S.C.C. FILE NO. 37919

IN THE SUPREME COURT OF CANADA

(ON APPEAL FROM THE BC COURT OF APPEAL)

B E T W E E N

NEVSUN RESOURCES LTD

APPELLANT

(Appellant)

-and-

GIZE YEBEYO ARAYA, KESETE TEKLE FSHAZION and MIHRETAB YEMANE TEKLE

RESPONDENTS

(Respondents)

-and-

AMNESTY INTERNATIONAL CANADA and the INTERNATIONAL COMMISSION OF JURISTS; the INTERNATIONAL HUMAN RIGHTS PROGRAM, UNIVERSITY OF TORONTO; MININGWATCH CANADA; EARTHRIGHTS INTERNATIONAL and the GLOBAL JUSTICE CLINIC at NEW YORK UNIVERSITY SCHOOL OF LAW; and the MINING ASSOCIATION OF CANADA

INTERVENERS

FACTUM OF THE JOINT INTERVENERS, AMNESTY INTERNATIONAL CANADA and the INTERNATIONAL COMMISSION OF JURISTS

(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. Human rights abuses associated with the activities of transnational corporations have become a matter of significant global concern. Too often, victims of serious human rights abuses have encountered legal obstacles in their efforts to obtain justice and accountability. The right to an effective remedy at international law is a fundamental human right that must be given full consideration in the development of the common law in Canada.

PART II: POSITION ON ISSUES

2. Amnesty International Canada ("AIC") and the International Commission of Jurists ("ICJ") submit that the development of common law doctrines of judicial abstention and causes of action should be consistent with the right to an effective remedy for human rights violations, as protected under international law and as a fundamental value enshrined in the *Canadian Charter of Rights and Freedoms* ("*Charter*").[1] Due regard for this right requires the rejection of any definition of the doctrine of act of state that denies access to a remedy for serious human rights violations, and indeed, requires a cautious approach to recognizing a doctrine of act of state in Canada, if at all. It further requires the recognition of civil claims based on injury resulting from conduct that violates customary international human rights law.

PART III: STATEMENT OF ARGUMENT

A. The right to an effective remedy guides the development of the common law

(i) The right to an effective remedy is protected under international law

3. The right to an effective remedy for human rights abuses and violations is a fundamental human right protected under international law.[2] Pursuant to Article 2(3) of the *International Covenant on Civil and Political Rights* ("*ICCPR*"), Canada has undertaken to ensure that

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[1] *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c. 11.
[2] Dinah Shelton, *Remedies in International Human Rights Law* 3rd ed. (Oxford: Oxford University Press, 2015), at 17.

individuals who claim their human rights have been violated – including the rights to be free from torture, cruel, inhuman or degrading treatment, slavery and forced labour – will have access to an effective remedy.[3] Canada must also ensure that such persons are able to have their rights determined by a competent judicial, administrative or legislative authority.[4] Further, the *Universal Declaration of Human Rights*,[5] the *Convention Against Torture*,[6] the *Convention on the Elimination of All Forms of Racial Discrimination*,[7] and the *United Nations Declaration on the Rights of Indigenous Peoples*[8] expressly provide for the right to an effective remedy.[9] This right is also recognized as a rule of customary international law.[10] As such, Canadian courts should develop the common law consistently with the right to an effective remedy for human rights abuses.[11]

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[3] *International Covenant on Civil and Political Rights*, 19 December 1966, Can. TS 1976 No. 47, entered into force 23 March 1976, accession by Canada 19 May 1976, article 2(3) ["*ICCPR*"]. See also UN Human Rights Committee, *General comment no. 31 [80], The nature of the general legal obligation imposed on States Parties to the Covenant*, 26 May 2004, CCPR/C/21/Rev.1/Add.13, para 15 ["HRC General Comment 31"].

[4] *ICCPR*, *ibid,* articles 2(3), 7 and 8.

[5] *Universal Declaration of Human Rights*, GA Res 217A (III), UNGAOR, 3rd Sess, Supp No 13, UN Doc A/810 (1948), article 8. See also, Hurst Hannum, "The 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 ["Hannum, 1995"].

[6] *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, 1465 UNTS 2484, articles 13-14 (entered into force 26 June 1987, accession by Canada 24 June 1987).

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

[8] UNGA, *United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly*, 2 October 2007, A/RES/61/295, article 40.

[9] See also: UN Committee on Economic, Social and Cultural Rights, *General Comment No 9: The domestic application of the covenant*, 3 December 1998, UN Doc E/C.12/1998/24 at paras 2-3; and UN Committee on the Rights of the Child, *General Comment No 5*, 23 November 2003, UN Doc CRC/GC/2003/5 at para 24.

[10] See Hannum, 1995, *supra* note 5 at 289. Also see: UN Working Group on Arbitrary Detention, Opinion No. 52/2014 (Australia and Papua New Guinea), A/HRC/WGAD/2014/52, para 52.

[11] *R v Hape*, 2007 SCC 26 at paras 35-39, 53-56 (relevance of international law to the common law, *Charter* and statutory interpretation) [*R v Hape*]; *Ordon Estate v Grail*, [1998] 3 SCR 437 at paras 78-79 (international maritime law invoked to develop the common law); *Schreiber v Canada (Attorney General)*, 2002 SCC 62 at para 37 (right to a remedy invoked in statutory interpretation). It should also be noted that the Supreme Court of Canada in *Hape* stressed at para 55 that treaties

4. The UN Human Rights Committee ("HRC") has stated that the "rules concerning the basic rights of the human person", which include the right to an effective remedy, are *erga omnes* obligations, i.e., they are not ordinary rules of international law, but obligations that are owed to the international community as a whole.[12] The HRC has concluded that the obligations under Article 2 of the *ICCPR*, including the right to an effective remedy, apply to the executive, legislative and judicial branches of government.[13] Expressing concern about impunity for serious human rights abuses, the HRC emphasized such remedies must be both accessible and effective (including "function[ing] effectively in practice"),[14] and "should be appropriately adapted so as to take account of the special vulnerability of certain categories of person."[15]

5. The right to an effective remedy was reaffirmed by the UN General Assembly with the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*. The *Basic Principles* specify measures aimed at repairing the harm caused to victims, including compensation, verification of the facts, and sanctions against those responsible for the violations, which are central to the right to an effective remedy.[16]

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ratified by Canada are critical to interpreting *Charter* rights. The treaties referred to have all been ratified by Canada and all incorporate the right to an effective remedy. If the *Charter* is to be interpreted in line with Canada's international obligations, so too should the common law.

[12] HRC General Comment 31, *supra* note 3, para 2.
[13] *Ibid*, para 4. The HRC's position is in line with principles of State responsibility under international law generally. In that regard, see Article 4 of the International Law Commission, *Draft Articles on Responsibility of States for Internationally Wrongful Acts*, 2001.

[14] HRC General Comment 31, *ibid,* paras 15, 18 and 20. See also *Kazantzis v Cyprus,* UN Human Rights Committee, Communication No 972/2001, 7 August 2003, UN Doc CCPR/C/78/D/972/2001; *Faure v Australia*, UN Human Rights Committee, Communication No 1036/2001, 31 October 2005, UN Doc CCPR/C/85/D/1036/2001.
[15] HRC General Comment 31, *ibid*, para 15.
[16] UNGA, *UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, 16 December 2005, UNGA Res 60/147, Preamble, Articles I, VII, VIII and IX ["*UN Basic Principles*"]; HRC General Comment 31, *ibid*, paras 15-16.

(ii) The international law right to an effective remedy applies to human rights violations committed by both state and non-state actors

6. The right to an effective remedy applies whether human rights abuses are committed by state or non-state actors, such as transnational corporations and other business enterprises. UN treaty bodies, including the HRC, have concluded that international human rights conventions oblige states to provide access to effective remedies to victims of human rights abuses committed abroad by corporations domiciled within their territory.[17] Importantly, several UN treaty bodies have expressed concern that Canada has not taken sufficient steps to comply with its obligation to ensure an effective remedy for victims who allege human rights abuses by Canadian companies operating abroad.[18]

7. Human rights abuses associated with the activities of transnational corporations, and the inability of victims to access remedies, have emerged as issues of significant global concern.[19] In 2011, the United Nations Human Rights Council unanimously adopted the *UN Guiding Principles on Business and Human Rights* ("UN Guiding Principles").[20] The right of victims of

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[17] See e.g., UN Human Rights Committee, *Concluding observations on the sixth periodic report of Germany,*12 November 2012, CCPR/C/DEU/CO/6 at para 16; UN Committee on Economic, Social, and Cultural Rights, *Concluding Observations on Finland*, 17 December, 2014, E/C.12/FIN/CO/6, para 10; and UN Committee on Economic, Social, and Cultural Rights, *General Comment No 24: State obligations under the covenant in the context of business activities,* 10 August 2017, UN Doc E/C.12/GC/24 at paras 30-34, 40, 44 and 51 ["CESCR General Comment 24"].

[18] UN Human Rights Committee, *Concluding observations on the sixth periodic report of Canada,* 13 August 2015, UN Doc CCPR/C/CAN/CO/6 at para 6; UN Committee on the Elimination of All Forms of Racial Discrimination, *Concluding observations on the combined twenty-first to twenty-third periodic reports of Canada*, 13 September 2017, UN Doc CERD/C/CAN/CO/21-23, para 22; UN Committee on Economic Social and Cultural Rights, *Concluding observations on the sixth periodic report of Canada*, 23 March 2016, UN Doc E/C.12/CAN/CO/6 at para 15; UN Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined eighth and ninth periodic reports of Canada*, 25 November 2016, UN Doc CEDAW/C/CAN/CO/8-9 at para 18; UN Committee on the Rights of the Child, *Concluding observations on the combined third and fourth periodic report of Canada*, 6 December 2012, UN Doc CRC/C/CAN/CO/3-4 at para 28.

[19] John G Ruggie, "Business and Human Rights: The Evolving International Agenda", 101 Am J Int'l L 819 (2007).

[20] UN Human Rights Council, *Human Rights and Transnational Corporations and Other Business Enterprises*, Resolution 17/4, 6 July 2011, UN Doc A/HRC/RES/17/4, adopting the Report of the Special Representative of the Secretary-General on the issue of human rights and transnational

business-related human rights abuses to an effective remedy is a central pillar of the UN Guiding Principles and "[e]ffective judicial mechanisms are at the core of ensuring access to remedy."[21]

8. The UN Guiding Principles emphasize that the right to an effective remedy imposes both procedural and substantive obligations.[22] The UN Working Group on Business and Human Rights ("UN Working Group") notes that these obligations require states to provide mechanisms that are able to "deliver effective remedies."[23] Additionally, consistent with the concern of the HRC about impunity for serious violations of human rights such as torture and the importance of bringing perpetrators to justice, the UN Working Group has emphasized that "effective remedies should result in some form of corporate accountability."[24]

9. The UN Guiding Principles urge states to "ensure that they do not erect barriers to prevent legitimate cases from being brought before the courts."[25] Legal barriers can include situations "where claimants face a denial of justice in a host State and cannot access home State courts regardless of the merits of the claim."[26] The UN CESCR considers it a duty under the *International Covenant on Economic Social and Cultural Rights* that State parties take necessary steps to address and remove these challenges "in order to prevent a denial of justice and ensure the right to an effective remedy and reparation."[27]

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corporations and other business enterprises, *UN Guiding Principles on Business and Human Rights*, 21 March 2011, UN Doc A/HRC/17/31 ["UN Guiding Principles"].

[21] UN Guiding Principles, *ibid* at 23, Commentary to Guiding Principle 26; see also *ibid* at 4, 6. It is important to note that the UN Guiding Principles have become the authoritative global standard for business and human rights. See, e.g., OECD, OECD Guidelines for Multinational Enterprises, OECD Publishing (2011) at 31, para 36.

[22] UN Guiding Principles, *ibid* at 22, Commentary to Guiding Principle 25.
[23] UN Working Group on Business and Human Rights, *Human Rights and Transnational Corporations and Other Business Enterprises,* 18 July 2017, UN Doc A/72/162 at para 15. See also UN Human Rights Council, *Business and human rights: improving accountability and access to remedy*, 18 July 2018, UN Doc A/HRC/RES/38/13, at 2: "[I]ndependent and effective judicial mechanisms are at the core of ensuring access to remedy".
[24] *Ibid* at para 17.
[25] UN Guiding Principles, *supra* note 20 at 23, Commentary to Guiding Principle 26.
[26] *Ibid*.
[27] CESCR General Comment 24, *supra* note 17 at para 44.

(iii) The right to an effective remedy is a *Charter* value, which guides the development of the common law

10. The right to an effective remedy for human rights abuses is also one of "the fundamental values enshrined in the Constitution."[28] As this Court held in *R v 974649 Ontario Inc.*, quoting Lamer J (as he then was) in *Mills v The Queen*, "s. 24(1) 'establishes the right to a remedy as the foundation stone for the effective enforcement of *Charter* rights.'"[29] In *Mills*, Lamer J (as he then was) had further explained that this understanding of s. 24(1) is "consistent with Article 8 of the [*UDHR*] and with Article 2(3) of the *ICCPR*."[30] Impunity for human rights abuses is not only contrary to international law, it is repugnant to the societal values embodied in the *Charter*.

B. Any recognition of an act of state doctrine in Canadian law must not undermine the right to an effective remedy for human rights abuses

11. The act of state doctrine is a rule of domestic law in only some countries and is "wholly the creation of the common law."[31] It has never been directly applied by a Canadian court and, in those jurisdictions where it is recognized, "questions continue concerning [its] nature and scope."[32] AIC and the ICJ submit that the Canadian common law should not admit the doctrine if it operates as a legal barrier to the international right to access a remedy for serious human rights abuses.

12. Significantly, courts in jurisdictions that do recognize the act of state doctrine (the UK, the US and Australia) have consistently refused to apply the doctrine where, as in this case, the

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[28] *Hill v Church of Scientology of Toronto*, [1995] 2 SCR 1130 at para 83, quoting *RWDSU v Dolphin Delivery Ltd*, [1986] 2 SCR 573 at 603.
[29] *R v 974649 Ontario Inc.*, [2001] 3 SCR 575, 2001 SCC 81 at para 19, citing Lamer J in *Mills v The Queen*, [1986] 1 SCR 863 at 881.
[30] *Mills v The Queen*, [1986] 1 SCR 863 at 881; 1986 CanLII 17 at para 27 (per Lamer J, dissenting on other points). See also *Mooring v Canada (National Parole Board)*, [1996] 1 SCR 75 at para 52 (per Major J dissenting on other points).
[31] *Belhaj v Straw*, [2017] UKSC 3 at para 200 (Lord Sumption) [*Belhaj v Straw*]; *R v Bow Street Metropolitan Stipendiary Magistrate and Others, Ex Parte Pinochet Ugarte (No. 3)* [2000] 1 AC 147 (HL) at 269 (Lord Millet); *Yukos Capital Sarl v OJSC Rosneft Oil Co* [2014] QB 458 at paras 40 (Rix LJ), 66 [*Yukos Capital*]; and *Habib v Commonwealth of Australia*, 2010 FCAFC 12, at paras 5, 38, 51-52 [*Habib v Australia*].
[32] *Araya v Nevsun Resources Ltd.*, 2017 BCCA 401 at para 123.

allegations include serious violations of fundamental human rights, including the *jus cogens* prohibitions against forced labour, slavery and torture, and cruel or inhuman or degrading treatment.[33] These are obligations from which no state may derogate.[34]

13. Applying the act of state doctrine as proposed by the Appellant would depart from these authorities. It would deny redress to plaintiffs seeking justice in Canadian courts for serious human rights violations committed by Canadian corporations operating in other countries simply because those corporations were doing business with a foreign state.[35] The doctrine would also undermine a central aspect of the right to an effective remedy for business-related human rights violations: corporate accountability.

14. In the present case, applying the doctrine would not only deny access to a remedy, it would effectively clothe the Appellant in "corporate immunity." But it is widely recognized that corporate impunity for complicity in serious human rights violations, such as those alleged in this case, remains a significant problem, and transnational human rights suits are one of the few means for victims of corporate-related human rights violations to seek justice, redress and to hold corporate actors accountable.[36]

15. Furthermore, the application of the doctrine is particularly objectionable and contrary to the right to an effective remedy where there is a "real risk" that victims of human rights abuses will be unable to obtain justice in any other forum. As explained in the reasons of Lord Mance and those of Lord Sumption in the UK Supreme Court's decision in *Belhaj v Straw*, the practical consequence of the UK courts applying the act of state doctrine would be to preclude the claims

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[33] *Kuwait Airways Corpn v Iraqi Airways Co (Nos 4 and 5)* [2002] UKHL 19 at para 26 (Lord Nicholls); *R (Abassi) v Secretary for Foreign and Commonwealth Affairs* [2002] EWCA Civ 1598 at paras 26 and 53; *Yukos Capital, ibid* at 69; *Doe I v Unocal Corporation*, US Court of Appeal for the Ninth Circuit, 395 F 3d 932 (9th Cir. 2002) at 959 [*Doe I v Unocal*]; *Habib v Australia*, *ibid*, at paras 110, 135 (Jagot J).
[34] United Nations, *Vienna Convention on the Law of Treaties*, 23 May 1969 (entered into force 27 January 1980) 1155 UNTS 331, article 53.
[35] See para 1 of Appellant's Factum.
[36] Penelope Simons and Audrey Macklin, *The Governance Gap: Extractive Industries, Human Rights and the Home State Advantage* (Abingdon: Routledge 2014) at 246-247.

from being brought anywhere.[37] Similarly, in this case, the courts below concluded that BC is the more appropriate forum because, in BC, "there could in fact be a trial," whereas in Eritrea, "there never could."[38] Yet, applying the act of state doctrine would suggest that only the courts of Eritrea may properly hear the plaintiffs' claims – even though, in practice, they never would.

16. Based on all the foregoing, AIC and the ICJ submit that recognition and development of the act of state doctrine (if any) should be left for a future case that does not involve allegations of serious human rights abuses.[39]

C. The inability to ground tort claims in customary international law would interfere with the right to an effective remedy

17. AIC and the ICJ submit that the recognition of causes of action based on breaches of customary international law is consistent with, and required by, the right to an effective remedy as protected by international law. The Supreme Court of Canada in *Hape* recognized that customary international law is adopted into the common law unless Canada declares that its law is to the contrary.[40] This Court further held that, absent an express derogation by Parliament, courts "may look to prohibitive rules of customary international law to aid in the interpretation of Canadian law and the development of the common law."[41]

18. With the exception of the *State Immunity Act,* RSC 1985, c S-18 (*SIA*), Parliament has never sought to limit the inherent jurisdiction of Canadian courts to develop the common law consistently with international law, including in the area of civil liability. Therefore, in cases

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[37] *Belhaj v Straw*, *supra* note 31 at paras 30, 44, 76, 102 (per Lord Mance), 262-263 (Lord Sumption).
[38] *Araya v Nevsun Resources Ltd.,* 2017 BCCA 401 at para 120 (emphasis added), adopting the comments of Lord Bingham, MR (as he then was) in *Connelly v RTZ Corp plc (No 2)* [1997] ILPr 643 at 651, quoted with approval on appeal at [1997] UKHL 30 at para 8.
[39] This cautious approach was recently adopted by courts in New Zealand and South Africa: see *X v Attorney-General*, 2017 NZHC 768, paras 97 and 100; and *Saharawi Arab Democratic Republic v Owner and Charters of the MV 'NM Cherry Blossom and Others* 2017 ZAECPEHC 31, paras 96-100.

[40] *R v Hape, supra* note 11 at paras 36-39.
[41] *Ibid* at para 39.

such as this one, where the *SIA* does not apply, and where failure to hear the claim would result in a complete denial of any justice or remedy, AIC and the ICJ submit that Canadian superior courts may adjudicate civil claims for violations of customary international law as part of their historical function as righters of wrongs.[42] Lord Scarman of the House of Lords described the creative function of courts as follows:

> Unless statute has intervened to restrict the range of judge-made law, the common law enables the judges, when faced with a situation where a right recognised by law is not adequately protected, either to extend existing principles to cover the situation or to apply an existing remedy to redress the injustice. There is here no novelty: but merely the application of the principle '*ubi jus ibi remedium*'.[43]

19. While Canadian courts have not yet found anyone civilly liable for violations of customary international law, the notion that they could do so is entirely consistent with basic tenets of Canadian private law. Indeed, Quebec courts have recognized that customary and conventional prohibition of war crimes constitute "an imperative rule of conduct that implicitly circumscribes an elementary norm of prudence, the violation of which constitutes a civil fault pursuant to art. 1457 CCQ".[44] In common law provinces, the superior courts are also receptive to the adjudication of civil claims derived from customary international law.[45]

20. Consistent with the right to an effective remedy under international law, and in the absence of any express derogations, AIC and the ICJ submit that that superior courts may develop the common law to recognize novel causes of action at common law for violations of well-established norms of customary international law.[46] Such an approach is not only consistent with the basic tenets of Canadian private law, but it is also required by the fundamental human

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[42] François Larocque, *Civil Actions for Uncivilized Acts* (Toronto: Irwin Law, 2010) at 14-15, 149-150, 287-304, 317-321.
[43] *Sidaway v Board of Governors of the Bethlem Royal Hospital* [1985] AC 871 at 884 (HL).
[44] *Bil'In (Village Council) v Green Park International Inc*., 2009 QCCS 4151 at para 175. The Court of Appeal did not dispute this statement. See *Yassin v Green Park International Inc*., 2010 QCCA 1455.
[45] See, e.g., *Mack v Canada (Attorney General)* (2002), 60 OR (3d) 737, [2002] OJ No 3488 (ONCA) [Respondent's Book of Authorities ("RBA"), Tab 11] at paras 18-33; and *Abdelrazik v Canada (Attorney General),* [2010] FCJ No. 1028 [RBA, Tab 1] at paras 51-53.
[46] *Kazemi Estate v Islamic Republic of Iran,* [2014] 3 SCR 176 at para 108.

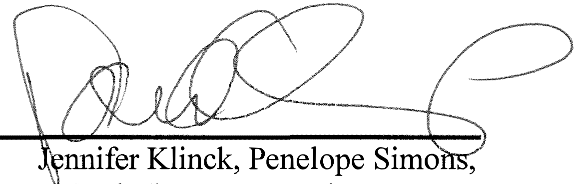
right to a remedy as protected by international law.[47] In the case on appeal, the jurisdiction of Canadian courts to recognize new forms of civil liability based on customary international law is reinforced by the peremptory (*jus cogens*) character of the norms that are alleged to have been violated,[48] namely torture, slavery and forced labour.[49]

PARTS IV & V: COSTS AND ORDER REQUESTED

21. The Joint Interveners AIC and the ICJ do not request any particular order, but ask that no order of costs be made for or against them regardless of the disposition of the appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated January 7, 2019



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[47] *UN Basic Principles and Guidelines on the Right to a Remedy*, *supra* note 16, Preamble, Articles I(2) and VII(12) and (14).
[48] F. Larocque, "The Tort of Torture" (2009) 17 Tort Law Review 158 at 171.
[49] See, e.g., *Question Relating to the Obligation to Prosecute or Extradite (Belgium v Senegal), International Court of Justice,* 20 July 2012, General List No 144, at para 68 and other authorities cited therein; *Belhaj v Straw, supra* note 31 at para 266; *Doe I v Unocal, supra* note 33, 942-43; and *Doe v Nestle USA, Inc.* 766 (3d) 1013 (9th Cir 2014) at 1021.

PART VI: TABLE OF AUTHORITIES

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4.	*Bil'In (Village Council) v Green Park International Inc.*, 2009 QCCS 4151	**19**
5.	*Hill v Church of Scientology of Toronto*, [1995] 2 SCR 1130	**10**
6.	*Kazemi Estate v Islamic Republic of Iran,* [2014] 3 SCR 176	**20**
7.	*Mack v Canada (Attorney General)* (2002), 60 OR (3d) 737, [2002] OJ No 3488 (ONCA)	**19**
8.	*Mills v The Queen*, [1986] 1 SCR 863	**10**
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10.	*Ordon Estate v Grail*, [1998] 3 SCR 437	**3**
11.	*R v 974649 Ontario Inc.*, [2001] 3 SCR 575, 2001 SCC 81	**10**
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26.	*Universal Declaration of Human Rights*, GA Res 217A (III), UNGAOR, 3rd Sess, Supp No 13, UN Doc A/810 (1948)	**3**
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28.	*Belhaj v Straw*, [2017] UKSC 3	**11, 15, 20**
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30.	*Doe v Nestle USA, Inc.* 766 (3d) 1013 (9th Cir 2014)	**20**
31.	*Doe I v Unocal Corporation*, US Court of Appeal for the Ninth Circuit, 395 F 3d 932 (9th Cir. 2002)	**12, 20**
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