whole country. Not only do the troops have to be accommodated but there are also many installations to be taken care of such as work shops, hospitals, depots, installations for supply; and for all these installations everything that was there concerning houses, etc., was necessary to accommodate all these operations and that was the military significance of the apparently far distant inhabited localities....

114. .. You must not think that we destroyed wantonly or senselessly. Everything we did was dictated by the needs of the enemy. That was its necessity...

115. ... I did not think it was absolutely necessary to transfer the population to other areas but I could not close my eyes to Hitler's reasons of military necessity. I could not deny that they were justified.

116. Finally, I had to tell myself that it would possibly be better for the population to be transferred to other areas rather than to spend the hard winter in the destroyed country. I participated in both winter battles in Russia. Therefore, I know what flight from cold means. I had to realize that the Russians, if they followed us.... it was certain that they would not spare the population. Therefore, in the final analysis it was the best thing for the population that they were removed....

117. I attached the greatest importance to good relations between myself and the Norwegian population. For this reason alone I insisted that the evacuation should not give any cause for misgivings among the population. You may also rest assured that if any kind of excesses had become known to me, any unnecessary harshness or any inconsideration, I would have taken countermeasures immediately....

118. *From the closing arguments of Mr. Walter Rapp, Associate Prosecution Counsel*:

119. The argument of the defence of military necessity is unconvincing here for several reasons. In the first place... the plea of military necessity can never be used as a defense for taking an unarmed civilian's life...

120. In the second place, it is inconsistent to attempt to defend the same action by the plea of superior orders and also by that of military necessity because the two are mutually exclusive. If an act was committed solely because of superior orders, then presumably there was no military necessity for doing it; whereas if it was done because of military necessity, it would have been done anyhow regardless of the existence or non-existence of superior orders.

121. In the third place, the defence of military necessity flies into the teeth of all the available evidence here....

122. *From the Tribunals opinion*:

123. Military necessity has been invoked by the defendant's as justifying.. the destruction of villages and towns in an occupied territory... The destruction of property to be lawful must be imperatively demanded by the necessities of war... There must be some reasonable connection between the destruction of property and the overcoming of the enemy forces. It is lawful to destroy railways, lines of communication, or any other property that might be utilized by the enemy. Private homes and churches even may be destroyed if necessary for military operations. It does not admit the wanton devastation of a district or the wilful infliction of suffering upon its inhabitants for the sake of suffering alone...

124. The evidence shows that the Russians had very excellent troops in pursuit of the Germans. Two or three land routes were open to them as well as landings by sea behind German lines... The information obtained concerning the intentions of the Russians was limited.. It was with this situation confronting him that he carried out the "scorched earth" policy in the Norwegian province of Finmark.. The destruction was as complete as an efficient army could do it...

125. There is evidence in the record that there was no military necessity for this destruction and devastation. An examination of the facts in retrospect can well sustain this conclusion. But we are obliged to judge the situation as it appeared to the defendant at the time. If the facts were such as would justify the action by the exercise of judgement, after giving consideration to all the factors and existing possibilities, even though the conclusion reached may have been faulty, it cannot be said to be criminal. After giving careful consideration to all the evidence on the subject, we are convinced that the defendant cannot be held criminally responsible although when viewed in retrospect, the danger did not actually exist....

126. ..... **We are not called upon to determine whether urgent military necessity for the devastation and destruction in the province of Finmark actually existed. We are concerned with the question whether the defendant at the time of its occurrence acted within the limits of honest judgement on the basis of the conditions prevailing at the time**. The course of a military operation by the enemy is loaded with uncertainties... **It is our considered opinion that the conditions, as they appeared to the defendant at the time, were sufficient upon which he could honestly conclude that urgent military necessity warranted the decision made. This being true, the defendant may have erred in the exercise of his judgement but he was guilty of no criminal act. We find the defendant not guilty of the charge**. (added emphasis)

127. The Rendulic standard remains unchanged. Fifty-four years later, in 2003, the ICTY wrote: “In determining whether an attack was proportionate it is necessary to examine whether a

reasonably well-informed person in the circumstances of the actual perpetrator, making reasonable use of the information available to him or her, could have expected excessive civilian casualties to result from the attack."[73]

128. **Military Necessity: Rendulic Rule: Subjective Honesty in current Military Doctrine**:

129. In **Unexpected Consequences From Knock-On Effects: A Different Standard for Computer Network Operations?**, Eric Talbot Jensen writes:

130. The standard the Court held General Rendulic to was the requirement to give "consideration to all factors and existing possibilities" as they "appeared to the defendant at the time.'"

131. While the specific facts of the case dealt with General Rendulic's decision concerning the military necessity of his action, the Court's reasoning reflects that this standard is not confined to solely that decision, but would also apply to a commander's decision contemplated in GPI Articles 51 and 57. This is the same standard with which military commanders contemplating the use of CAN must comply.

132. Note that the requirement to give consideration to all factors and existing possibilities is balanced with the overarching constraint of taking facts as they appear at the time of the decision. Must the commander remain in inaction until he feels he has turned over every stone in search of that last shred of information concerning all factors and possibilities that might affect his decision? The answer must be "no." Instead, he must act in good faith and, in accordance with GPI, do everything feasible to get this information.

133. GPI Article 57, paragraph 2 states:

1. 2. With respect to attacks, the following precautions shall be taken:
2. (a) those who plan or decide upon an attack shall:
3. (i) do everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects and are not subject to special protection but are military objectives within the meaning of paragraph 2 of Article 52 and that it is not prohibited by the provisions of this Protocol to attack them;
4. (ii) take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects

134. This requirement of doing everything feasible underlies the 'Rendulic Rule.'

135. Once a commander has done everything feasible to gather information and learn the specific circumstances of the object of his attack, he can rely on those facts in taking action.

[73] Prosecutor v. Galic

136. Onus of Proof: Norwegian State or Breivik to Prove Necessity?:

137. In South African law the Onus of Proof lies on the State in a defence of necessity, to rule out the reasonable possibility of an act of necessity.

138. In *S v Pretorius 1975* (2) SA 85 (SWA) Judge AJ Le Grange found that 'Despite the accused's plea of guilty, it appears from all the evidence on the record that an offence was not committed. In the result, the conviction and sentence, must, be set aside.'

1. [87] The accused who had no legal representation, referred, despite his plea of guilty, to circumstances which materially gave rise to the defence of necessity. This defence made it necessary for the magistrate to decide in the first instance not what the accused's frame of mind had been, but whether necessity was present and whether it justified the accused's conduct. .. The Judge 'could find no cases and the Court did not refer to any where the question had been finally decided whether the test for necessity relates to an objective emergency or to a subjective frame of mind (or fear)…..

2. [88] There is, however, nothing in my humble opinion, in the cases referred to or in any other cases, which I could find, which could serve as authority for the proposition that necessity cannot also be viewed as "a ground of justification". The question whether the defence of justification amounts to a ground of justification or to a circumstance excluding fault, has been thoroughly canvassed by De Wet and Swanepoel in their said work as well as by Burchell & Hunt in their revised edition of S.A. Criminal Law and Procedure, Part 1….

3. [89] The *onus* of proof in a defence of necessity as in self-defence rests on the State to rule out the reasonable possibility of an act of necessity. It is not for the accused to satisfy the court that she acted from necessity (p 293). [(proceed) by gathering an objective view of the circumstances from the evidence itself, and the magistrate's finding whether the prevailing circumstances were 'alarming' if viewed objectively…. Viewed objectively… was the accused confronted with a situation that …… lives were in danger….

4. [90] [If the evidence gives a picture of threatening danger and fear, which gave rise to necessity and which would have justified the accused's conduct, provided the accused did not exceed the limits of necessity…. Proceed to consider whether the proven circumstances satisfy the tests for necessity set out by B & Hunt at p. 285 of their work: (a) the threatening disaster endangered the accused's legal interests. This in fact gave rise to a duty to act. (b) the danger was threatening and imminent. The fact that symptoms relating to the danger may only appear later does not detract from the situation… if it cannot immediately be ascertained whether or not the symptoms are dangerous, necessity arises… (d) the chances that harm would have resulted and it would have been of a serious nature.. the greater the harm, the greater the necessity…

139. If Norwegian law also places the Onus of Proof to lie on the State in a defence of necessity, to rule out the reasonable possibility of an act of necessity; it would appear

that the Prosecutor's decision to 'refuse to touch the principle of necessity' should weigh heavily in the Defendant's favour.

140. Even if Norwegian law places the Onus of Proof on the Defendant in a defence of Necessity, to prove the reasonable possibility of an act of necessity, the Prosecutions decision to 'refuse to touch the principle of necessity' should again weigh heavily in the Defendant's favour; unless the Prosecution could and did provide a reasonable argument for their failure to uphold their duty for enquire into the objective and subjective evidence for the Defendant's Necessity defence.

141. Transparency Disclosure: Correspondence to Mr. Breivik and Mr. Geir Lippestad:

142. 12 August 2012: Correspondence to Mr. Geir Lippestad[74]

Request for Clarification regarding Defence Counsel's focus on 'sane/safety' issue, while seemingly ignoring the 'innocence/guilt' issue, thereby denying Breivik's right to Impartial trial to enquire into the evidence for and against his Necessity Defence.

Questions I have:

1. Why did Defence Counsel not demand Prosecutor Engh and Holden provide reasons for their refusal to address Breivik's claim of necessity?
2. Is it common for Norwegian Prosecutors to refuse to provide the court with the Prosecutor's Office assessment of an accused's evidence for their claim of necessity?
3. In Norwegian Law upon which party does the Onus of Proof lie in a claim of necessity?
4. Is there some political correct conformity conspiracy between Defence Counsel and Prosecution to ignore Breivik's claims of necessity?
5. Why did your Defence of Breivik state that the only issues before the court – as the media have been reporting and you said to the court – are the sane/safety issue?
6. How exactly can the only issue before the court be the 'sane/safety'; since when is the 'guilt/innocence' issue irrelevant in a political criminal trial?
7. If Lippestad attorney's are denying the court to be required to seriously examine the necessity evidence for Breivik's guilt or innocence; upon what grounds and authority did Lippestad Attorney's find Breivik to be guilty beyond reasonable doubt?
8. Or is it a matter of first ascertaining Breivik's sanity; and then if, or when Breivik is finally deemed sane, does he then get a new trial with a focus on 'guilty/innocence' issue; to determine his innocence or guilt, based upon the evidence for and against his necessity defence?
9. If not, when exactly is Breivik entitled to an impartial trial where the issue before the court is Breivik's 'guilt/innocence' and Prosecutors and Defence Counsel are required to seriously legally examine the evidence for and against his Necessity Defence?

143. 13 August 2012: Correspondence to Mr. Breivik [Annex D]

Request Clarification: RE: Habeus Mentem, Amicus Curiae and Review Applications Filed:

I am not quite clear. You acknowledge receipt of the legal applications I filed in the Norway v. Breivik matter, but refer to them as 'my letter and email compaigns'? Do you dispute their contents as being unworthy of being considered legal applications; and if so, could you

[74] http://ecofeminist-v-breivik.weebly.com/1/post/2012/08/120813_lipp-bnecc_10001.html

clarify how and why you do so? Or why do you refer to these legal applications as 'letters and emails'.

In terms of my definition of 'honour'; to be 'honourable' is to legally acknowledge the application by responding to the issues raised therein, as part of court procedure.

If you do not dispute them as legal applications: Could you please clarify what exactly your instructions were to your Attorneys in response to the applications I filed in Oslo District Court: Judge Nina Opsahl (Habeus Mentem: Right to Legal Sanity) and Judge Wenche (Amicus Curiae: Friend of the Court) and the Norwegian Supreme Court: Review and Declaratory Order.

Request Clarification: What were your instructions to your attorney's regarding 'Guilt / Innocence: Necessity'

Mr. Lippestad stated in court proceedings that your claim of innocence and necessity was purely a formality: i.e. my interpretation: you did not subjectively believe your claims of necessity; its all just propaganda bullshit.

Your testimony, on the other hand, repeatedly focussed on your claim of necessity as the source for your innocence.

So, I am confused: If you sincerely believe your claims of innocence and necessity:

- At the very least: Why have you not instructed Mr. Lippestad to retract his statements that contradict yours?
- If he refuses: Why have you not publicly stated your lawyers refusal to follow your instructions and placed the dispute transparently before the court, as a matter of court record?
- Or, is Lippestad telling the truth; and you really don't subjectively believe in your necessity claim towards innocence, you are simply engaging in a bullshit the public relations propaganda?

See Annex F: Letter to Mr. Lippestad: **Request for Clarification regarding Defence Counsel's focus on 'sane/safety' issue, while seemingly ignoring the 'innocence/guilt' issue, thereby denying Breivik's right to Impartial trial to enquire into the evidence for and against his Necessity Defence.**

144. Environmental Transparency: Aarhus Convention:

145. **CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS**, done at Aarhus, Denmark, on 25 June 1998[75]

1. Each Party shall take the necessary legislative, regulatory and other measures, including measures to achieve compatibility between the provisions implementing the information, public participation and access-to-justice provisions in this Convention, as well as proper enforcement measures, to establish and maintain a clear, transparent and consistent framework to implement the provisions of this Convention.

2. Each Party shall endeavour to ensure that officials and authorities assist and provide guidance to the public in seeking access to information, in facilitating participation in decision-making and in seeking access to justice in environmental matters.

3. Each Party shall promote environmental education and environmental awareness among the public, especially on how to obtain access to information, to participate in decision-making and to obtain access to justice in environmental matters.

[75] http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf

4. Each Party shall provide for appropriate recognition of and support to associations, organizations or groups promoting environmental protection and ensure that its national legal system is consistent with this obligation.

5. The provisions of this Convention shall not affect the right of a Party to maintain or introduce measures providing for broader access to information, more extensive public participation in decision-making and wider access to justice in environmental matters than required by this Convention.

6. This Convention shall not require any derogation from existing rights of access to information, public participation in decision-making and access to justice in environmental matters.

7. Each Party shall promote the application of the principles of this Convention in international environmental decision-making processes and within the framework of international organizations in matters relating to the environment.

8. Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement. This provision shall not affect the powers of national courts to award reasonable costs in judicial proceedings.

9. Within the scope of the relevant provisions of this Convention, the public shall have access to information, have the possibility to participate in decision-making and have access to justice in environmental matters without discrimination as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of its activities.

146. **ECHR: Lithgow on Transparency: Precise and Accessible Legislation:**

147. In *Lithgow & others v United Kingdom*[76], the European Court of Human Rights held that the rule of law requires provisions of legislation to be adequately accessible and sufficiently precise to enable people to regulate their affairs in accord with the law:

> "As regards the phrase "subject to the conditions provided for by law", it requires in the first place the existence of and compliance with adequately accessible and sufficiently precise domestic legal provisions (see, amongst other authorities, the alone judgment of 2 August 1984, Series A no. 82, pp. 31-33, paras. 66-68)."

148. **The interests of justice:**

149. I submit that it is in the interests of justice that review be approved, as there are significant prospects of success, should the court be willing to discard its attachment to Patriarchal Mono-Cultural Masculine Insecurity Ego, instead of Ecologically driven lawmaking, and sincerely adopt multicultural law-making, by drawing on legal cultural diversity, to establish 'what works' to resolve disputes, instead of endorsing the Left vs. Right Wing Parasite Leeching blame game.

[76] *Lithgow & others v. United Kingdom* (1986) * EHRR 329 § 110 http://www.unhcr.org/refworld/publisher,ECHR,,GBR,3ae6b7230,0.html

150. **Multi-cultural Law Must (a) avoid Mono-cultural legal Hegemony, (b) draw on legal cultural diversity:**

151. Opinion of Weeramantry J in *Case Concerning the Gabcikovo-Nagymaros Project (Hungary v Slovakia)*[77], clarifies multi-culti lawmaking:

> ***The need for International law to draw upon Worlds Diversity of Cultures in Harmonizing Development and Environmental Protection***
>
> In drawing into international law the benefits of the insights available from other cultures, and in looking to the past for inspiration, international environmental law would not be departing from traditional methods of international law, but would, in fact, be following in the path charted out by Grotius. Rather than laying down a set of principles *a priori* for the new discipline of international law, he sought them also *a posteriori* from the experience of the past, searching through a whole range of cultures available to him for this purpose[78]. From them he drew the durable principles which had weathered the ages, on which to build the new international order of the future. Environmental law is now in a formative stage, not unlike international law in its early stages. A wealth of past experience from a variety of cultures is available to it. It would be pity indeed if it were left untapped merely because of attitudes of formalism which see such approaches as not being entirely *de rigueur*.
>
> I cite in this connection an observation of Sir Robert Jennings that, in taking note of different legal traditions and cultures, the International Court (as it did in the *Western Sahara*) case:
>
> > "was asserting, not negating, the Grotian subjection of the totality of international relations to international law. It seems to the writer, indeed, that at the present juncture in the development of the international legal system it may be more important to stress the imperative need to develop international law to comprehend within itself the rich diversity of cultures, civilizations and legal traditions…."[79]
>
> Moreover, especially at the frontiers of the discipline of international law, it needs to be multi-disciplinary, drawing from other disciplines such as history, sociology, anthropology, and psychology such wisdom as may be relevant for its purpose. On the need for the international law of the future to be disciplinary, I refer to another recent extra-judicial observation of distinguished former President of the Court that:
>
> > "there should be a much greater, and a practical, recognition by international lawyers that the rule of law in international affairs, and the establishment of international justice, are inter-disciplinary subjects[80].
>
> Especially where this Court is concerned, "the essence of true universality" of the institution is captured in the language of Article 9 of the Statute of the International Court of Justice which requires the "representation of the *main forms of civilization* and of the principle legal systems of the world." (emphasis added)…. I see the Court as being charged with a duty to draw upon the wisdom of the worlds several civilizations, where such a course can enrich its insights into the matter before it. The Court cannot afford to be monocultural, especially where it is entering newly developing areas of law.

152. **Conclusion:**

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[77] Opinion of Weeramantry J in the *Case Concerning the Gabcikovo-Nagymaros Project (Hungary v Slovakia) (1998)* 37 *International Legal Materials* 162 206. http://www.scribd.com/doc/34456660

[78] Julius Stone, *Human Law and Human Justice*, 1965, p.66: "It was for this reason that Grotius added to his theoretical deductions such a mass of concrete examples from history."

[79] Sir Robert Y. Jennings, *Universal International Law in a Multicultural World*, in *International Law and the Grotian Heritage: A Commemorative Colloquium on the Occasion of the Fourth Centenary of the Birth of Hugo Grotius*, edited and published by the T.M.C. Asser Institute, The Hague, 1985, p. 195.

[80] International Lawyers and the Progressive Development of International Law, Theory of International Law at the Threshold of the 21st Century, Jerzy Makarczyk (ed), 1996, p 423.

153. On the grounds set out above I submit that a proper case is made out for leave to review directly to this Court. The applicant accordingly requests that the application be granted in the terms sought in the notice of motion filed herewith.

Signed and Sworn to at George on this the 27th day of August 2012, the Deponent acknowledging that she knows and understands the contents of this Affidavit, and that she has no objection to taking the prescribed oath and that the oath is binding on her conscience.

LARA JOHNSTONE, Pro Se
George, South Africa
Email: jmcswan@mweb.co.za

Annexures:

[A] 03 May 2012: Concourt Ruling: Lara Johnstone: Member of Radical Honesty culture
[B] Cullinan, Cormac: Wild Law: A Manifesto for Earth Justice (Summary)
[C] Clugston, Chris: Sustainability Defined
[D] 13 Aug 2012: Letter to Mr. Anders Breivik (Enclosures[81]); Response to Mr. Breivik Letter[82]

[81] http://ecofeminist-v-breivik.weebly.com/rh-13-aug-2012.html
[82] http://ecofeminist-v-breivik.weebly.com/kt-02-july-2012.html