Court File No. 37912

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL OF QUÉBEC)

B E T W E E N:

ATTORNEY GENERAL OF NEWFOUNDLAND AND LABRADOR
APPELLANT
(Appellant)

- and –

UASHAUNNUAT (INNU OF UASHAT AND OF MANI-UTENAM), INNU OF MATIMEKUSH-LAC JOHN, CHIEF GEORGES-ERNEST GRÉGOIRE, CHIEF RÉAL MCKENZIE, INNU TAKUAIKAN UASHAT MAK MANI-UTENAM BAND, INNU NATION MATIMEKUSH-LAC JOHN, MIKE MCKENZIE, YVES ROCK, JONATHAN MCKENZIE, RONALD FONTAINE, MARIE-MARTHE FONTAINE, MARCELLE ST-ONGE, ÉVELYNE ST-ONGE, WILLIAM FONTAINE, ADÉLARD JOSEPH, CAROLINE GABRIEL, MARIE-MARTHE MCKENZIE, MARIE-LINE AMBROISE, PACO VACHON, ALBERT VOLLANT, RAOUL VOLLANT, GILBERT MICHEL, AGNÈS MCKENZIE, PHILIPPE MCKENZIE, AUGUSTE JEAN-PIERRE
RESPONDENTS
(Respondents)

- and –

IRON ORE COMPANY OF CANADA, QUÉBEC NORTH SHORE AND LABRADOR RAILWAY COMPANY INC; ATTORNEY GENERAL OF QUÉBEC
INTERVENERS
(Mise-en-cause)

- and -

AMNESTY INTERNATIONAL CANADA, the ATTORNEY GENERAL OF CANADA; the ATTORNEY GENERAL OF BRITISH COLUMBIA; KITIGAN ZIBI ANISHINABEG and THE ALGONQUIN ANISHINABEG NATION TRIBAL COUNCIL (JOINTLY); and TSAWOUT FIRST NATION
INTERVENERS

FACTUM OF THE INTERVENER, AMNESTY INTERNATIONAL CANADA
(Pursuant to Rule 42 of the *Rules of the Supreme Court of Canada*)

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PART I: OVERVIEW AND STATEMENT OF FACTS

1. The rights of Indigenous peoples to lands, territories, and resources do not derive from judicial or state recognition or depend on provincial boundaries; they instead arise from their prior sovereignty, ownership, and control over these territories under their own systems of law. Where the rights of Indigenous peoples, which overlap provincial boundaries, are allegedly violated as a result of corporate activity, what procedural rules apply to the civil claims of Indigenous peoples against corporate defendants? The right to an effective remedy under international law provides valuable guidance in addressing this question central to the appeal.

PART II: POSITION ON ISSUES

2. Amnesty International, Canadian Section, English Branch ("Amnesty Canada") submits that Canada has clear international legal obligations to provide access to effective and prompt remedies for violations of the rights of Indigenous peoples. These obligations prohibit the erecting of unreasonable procedural barriers to resolving the claims of Indigenous peoples that their rights have been violated, including where claims lie against third parties.

3. In the instant case, the right to an effective remedy under international law requires, at minimum, that the Innu Respondents be able to bring a coherent body of evidence, unrestricted by provincial boundaries, to establish their claims for damages against the Defendant Corporations. This requirement is fully consistent with the Canadian doctrine of Aboriginal rights and title, which not only recognizes that evidence establishing Aboriginal claims cannot be segregated along provincial boundaries, but also rejects the idea that Aboriginal rights and title must first be recognized through judicial declaration *before* they may form the basis of a civil suit against private parties. It is also fully consistent with the private international law provisions of the Civil Code of Québec ("CCQ"), which allow for claims that rely partly on evidence from outside the province.

PART III: STATEMENT OF ARGUMENT

I. Canada has a clear obligation under international law to guarantee Indigenous peoples' access to effective remedies for violations of their rights to lands, territories and resources resulting from corporate activity

A. The right to an effective remedy is protected in international legal instruments

4. Canada is bound by the *International Covenant on Civil and Political Rights* ("*ICCPR*"), which enshrines the right to an effective remedy. Pursuant to article 2(3) of the *ICCPR*, Canada has undertaken to ensure that those individuals who claim their human rights have been violated have access to an effective remedy, which includes having their rights determined by a competent judicial or administrative authority.[1] The UN Human Rights Committee ("HRC"), the body of international experts that monitors implementation of the *ICCPR*, has explained that States "must ensure that individuals also have accessible and effective remedies to vindicate [their] rights" and that the remedies States must provide under the *ICCPR* "should be appropriately adapted so as to take account of the special vulnerability of certain categories of person".[2] Other core human rights treaties to which Canada is party, including the *Convention on the Elimination of All Forms of Racial Discrimination*, also expressly provide for the right to an effective remedy.[3] The right is enshrined in the *Universal Declaration of Human Rights*[4] and is recognized as a rule of customary international law.[5]

5. The right to an effective remedy applies to human rights abuses committed both by the State and by non-State actors, such as companies, as is allegedly the case here. The *United Nations Guiding Principles on Business and Human Rights* ("*Guiding Principles*") reiterate the duty of the

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[1] *International Covenant on Civil and Political Rights*,19 December 1966, 999 UNTS 171 (entered into force 23 March 1976, accession by Canada 19 May 1976) [*ICCPR*].

[2] ICCPR, Human Rights Committee, *General Comment no 31[80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, 80th Sess, 2187th meeting, UN Doc CCPR/C/21/Rev.1/Add. 13, 26 May 2004 at para 15.

[3] *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, 660 UNTS 195 (entered into force 4 January 1969, accession by Canada in 14 October 1970) at art 6.

[4] *Universal Declaration of Human Rights*, GA Res 217A (III), UNGAOR, 3rd Sess, Supp No 13, UN Doc A/810 (1948) at art 8. See also, Hurst Hannum, "Status of the Universal Declaration of Human Rights in National and International Law" (1995) 25 Ga J Int'l & Comp L 287 at 289 & 290 [Hurst Hannum, Status of the Universal Declaration of Human Rights in National and International Law].

[5] Hurst Hannum, Status of the Universal Declaration of Human Rights in National and International Law. Also see UNGA, Working Group on Arbitrary Detention, *Opinion No. 52/2014 (Australia and Papua New Guinea)*, UN Doc A/HRC/WGAD/2014/52, 13 February 2015 at para 52.

State to provide remedy for human rights abuses that occur within its territory and/or jurisdiction as a result of corporate activity.[6] The *Guiding Principles* urge States to "ensure that they do not erect barriers to prevent legitimate cases from being brought before the courts".[7] The UN Committee on Economic, Social and Cultural Rights has made clear that States must "ensure access to effective remedies to people affected by corporate abuse of economic, social and cultural rights".[8]

6. The right to an effective remedy is understood to have specific meaning in relation to the rights of Indigenous peoples, including in the context of extractive industries. The UN Human Rights Committee has clarified that article 27 of the *ICCPR*[9] provides particular protections to Indigenous peoples, notably for their "way of life associated with the use of land resources", and requires a state party to take "[p]ositive measures [...] not only against the acts of the State party itself [...] but also against the acts of other persons within the State party."[10] The UN Committee on the Elimination of Racial Discrimination has also called on State parties to ensure that Indigenous peoples have access to restitution and, failing that, compensation.[11]

B. *UNDRIP* specifies the content of the right to an effective remedy in the context of protecting Indigenous peoples' rights

7. The *United Nations Declaration on the Rights of Indigenous Peoples* ("*UNDRIP*") gives specificity to the scope and nature of the particular protective measures that are required to guarantee Indigenous peoples' right to an effective remedy. *UNDRIP* guarantees Indigenous peoples' "right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their

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[6] *Guiding Principles on Business and Human Rights*, UNOHCHR, Annex, UN Doc A/HRC/17/31) (2011), Guiding Principle 25 [*Guiding Principles*].
[7] *Guiding Principles*, Commentary to Guiding Principle 26, note 2 at p 23.
[8] CESCR, *Statement on the Obligations of States Parties Regarding the Corporate Sector and Economic, Social and Cultural Rights*, E/C.12/2011/1, 20 May 2011 at para 5.
[9] Article 27 of the *ICCPR* states: "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language".
[10] ICCPR, Human Rights Committee, *Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2020/2010 (McIvor v Canada)*, UN Doc CCPR/C/124/D/2020/2010, 11 January 2019.
[11] OHCHR, *General Recommendation No 23: Indigenous Peoples*, 51st Sess, UN Doc A/52/18, annex V, 18 August 1997.

individual and collective rights".[12] It also protects Indigenous peoples' "right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent".[13]

8. These provisions of *UNDRIP* specify the meaning of the right to effective remedy in the context of Indigenous peoples seeking redress for violations of their rights to lands, territories and resources, and thus constitute authoritative guidance on the application of this international legal obligation with regard to Indigenous peoples. *UNDRIP* was developed on the basis of standards of international law established at the time of its negotiation and adoption. As a result, *UNDRIP* includes – and further specifies the content of – a number of norms of customary international law, as well provisions of treaties and conventions, as interpreted and applied by independent expert bodies of the United Nations and regional treaty bodies.[14]

9. Canada has taken many significant steps to strengthen its commitment to the standards set out in *UNDRIP*. On May 10, 2016, Canada announced that it supported *UNDRIP* without qualification. On May 30, 2018, Bill C-262, *An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples*, passed the House of Commons and proceeded to the Senate, where it presently sits.[15] In his address to the 72nd session of the UN General Assembly, Prime Minister Justin Trudeau affirmed Canada's recognition that *UNDRIP* "is not an aspirational document", but an instrument with real force and an essential part of the international human rights framework.[16]

10. Canadian courts have applied *UNDRIP* to the interpretation of domestic law. In *Canada (Human Rights Commission) v Canada (Attorney General)*, the Federal Court relied on *UNDRIP* in

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[12] *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, 61st Sess, Supp No 53 UN Doc A/RES/61/295 (2007), art 40 [*UNDRIP*].
[13] *UNDRIP* at art 28. See also article 32.
[14] UNGA, Human Rights Council, *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, S. James Anaya*, 9th Sess, UN Doc A/HRC/9/9, 11 August 2008.at paras 85, 86. See also: International Law Association, "Report on the Rights of Indigenous Peoples: Sofia Conference" (2012) at 28.
[15] Bill C-262: An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples, 1st Sess, 42nd Parl, 2018 (second reading at the Senate 4 April 2019).
[16] Justin Trudeau, Address (delivered at the 72nd Session of the United Nations General Assembly, 21 September 2017).

interpreting the meaning of discrimination under subsection 5(b) of the *Canadian Human Rights Act* in the context of child welfare services for First Nations children.[17] The Ontario Court of Justice recently relied on *UNDRIP* (articles 3, 8(2)(b), 26, 28, 32 and 40) to underscore and interpret the Crown's "special responsibility" when "dealing with aboriginal people and aboriginal land claims and rights".[18]

11. Several other domestic and regional courts have relied on *UNDRIP* to interpret domestic law. The Supreme Court of Belize[19] and the Court of Appeal of Belize[20] have invoked *UNDRIP* when interpreting the country's Constitution to protect the right of the Mayan people to their traditional lands. The African Court of Human Rights has also relied on *UNDRIP* for interpretive guidance when applying the right to property in the *African Charter on Human and People's Rights* in the context of the expulsion of the Ogiek people from their ancestral lands in Kenya.[21]

C. Canada's international obligation to guarantee Indigenous peoples' access to effective remedies for violations of their rights should guide this Court's interpretation of the issues in the instant case

12. This Court has highlighted time and again the important role of international human rights law as an aid in interpreting domestic law.[22] Furthermore, this Court has held that any interpretation of domestic law that would put Canada in violation of its international obligations must be strictly avoided.[23]

13. The Federal Court has explicitly stressed that, like other international human rights instruments, *UNDRIP* "inform[s] the contextual approach to statutory interpretation" and "insofar as may be possible, an interpretation that reflects [its] values and principles is preferred."[24] Canada's international legal obligation to guarantee the right to an effective remedy in the context of claims by

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[17] *Canada (Human Rights Commission) v Canada (Attorney General)*, 2012 FC 445 at paras 350-355.
[18] *R v Sayers*, 2017 ONCJ 77 at para 53.
[19] *Aurelio Cal, et al v The Attorney General of Belize et al*, Supreme Court of Belize, Claims No 171 and No 172 (2007).
[20] *Attorney General of Belize and other v the Maya leaders alliance and others*, Court of Appeal of Belize, Civil Appeal No 27 of 2010 (2013).
[21] *African Commission on Human and People's Rights v Republic of Kenya*, (26 May 2017) African Court on Human and People's Rights, Application 006/2012.
[22] See *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at para 70; *Dunmore v Ontario (Attorney General)*, 2001 SCC 94 at para 13.
[23] See *R v Hape*, 2007 SCC 26 and *Canada (Human Rights Commission) v Canada (Attorney General)*, [2012] FC 445 at para 53.
[24] *Canada (Human Rights Commission) v Canada (Attorney General)*, 2012 FC 445 at paras 351-354; *R v Sharpe*, 2001 SCC 2 at para 175.

Indigenous peoples, as protected under the *ICCPR* and *UNDRIP*, should inform this Court's interpretation of the procedural and substantive norms at issue in the instant case.

II. Neither the Canadian doctrine of Aboriginal rights and title nor the CCQ require holding Indigenous claims hostage to provincial boundaries or tying their claims to suits against the Crown

A. The Canadian doctrine of Aboriginal rights and title recognizes that evidence establishing Aboriginal claims cannot be segregated along provincial boundaries and that such claims do not depend on declarations of title

14. This Court has repeatedly affirmed that, unlike other property interests in Canadian law, the rights of Indigenous peoples to their traditional territories do not derive from assertions of Crown sovereignty.[25] Indigenous peoples' legal interests in their traditional territories derive from their prior sovereignty, ownership, and control over these territories under their own systems of law.[26] This Court has stated that "what makes Aboriginal title unique is that it arises from possession *before* the assertion of British sovereignty, as distinguished from other estates such as fee simple that arise *afterward*."[27]

15. At least two essential points follow from this unique source of Aboriginal legal interests within Canadian law. First, evidence establishing the scope of these pre-existing legal interests cannot reasonably be divided and separated according to provincial boundaries. Such evidence, including oral history evidence, will often relate to customs, practices, traditions, and forms of self-government that pre-date provincial boundaries and that took place on territory overlapping modern boundaries. Requiring such evidence to be segregated according to provincial boundaries, e.g. by striking the Innu Respondents' allegations relating to territory in Newfoundland and Labrador

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[25] *Tsilhqot'in Nation v British Columbia*, 2014 SCC 44 at para 14 [*Tsilhqot'in Nation*]: "what makes Aboriginal title unique is that it arises from possession *before* the assertion of British sovereignty, as distinguished from other estates such as fee simple that arise *afterward*".

[26] See *Delgamuukw v British Columbia*, [1997] 3 SCR 1010 at para 114. The Canadian doctrine of Aboriginal rights and title recognizes the inherent source of these rights, grounded in "pre-existing Aboriginal sovereignty" prior to the arrival of Europeans. *Haida Nation v British Columbia (Minister of Forests)*, 2004 SCC 73, at para 20 [*Haida Nation*]: "Treaties serve to reconcile pre-existing Aboriginal sovereignty with assumed Crown sovereignty, and to define Aboriginal rights guaranteed by s. 35 of the *Constitution Act, 1982*."

[27] *Tsilhqot'in Nation* at para 14.

("NL"), would prevent Indigenous litigants from presenting a coherent body of evidence in defence of their rights.

16. Second, the existence in Canadian law of Aboriginal rights and title does not depend on judicial declaration or Crown recognition. As the British Columbia Court of Appeal (BCCA) recently underscored in allowing a suit by the Saik'uz and Stellat'en First Nations ("the Nechako Nations") to proceed against Rio Tinto Alcan, "the law is clear that [Aboriginal title and other Aboriginal rights] do exist prior to declaration or recognition".[28] In *Saik'uz*, the BCCA therefore overturned the chamber judge's conclusion that "the key problem with the intention of the Nechako Nations to prove their Aboriginal title and other rights in the underlying action was that their claim is against Alcan, not the Crown, and that the Crown is a key party and is the only party who can properly fulfill the role of adversary".[29] On this point, the BCCA cited with approval Justice Blanchard's rejection, in the present case, of "an application to dismiss the action on the basis that recognition of the Aboriginal title and rights binding on the Crown was a prerequisite to any other proceeding".[30]

17. Indigenous claims against private parties, such as the claims of the Innu Respondents against the Defendant Corporations in the present case, may of course require that Indigenous parties provide evidence of Aboriginal rights and title *sufficient to establish that those rights have been violated*. However, that is a far cry from requiring litigation against the Crown over the full scope and extent of their Aboriginal rights and title. To make full litigation of their Aboriginal rights and title, or comprehensive treaty negotiations, a pre-condition to protection of those rights against private parties would be to allow private parties to "run roughshod over Aboriginal interests".[31] It would treat

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[28] *Saik'uz First Nation and Stellat'en First Nation v Rio Tinto Alcan Inc.*, 2015 BCCA 154 at para 61 [*Saik'uz*].
[29] *Saik'uz* at para 32.
[30] *Saik'uz* at paras 73-74.
[31] *Haida Nation* at para 27. The Court in *Haida* used this expression while elaborating the Crown's obligations of consultation and accommodation. Those specific obligations apply to the Crown and not to private parties. However, as *Saik'uz* underscores, it is clearly wrong to infer from *Haida* that private parties therefore have *no* legal obligations to respect Aboriginal rights and title prior to judicial declaration or Crown acceptance. See e.g. *Haida Nation* at para 56. To repeat, Aboriginal rights and title "do exist prior to declaration or recognition": *Saik'uz* at para 61.

Aboriginal rights as lesser rights by "creat[ing] a unique pre-requisite to the enforcement of Aboriginal title and other Aboriginal rights"[32] – a position firmly rejected by Canadian courts.[33]

18. These same principles have notably been recognized within the Inter-American human rights system. In the *Awas Tingni v Nicaragua* case, the Inter-American Commission concluded that the land rights of the Mayagna Community exist "even without State actions which specify them."[34] This conclusion was accepted by the Inter-American Court, which also found that "[n]on-recognition of the equality of property rights based on indigenous tradition is contrary to the principle of non-discrimination".[35]

B. The CCQ provisions are not an obstacle to the Innu Respondents' claim in Québec courts founded on evidence that overlaps provincial boundaries

19. The provisions of the CCQ and the principles of fairness that underlie them support the Innu Respondents presenting a coherent body of evidence before a single forum to make out their claim in damages against the Defendant Corporations. As stated by this Court in *Club Resorts Ltd v Van Breda*, Book Ten of the CCQ "must be read as a coherent whole and in light of the principles of comity, order and fairness".[36] Its purpose is to ensure that there is a "real and substantial connection" between the action and the province of Quebec.[37]

20. Pursuant to article 3148 of the CCQ, the courts of Québec have jurisdiction regarding personal actions (including civil liability) where the defendant is domiciled in Québec, where a fault was committed in Québec, or where an injury was suffered in Québec, amongst others. These connecting factors are independent; any one of them will suffice on its own to justify the jurisdiction of Québec courts.[38] The fact that a fault was committed outside Québec does not prevent the courts of Québec from exercising jurisdiction where a prejudice was suffered in Québec (eg impacts on land in Québec) or where the defendant is domiciled in Québec. This Court has highlighted the fairness

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[32] *Saik'uz* at para 61.
[33] *Saik'uz* at para 61.
[34] *Mayagna (Sumo) Awas Tingni Community Case (Nicaragua)(2001)*, Inter-Am Ct HR (Ser C) No 79. at para 140(a) [*Mayagana*].
[35] *Mayagana* at para 140(b). Xákmok Kásek Indigenous Community (Paraguay)(2010), Inter-Am Ct HR (Ser C) No 214.
[36] 2012 SCC 17 at para 55 [*Van Breda*].
[37] *Van Breda* at para 55.
[38] *Spar Aerospace Ltd v American Mobile Satellite Corp*, 2002 4 SCC 78 at para 56; *Infineon Technologies AG v Option consommateurs*, 2013 3 SCC 59 at para 45.

underlying this approach: "The purpose of the conflicts rules is to establish whether a real and substantial connection exists between the forum, the subject matter of the litigation and the defendant. If such a connection exists in respect of a factual and legal situation, the court must assume jurisdiction over all aspects of the case. The plaintiff should not be obliged to litigate a tort claim in Manitoba and a related claim for restitution in Nova Scotia. That would be incompatible with any notion of fairness and efficiency."[39]

21. In the instant case, the motion to strike sought by the Appellant would prevent the Innu Respondents from presenting highly relevant evidence regarding the civil liability of the Defendant Corporations for impacts on the exercise of their Aboriginal rights and title. The activities of the Defendant Corporations as alleged in the pleadings overlapped the provincial boundary. One can expect that mining and railway activities in NL close to the Québec border would have impacts on land and the exercise of rights in Québec. Striking all allegations regarding the activities of the Defendant Corporations in NL and their impacts on the Innu Respondents' exercise of their rights and title would artificially separate fault from prejudice, and significantly undermine the Innu Respondents' ability to establish the civil liability of the Defendant Corporations and obtain damages.

22. When the Innu Respondents' claim against the Defendant Corporations is properly understood, article 3152 of the CCQ and the principles of Crown immunity pose no obstacle to the claim proceeding before Québec courts. The Innu Respondents' action is not directed against the Crown, nor can it be characterized as a "real action" under article 3152, since a judicial declaration of Aboriginal title is not necessary to establish a claim in civil liability for damages caused by third parties to the exercise of Aboriginal rights and title.

C. Canada's international obligations support an interpretation of the procedural and substantive norms at issue that allow the Innu Respondents to present a coherent body of evidence, unrestricted by provincial boundaries, to establish their claims for damages against the Defendant Corporations

23. Canada has clear international legal obligations to provide access to effective and prompt remedy for violations of the rights of Indigenous peoples. Specifically, Canada must guarantee the

[39] *Van Breda* at para 99.

Innu Respondents the right to an "effective remedy" to vindicate their rights, which takes into account the specific vulnerabilities of First Nations' claimants,[40] and the "right to access to and prompt decision through just and fair procedures for the resolution" of their claims.[41] These international legal obligations prohibit Canada from erecting unreasonable procedural barriers to resolving the claims of Indigenous peoples that their rights have been violated, including where the claims lie against the third parties.

24. As seen in the previous section, there is no impediment in Canadian Aboriginal law or under the CCQ to the Innu Respondents presenting a coherent body of evidence, unrestricted by provincial boundaries, to establish their claims for damages against the Defendant Corporations. Canada's obligations under international law strongly support an interpretation by this Court of the procedural and substantive norms at issue that allow for such an outcome. Indeed, if this Court were to restrict the pleadings of the Innu Respondents so as to prohibit allegations relating to territory in NL, this would significantly undermine their ability to obtain reparations against the Defendant Corporations. This is not simply a matter of inconvenience or duplication of proceedings: dividing the evidence by province would prevent the courts of both provinces from considering evidence relevant to establishing the Aboriginal claims, thereby significantly weakening the Innu Respondents' ability to establish the merits of their claims *in either province*. Allowing the motion to strike in this case would prevent the Innu Respondents from accessing an effective remedy to vindicate their rights and would thus be contrary to international law.

PARTS IV & V: COSTS AND ORDER REQUESTED

25. Amnesty does not seek costs and ask that none be awarded against it.

ALL OF WHICH IS RESPECTFULLY SUBMITTED. Dated April 10, 2019.

Perri Ravon, Ryan Beaton,
Audrey Mayrand, François Larocque
Counsel for the Intervener, Amnesty International Canada

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[40] *International Covenant on Civil and Political Rights*,19 December 1966, 999 UNTS 171 (entered into force 23 March 1976, accession by Canada 19 May 1976). See also ICCPR, Human Rights Committee, *General Comment no 31[80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, 80th Sess, 2187th meeting, UN Doc CCPR/C/21/Rev.1/Add. 13, 26 May 2004 at para 15.

[41] *UNDRIP* at art 40.

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