

**INDIVIDUAL COMPLAINT TO THE HUMAN RIGHTS COMMITTEE
UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL
COVENANT ON CIVIL AND POLITICAL RIGHTS**

28 February 2013

I. INFORMATION CONCERNING THE COMPLAINT

THE AUTHORS (VICTIMS / COMPLAINTANTS):

List of the Complainants (all residents of the occupied Palestinian territory):

1. Bil'in (Village Council)
2. The Estate of the late Ahmed Issa Abdallah Yassin
3. Basem Ahmed Issa Yassin, Born 1 Jan 1977 in Bil'in
4. Maysaa Ahmed Issa Yassin, Born 25 Oct 1978 in Bil'in
5. Lamyaa Ahmed Issa Yassin, Born 9 Feb 1982 in Jerusalem
6. Nora Ahmed Issa Yassin, Born 24 Dec 1983 in Jerusalem
7. Tagreed Ahmed Issa Yassin, Born 29 July 1985 in Bil'in
8. Mohammed Ahmed Issa Yassin, Born 26 Feb 1989 in Bil'in
9. Abdullah Ahmed Issa Yasin, Born 2 May 1991 in Bil'in
10. Esraa Ahmed Issa Yassin, Born 29 March 1987 in Bil'in
11. Yosra Yousef Moahammed Yassin, Born 24 Nov 1957 in Bil'in
12. Mazen Ahmed Issa Yasin, Born 16 April 1980 in Bil'in

REPRESENTATION:

Adv. Bret Thiele
US national

Date of Birth: 6 December 1961, St. Paul, Minnesota, USA

Address: c/o Global Initiative for Economic, Social and Cultural Rights, 8 N. 2nd Avenue East, Suite 208, Duluth, MN 55802, U.S.A.

Authorized to represent the complainants based on power of attorney granted by the complainants to Adv. Sfar and Schaeffer, and the latter's authorization of me (see documents attached)

Adv. Michael Sfar
Israeli national

Date of Birth: 21 April 1972, Jerusalem, Israel

Address: 45 Yehuda Halevy Street, Tel Aviv 65715, Israel

Authorized to represent the complainants based on power of attorney granted by the complainants (see documents attached)

Adv. Emily Schaeffer
US and Israeli dual-national

Date of Birth: 13 Oct 1978, Boston, Massachusetts, USA

Address: 45 Yehuda Halevy Street, Tel Aviv 65715, Israel

Authorized to represent the complainants based on power of attorney granted by the complainants (see documents attached)

STATE PARTY:

Canada (ratified the International Covenant on Civil and Political Rights (ICCPR) on 21 September 1970; ratified the [First] Optional Protocol 26 March 1992).

VIOLATIONS BY STATE PARTY:

Complainants assert that Canada violated its extra-territorial obligation to ensure respect for Articles 2, 7, 12, 17 and 27 of the International Covenant on Civil and Political Rights.

II. STATEMENT OF THE FACTS

1. This case involves the construction of unlawful Israeli settlements on lands belonging to Complainants. Portions of the unlawful settlements, namely condominiums and infrastructure, were constructed, marketed and sold by Green Park International, Inc. and Green Mount International, Inc., both transnational corporations legally incorporated and domiciled in Canada.

2. The Palestinian village of Bil'in is located north of Jerusalem and west of Ramallah in the West Bank, occupied Palestinian territory (OPT). Its municipal lands abut the 1967 border with Israel proper, also known as the "Green Line." In 1991, large swaths of Complainant's agricultural lands were, unlawfully and arbitrarily pursuant to international law, declared "state land" as part of a large expropriation project affecting many villages across the West Bank. This type of expropriation is conducted by the Israeli military's Civil Administration over the OPT and involves assessing title over land. If private ownership cannot be demonstrated, the land moves to the hands of the "state," or the Israeli military via the Civil Administration, for a public purpose. In this case, the land formerly considered private and/or under Bil'in's municipal jurisdiction was determined by Israeli authorities to be "state land." The land was then allocated for the exclusive use of one community: the Israeli settler population. Specifically, the land expropriated from Bil'in was used to construct part of the settlement now known the Modi'in Illit Settlement Bloc. Additionally, the expropriation is unlawful under international law as it was conducted in order to accomplish a violation of international law in the context of occupied territory.¹

¹ See, e.g., the [Fourth] Geneva Convention relative to the Protection of Civilians in Time of War (Art. 49(6). The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies; Art. 53. Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to

3. Construction on parts of this expropriated land began in 2001, and construction of the Modi'in Illit settlement neighborhood of "East Mattityahu," which sits squarely on Complainant's land, began, to the best of the Complainants' knowledge, in 2003. Greenpark International, Inc. and Greenmount International, Inc. were among the main corporations involved in building the neighborhood, and they were also involved in marketing the purchase of condominiums in the neighborhood among the Israeli population.

4. Complainants are now denied access to, use of, and control over their land on which the Green Park International, Inc. and Green Mount International, Inc. constructed, marketed and sold housing and other neighborhood infrastructure for East Mattityahu, which constitutes approximately 25 per cent of the village's historical municipal lands (approximately 700 dunams, or 70 hectares, 170 acres).

5. These lands had been historically and until expropriated used by the Complainants for livelihood purposes including agricultural such as olive groves and grazing of sheep and goats. In addition to reducing their livelihood, barring access by Bil'in residents to their land denies them the ability to enjoy it, including to experience and express their culture on their land, as well as to engage in recreational activities on it. For instance, olive groves are a symbolic and traditional element in Palestinian culture, and their harvesting is a community activity. Many of the olive trees uprooted in order to construct the settlement neighborhood were 50 to 100 or more years old and planted by the parents and grandparents of Bil'in residents, and thus have familial value.

6. While the technical work of stripping Complainant's rights over their land was committed by the Israeli authorities, it was Green Park International, Inc. and Green Mount International, Inc. that turned the concept into reality by constructing unlawful settlements on their land. Green Park International, Inc. and Green Mount International, Inc. took advantage of, and profited from, the denial of Complainant's access to, use of, and control over their land in violation of international law.

7. Accountability and remedial mechanisms in Israel have failed to provide an effective remedy. Four related petitions were submitted to the Israeli Supreme Court, sitting as the High Court of Justice, on behalf of the complainant, the late Ahmed Issa

social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations; Art. 146. The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article. Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts; ...; Art. 147. Grave breaches to which the preceding Article relates shall be those involving any of the following acts, (i) appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.)

Abdallah Yassin and against the Israeli government and the Israeli Defense Forces (IDF) West Bank Commander, among other respondents. The first petition was filed on 5 September 2005 and challenged the route of the separation barrier (the wall) on Bil'in's land, cutting off the village from over half of its municipal lands, based on Israeli jurisprudence on the matter. The second petition was filed on 4 January 2006, and challenged the legality of the construction work carried out to build the settlement neighborhood East Mattityahu and the legality of the building permits issued. This petition was based on Jordanian planning and construction law as enshrined in Israeli military orders applied to the occupied Palestinian territories. In both petitions, Green Park International, Inc. and Green Mount International, Inc., which were building the new neighborhood, requested and were approved to be joined as Respondents.

8. The decision in the first petition was handed down on 4 September 2007, and according to it the Israeli government and IDF West Bank Commander were ordered to present an alternative route for the security barrier that would be less harmful to the residents of Bil'in. The Court accepted the Complainants' argument that the route was chosen in order to support the construction of the new neighborhood rather than based on security considerations. As a result of the decision, in July of 2011 the barrier was transferred to a route closer to the settlement Modi'in Illit, and around 25 per cent of Bil'in's land was returned to it. Around 25 per cent of Bil'in's land still remains behind the barrier.

9. During the course of deliberations in the second petition, the Complainants' claims were upheld, according to which the construction and building permits issued were illegal, and an interim injunction was issued ordering that all construction of the new neighborhood be halted. The Israeli Civil Administration launched a re-planning process for the neighborhood at the end of which new building permits were issued, in conformity with the actual construction that had already begun, and thus the second petition was dismissed.

10. A third petition against the new planning process was dismissed on 5 September 2007 (the decisions in the second and third petitions were consolidated into one) based on laches, or unreasonable delay. The Court found that the Complainants' objection should have been raised to the original plan, before it was re-planned as described above.

11. A fourth petition was filed in an attempt to repeal retroactively the 1991 declaration of part of Bil'in's land as "state land" in order to construct the neighborhood, but it was unsuccessful. Despite the fact that during the litigation of the first petition the Complainants learned that the land declaration was based on false purchase claims, a fact that was concealed from them at the time of declaration, the Israeli High Court of Justice held that although the Complainants' claims might be justified, the matter could not be adjudicated so many years after the declaration.

III. ADMISSIBILITY

A. Domestic Remedies in Canada

12. Following the legal actions taken in Israel, the Complainants sought to hold Green Park International, Inc. and Green Mount International, Inc. accountable for their actions on the Villageø lands and sought remedies before the Canadian judicial system, but were unsuccessful.

13. Complainants sought to hold Green Park International, Inc. and Green Mount International, Inc. accountable to both international law and Canadian domestic law. With respect to the former, Complainants relied on international human rights law, international humanitarian law and international criminal law. With respect to the latter, Complainants relied upon the Geneva Conventions Act and the Crimes against Humanity and War Crimes Act, both of which incorporate related international law into Canadaø domestic legislation.

14. In the Complainantsø claim filed to the Canadian domestic court, the Complainants expressly cited violations related to freedom of movement and denial of access to, use of, and control over land that was used historically for livelihood purposes. Complainants also attempted to hold Green Park International, Inc. and Green Mount International, Inc. accountable for aiding and abetting in the commission of the war crime of transferring, directly or indirectly, the population of the occupying power to the occupied territories.

15. In July 2008, Complainants launched a case before the Province of Quebecø trial level court, the Superior Court, District of Montreal. On 18 September 2009, however, the Superior Court dismissed the case declining jurisdiction on account of *forum non conveniens*.

16. Complainants appealed to the Court of Appeal, Province of Quebec in October 2009, but the Court of Appeal affirmed the Superior Courtø decision on 11 August 2010. On 6 October 2010 the Complainants filed an application for Leave to Appeal to the Supreme Court of Canada, and on 3 March 2011 the Supreme Court of Canada dismissed the application.

17. As such, the Complainants never had the opportunity to be fully heard by the judicial system of Canada, and their case was never decided on the merits. The Canadian forum was convenient for the Defendants, as they are incorporated in the Province of Quebec, and Complainants willingly sought the Canadian forum as Israeli courts

routinely deny judicial remedies when the claim is based on the notion that settlement construction and expansion in the occupied Palestinian territory is illegal.²

18. This dismissal by the Supreme Court of Canada is consistent with its recent decision not to review the case of *Canadian Association Against Impunity (CAAI) v. Anvil Mining Ltd.* in which the Quebec Court of Appeal held that Canadian courts lack jurisdiction over actions by Canadian corporations that are committed abroad.³ In that case, Plaintiffs sought to hold Anvil Mining Ltd., a corporation incorporated in Quebec, accountable for complicity in massacres carried out in the Democratic Republic of the Congo. The Court of Appeal held that Canadian courts lack jurisdiction when there is no link to activities that occurred within Canadian territory.

B. Other Admissibility Criteria

19. This claim has not been submitted to, nor is it otherwise being considered by, another mechanism of international settlement.

20. The violations at issue occurred subsequent to the entry into force of the ICCPR and the OP-ICCPR with respect to Canada.

² See, e.g., Supreme Court of Israel, *Bargil v. Government of Israel*, HCJ 4481/91 (finding that matters related to violations of international law related to settlements are not justiciable before Israeli courts).

³ Court of Appeal, Province of Quebec, *Canadian Association Against Impunity (CAAI) v. Anvil Mining Ltd.*, File No. 500-09-021701-115 (judgment of 24 January 2012).

IV. LAW: INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) VIOLATIONS IN THE CONTEXT OF UNLAWFUL SETTLEMENT CONSTRUCTION IN AND AROUND THE VILLAGE OF BIL'IN, OCCUPIED PALESTINIAN TERRITORY

A. Article 12

21. Article 12 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of movement. The Human Rights Committee (Committee) has previously found Israeli settlements to violate Article 12 of the Covenant. For instance, in its 2010 Concluding Observations on Israel, the Committee cited Article 12 in voicing its concern over settlements and called on Israel to "cease all construction of settlements in the occupied territories."⁴

22. Furthermore, since 1996, military orders issued by the Israeli Military commander of the occupied West Bank have prohibited any entry by Palestinians into settlement areas, and instituted a permit regime for Palestinians who work in settlements. A military order signed by the Commander of the West Bank in 2002 prohibits Palestinians from entering the area of the settlement of Modi'in Illit without obtaining a permit prior.

23. In practice, the Israeli military does not enforce such movement restrictions until the land expropriated for the use of a settlement is in fact developed. Such was the case with the land which is the subject of this complaint. The movement restrictions were enforced when the two Canadian corporations began construction.

24. As the facts above describe, Complainants have had their freedom of movement violated because they can no longer access their lands, which they have used for generations for agriculture, grazing and other livelihood purposes, on account of the unlawful settlements constructed by Green Park International, Inc. and Green Mount International, Inc.

25. Consequently, and as will be elaborated below, Canada has violated its extra-territorial obligation to ensure respect for Article 12 (1) by failing to provide effective remedies for Complainants to hold Green Park International, Inc. and Green Mount International, Inc. accountable for these violations, and (2) by failing to adequately regulate the Green Park International, Inc. and Green Mount International, Inc. in order to ensure that their activities do not violate Article 12 of the ICCPR.

⁴ Human Rights Committee, Concluding Observations: Israel, UN Doc. CCPR/C/ISR/CO/3 (2 September 2010) at para. 16

B. Articles 7 and 17

26. The Human Rights Committee has previously concluded that forced eviction and demolition of housing violates Article 17 of the Covenant, and at times may rise to violations of Article 7 as well (prohibition on cruel, inhuman or degrading treatment or punishment). For instance, in its Concluding Observations on Kenya in 2005 the Committee found that violations of Article 17 had occurred when forced evictions had been conducted.⁵ It did so again in its Concluding Observations on Israel in 2010, where it also found that forced eviction could rise to violations of Article 7.⁶

27. The Human Rights Committee has defined “unlawful interference” with “privacy, family, home or correspondence,” as referred to in Article 17 of the Covenant, in its General Comment No. 16, stating that “The term ‘unlawful’ means that no interference can take place except in cases envisaged by the law. Interference authorized by States can only take place on the basis of law, which itself must comply with the provisions, aims and objectives of the Covenant.”⁷ It is clear from General Comment No. 16 that the present “interference” of the building, marketing and selling of housing units to Israeli settlers by Green Park International, Inc. and Green Mount International, Inc., which are activities prohibited by international law including the Fourth Geneva Convention relative to the Protection of Civilians in Time of War (Arts. 49, 53, 146 and 147 in particular) does meet the criteria of being unlawful within the meaning of Article 17 of the Covenant.

28. Furthermore, the Committee has made clear that the protections under Article 17 apply not only to States, but to “interferences and attacks whether they emanate from State authorities or from natural or legal persons.”⁸

29. Additionally, the Human Rights Committee has previously used the legally-defined term “forced eviction” in holding that forced evictions violate Article 17 of the Covenant. Consequently, it is important to note that the legal definition of “forced eviction” is defined as the permanent or temporary removal against their will of individuals, families

⁵ See, Human Rights Committee, Concluding Observations: Kenya, UN Doc. CCPR/CO/83/KEN (29 April 2005).

⁶ See, Human Rights Committee, Concluding Observations: Israel, UN Doc. CCPR/C/ISR/CO/3 (3 September 2010); see also Human Rights Committee, Concluding Observations of the Human Rights Committee: Israel, UN Doc. CCPR/CO/78/ISR, (21 August 2003), para. 16.

⁷ Human Rights Committee, General Comment No. 16, (Twenty-third session, 1988), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 21 (1994) at para. 3.

⁸ *Id.* at para. 1.

and/or communities from the homes *and/or land* which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.⁹

30. While the settlement of Modi'in Illit has not resulted in forced eviction from housing, they have resulted in forced eviction from land that is closely tied to housing and integral to the functioning of each household, and thus should fall within the scope of the definition of home. Indeed, Complainants, like Palestinian villagers generally, consider agricultural lands near their houses to be part of their home.

31. The Human Rights Committee has indeed stated in its General Comment No. 16 that "The term 'home' in English, 'manzel' in Arabic, 'zhùzhái' in Chinese, 'domicile' in French, 'zhilische' in Russian and 'domicilio' in Spanish, as used in Article 17 of the Covenant, is to be understood to indicate the place where a person resides or carries out his usual occupation."¹⁰ Consequently, the agricultural land used as the primary livelihood means, or occupation, of the Complainants falls under the scope of Article 17's protections.

32. The European Court of Human Rights provides persuasive authority for the proposition that land closely tied to housing and used for livelihood purposes should be considered within the scope of "home" as used in Article 17. Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms is analogous to Article 17 of the ICCPR. In *G. and E. v. Norway* the European Court considered a case involving access to, use of, and control over land used for traditional livelihood purposes and found that it such land was part of a particular cultural way of life, which was within the scope of "private life" and "home" as protected by Article 8 of the European Convention.¹¹ The European Court reaffirmed this interpretation in 2000, when in the case of *Noack and others v. Germany* it ruled, again in the context of access to, use of and control over land, that "for the purposes of Article 8 of the Convention, a minority's way of life is, in principle, entitled to the protection guaranteed for an individual's private life, family life and home."¹²

33. Finally, the Committee has made clear that "States parties are under a duty themselves not to engage in interferences inconsistent with Article 17 of the Covenant and to provide the legislative framework prohibiting such acts by natural or legal

⁹ Committee on Economic, Social and Cultural Rights, General Comment 7, Forced evictions, and the right to adequate housing (Sixteenth session, 1997), U.N. Doc. E/1998/22, annex IV at 113 (1997), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6 at 45 (2003) at para. 4 (emphasis added).

¹⁰ *Id.* at para. 5.

¹¹ Eur. Comm. H. R., *G. and E. v. Norway* (Appl. Nos. 9278/81 & 9415/81), 3 October 1983, D.R. 35, p. 30.

¹² Eur. Ct. H. R. (4th Section), *Noack and others v. Germany* (Appl. No. 46346/99), 25 May 2000 (admissibility decision), *Rep.* 2000-VI.

persons.¹³ In the present case, while the Israeli authorities were the organs that issued the "declarations" which resulted in the loss of title, actual possession and use of the land was carried out by Green Park International, Inc. and Green Mount International, Inc., among other corporations, when they constructed the settlements. As mentioned above, the Israeli military's practice is to enforce movement restrictions when the land expropriated is actually used.

34. Consequently, Green Park International, Inc. and Green Mount International, Inc. have engaged in activities that have resulted in violations of Article 17 of the ICCPR and Article 7 as well as on account of unlawful and arbitrary interference with the homes of the Complainants. As will be elaborated below, Canada, therefore has violated its extra-territorial obligation to ensure Article 17 and Article 7 (1) by not providing effective remedies for Complainants to hold Green Park Inc. and Green Mount Inc. accountable for these violations, and (2) by not adequately regulating the Green Park International, Inc. and Green Mount International, Inc. to ensure that their activities do not violate Article 17 or Article 7 of the ICCPR.

C. Article 27

35. Article 27 of the International Covenant on Civil and Political Rights guarantees the rights of ethnic minorities to enjoy their culture in community with the other members of their group. While the Complainants are not members of a numerical ethnic minority, *per se*, they are members of the indigenous Palestinian population and their culture, including agricultural production and related close connection with the land, is being destroyed in order to construct illegal settlements to which they are barred access. Furthermore, the Committee has made clear that "the rights protected by Article 27 include the right of persons, in community with others, to engage in economic and social activities which are part of the culture of the community to which they belong"¹⁴ and that "culture manifests itself in many forms, including a particular way of life associated with the use of land resources, especially in [but not limited to given this language] the case of indigenous peoples."¹⁵ The construction of settlements on Complainants' land denies them the ability to use their land both for cultural and economic purposes.

36. Article 27 has been applied in analogous situations in the past. For instance, in its recent Concluding Observations on Israel, the Human Rights Committee expressed grave

¹³ Human Rights Committee, General Comment No. 16, (Twenty-third session, 1988), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 21 (1994) at para. 9.

¹⁴ Human Rights Committee, *Bernard Ominayak, Chief of the Lubicon Lake Band v. Canada*, Communication No. 167/1984, at para. 32.2

¹⁵ Human Rights Committee, General Comment No. 23 on Article 27, UN Doc. CCPR/C/21/Rev.1/Add.5 (1994) at para. 7

concern over Israel's inadequate consideration of the Bedouin population in Israel and in particular inadequate consideration of the fact that agriculture is part of the livelihood and tradition of the Bedouin population.¹⁶ The Committee went on to require that "In its planning efforts in the Negev area, the State party should respect the Bedouin population's right to their ancestral land and their traditional livelihood based on agriculture."¹⁷ It's important to note, also, that Article 27 sees culture as dynamic and thus protects livelihoods that are central to enjoyment of one's culture, regardless of whether or not the livelihood activities are of a "traditional" nature.¹⁸ Thus, even though it is the Complainants' claim that their livelihood activities are traditional and extend back for many generations, it is inconsequential to the application of the protection contained in Article 27.

37. Since, the Committee has concluded that Israeli planning within Israel may violate Article 27 for interfering with the indigenous population's customary livelihood based on agriculture, surely similar interference on account of planning and implementation of settlement construction in the occupied West Bank must also rise to violations of Article 27, particularly since both the settlements and the occupation are unlawful under international law.¹⁹ Because Green Park International, Inc. and Green Mount International, Inc., transnational corporations registered in Canada, are complicit in these violations, and as will be elaborated below, Canada violated its extra-territorial obligation to ensure Article 27 (1) by not providing effective remedies for Complainants to hold Green Park Inc. and Green Mount Inc. accountable for these violations, and (2) by not adequately regulating the Green Park International, Inc. and Green Mount International, Inc. to ensure that their activities do not violate Article 27 of the ICCPR.

¹⁶ See, Human Rights Committee, Concluding Observations: Israel, UN Doc. CCPR/C/ISR/CO/3 (2 September 2010) at para. 24.

¹⁷ *Id.*

¹⁸ See, e.g., Human Rights Committee, *I. Lansman et al. v. Finland*, Communication No. 511/1992, UN Doc. CCPR/C/57/1, at para. 9.8

¹⁹ The International Court of Justice has held that "the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law." International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (2005).

V. EXTRA-TERRITORIAL OBLIGATIONS OF CANADA

A. General Foundation of Extra-Territorial Obligations under the International Covenant on Civil and Political Rights (Article 2)

38. Extraterritorial obligations are supported by the language of the Charter of the United Nations, and this language supports the application of extraterritorial obligations in all other treaties.

39. Article 55(3) of the Charter states in relevant part:

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

3. Universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.²⁰

40. Article 56 requires that "All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55."²¹

41. Furthermore, these articles take precedence over any other international instruments, including bilateral agreements. Article 103 of the Charter of the United Nations states:

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.²²

42. The International Law Commission has adopted Articles on Responsibility of States for Internationally Wrongful Acts. These articles are based on conventional and customary international law and international law jurisprudence and are themselves now considered customary international law. The Articles do not recognize a condition related to jurisdiction for a State to be held responsible for an internationally wrongful

²⁰ Charter of the United Nations, Art. 55, 26 June 1945, 59 Stat. 1031, T.S. 993, 3 Bevans 1153, *entered into force* 24 October 1945.

²¹ *Id.* at Art. 56.

²² *Id.* at Art. 103.

act, such as human rights violations, but rather whether an act that violates international law can be attributed to a State.²³

43. The Articles also recognize that there may be shared responsibility for an internationally wrongful act; in other words while the State in which an internationally wrongful act occurs may also be liable and held accountable for that act, other States that have contributed to that internationally wrongful act share responsibility and consequently can be held accountable. Specifically, Article 16 states that:

A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if:

(a) That State does so with knowledge of the circumstances of the internationally wrongful act; and

(b) The act would be internationally wrongful if committed by that State.²⁴

44. Furthermore, the Articles on Responsibility of States for Internationally Wrongful Acts address violations of preemptory norms, which include gross violations of human rights.²⁵ Article 40 considers serious breaches of preemptory norms as those that involve "a gross or systematic failure by the responsible State to fulfil the obligation" in question.²⁶ And Article 41 addresses consequences for such serious breaches, including cooperating "to bring to an end through lawful means any serious breach within the meaning of Article 40"²⁷ and mandates that "no State shall recognize as lawful a situation created by a serious breach within the meaning of Article 40, nor render aid or assistance in maintaining that situation."²⁸

45. The obligations clause in Article 2(1) of the ICCPR reads:

Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex,

²³ See, International Law Commission, Articles on Responsibility of States for Internationally Wrongful Acts, Arts. 1, 2 and 3 (adopted by the ILC in 2001).

²⁴ *Id.* at Art. 16.

²⁵ The international community has twice stated that forced evictions amount to gross violations of human rights; see UN Commission on Human Rights resolutions 1993/77 and 2004/28.

²⁶ *Id.* at Art. 40.

²⁷ *Id.* at Art. 41(1).

²⁸ *Id.* at Art. 41(2).

language, religion, political or other opinion, national or social origin, property, birth or other status.²⁹

46. The phrase “within its territory and subject to its jurisdiction” has been interpreted as meaning “within its territory *or* subject to its jurisdiction.”

47. For instance, in its General Comment No. 31, the Human Rights Committee elaborated upon the issue of jurisdiction, stating that:

States Parties are required by Article 2, paragraph 1, to respect and to ensure the Covenant rights to all persons who may be within their territory and to all persons subject to their jurisdiction. This means that a State party must respect and ensure the rights laid down in the Covenant to anyone within the power or effective control of the State Party, even if not situated within the territory of the State Party. ¹ This principle also applies to those within the power or effective control of the forces of a State Party acting outside its territory, regardless of the circumstances in which such power or effective control was obtained. ³⁰

48. In its 2003 Concluding Observations of Israel the Human Rights Committee moved away from the effective control test and instead stated that “conduct by [Israeli] authorities or agents in those territories that affect the enjoyment of rights enshrined in the Covenant and fall within the ambit of State responsibility of Israel under the principles of public international law” constitute violations of the ICCPR. In other words, the Human Rights Committee applied the standard adopted by the International Law Commission in the Articles of Responsibility of States for Internationally Wrongful Acts, namely whether or not the act is attributable to a State and a violation of an international legal obligation.

49. Similarly, in its periodic review of the Federal Republic of Yugoslavia (Serbia and Montenegro) (FRY) in November 2002, during the period of the civil war in Bosnia-Herzegovina and Croatia, the Human Rights Committee rejected the FRY’s denial of responsibility for acts outside its territory on the basis of the links between the government of Serbia and Serbian nationalists in Bosnia and Croatia. Rather, it “firmly urged the Federal Government to put an end to this intolerable situation for the observance of human rights, and to refrain from any support for those committing such

²⁹ International Covenant on Civil and Political Rights, Art. 2(1), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force 23 March 1976.

³⁰ Human Rights Committee, General Comment No. 31, Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004) at para. 10.

acts, including in territory outside the Federal Republic of Yugoslavia (Serbia and Montenegro).³¹

50. The Human Rights Committee has also implied that even where a person is located outside a State's territory, jurisdiction or effective control, States retain their obligation to respect and to ensure rights in the ICCPR. For instance, in its Concluding Observations on Iran in 1993, the Human Rights Committee condemned "the fact that a death sentence has been pronounced, without trial, in respect of a foreign writer, Mr. Salman Rushdie, for having produced a literary work and that general appeals have been made or condoned for his execution, even outside the territory of Iran."³² In even stronger language contained in individual complaint jurisprudence, the Human Rights Committee asserted that "it would be unconscionable to permit a State to perpetrate violations on foreign territory which violations it could not perpetrate on its own territory."³³

51. More recently, the Human Rights Committee made clear that States parties have extra-territorial obligations to ensure, or protect, Covenant rights. In its 2012 Concluding Observations on the Committee stated:

16. While welcoming measures taken by the State party to provide remedies against German companies acting abroad allegedly in contravention of relevant human rights standards, the Committee is concerned that such remedies may not be sufficient in all cases (art. 2, para. 2).

The State party is encouraged to set out clearly the expectation that all business enterprises domiciled in its territory and/or its jurisdiction respect human rights standards in accordance with the Covenant throughout their operations. It is also encouraged to take appropriate measures to strengthen the remedies provided to protect people who have been victims of activities of such business enterprises operating abroad.³⁴

52. This application of extraterritorial obligations under the ICCPR was also reaffirmed by the International Court of Justice in its *Advisory Opinion on the Legal*

³¹ Human Rights Committee, Concluding Observations: Yugoslavia, UN Doc. CCPR/C/79/Add.16, paras. 5 (28 December 1992).

³² Human Rights Committee, Concluding Observations: Iran, UN Doc. CCPR/C/79/Add.25 (3 August 1993) at para. 9.

³³ Human Rights Committee, *Lopez Burgos v. Uruguay*, Communication No. R 12/52 (6 June 1979) at para. 10.3.

³⁴ Human Rights Committee, Concluding Observations: Germany, UN Doc. CCPR/C/DEU/CO/6 (31 October 2012).

Consequences of the Construction of a Wall in the Occupied Palestinian Territory. In that Advisory Opinion, the ICJ stated that:

í the *travaux préparatoires* of the [ICCPR] show that, in adopting the wording chosen, the drafters of the [ICCPR] did not intend to allow States to escape from their obligations when they exercise jurisdiction outside their national territory.³⁵

53. The Maastricht Principles on Extra-Territorial Obligations (see Annex 1 with Commentary) were adopted in 2011 by leading international human rights experts and provide a concise restatement of existing customary and conventional international law in the area of extra-territorial human rights obligations.³⁶ While the Principles focus with particularity on economic, social and cultural rights, the principle of indivisibility and interrelatedness of rights means that the Maastricht Principles are relevant to the ICCPR as well. Indeed, Principle 3 makes clear that “All States have obligations to respect, protect and fulfil human rights, including civil, cultural, economic, political and social rights, both within their territories and extraterritorially.”³⁷

54. These Principles include the obligation to protect, or to ensure, rights from being violated by non-State actors including corporations. For instance, Principle 24 makes clear that extra-territorial obligation to protect includes that “All States must take necessary measures to ensure that non-State actors which they are in a position to regulate, as set out in Principle 25, such as private individuals and organisations, and transnational corporations and other business enterprises, do not nullify or impair the enjoyment of economic, social and cultural rights.”³⁸

55. Principle 25 states that:

States must adopt and enforce measures to protect economic, social and cultural rights through legal and other means, including diplomatic means, in each of the following circumstances: í b) where the non-State actor has the nationality of the State concerned; and c) as regards business enterprises, where the corporation, or its parent or controlling company, has its centre of activity, is registered or

³⁵ International Court of Justice, *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (9 July 2004) at para. 109.

³⁶ The Maastricht Principles are a restatement of law based on existing conventional and customary international law. They were adopted by leading experts from around the world, including a former member of the Human Rights Committee and members and former members of other treaty bodies. Drawn from international law, the Maastricht Principles clarify the content of extra-territorial State obligations to realize economic, social and cultural rights but also explicitly apply to the full spectrum of civil, cultural, economic, political and social rights.

³⁷ Maastricht Principles on Extra-Territorial Obligations of States in the area of Economic, Social and Cultural Rights, Principle 3 (adopted 28 September 2011).

³⁸ *Id.* at Principle 24.

domiciled, or has its main place of business or substantial business activities, in the State concerned;³⁹

56. The above-reference body of international norms, law and pronouncements makes clear that Canada has extra-territorial obligations under the ICCPR and these obligations include the extra-territorial obligation to protect, or to ensure, Covenant rights, including Articles 2, 7, 12, 17 and 27, by regulating the activities of Canadian corporations for activities undertaken abroad and to investigate and appropriately sanction any activities that violate human rights and ensure that remedies are available to victims of those violations.

B. Obligation to Protect: Provision of Effective Remedy

57. As mentioned above, the extra-territorial obligation to protect (or to ensure) rights in the ICCPR include the obligation to provide an effective remedy.

58. Article 8 of the Universal Declaration of Human Rights states that:

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.⁴⁰

59. Article 2(3) of the ICCPR reaffirms the right to a remedy and enshrines it as a right in the Covenant. Article 2(3) states in relevant part:

Each State party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy.⁴¹

60. Because the extra-territorial scope of the ICCPR as discussed above applies to substantive rights violated as described above, it follows that Article 2(3) requires Canada to ensure effective remedies, including judicial remedies, to the Complainants.

61. To elaborate further, the Maastricht Principles, Principles related to access to effective remedies, including Principles 27, 37 and 38, are based on existing conventional and customary law including Article 8 of the Universal Declaration of Human Rights and Article 2 of the ICCPR. Principle 27 of the Maastricht Principles states that:

³⁹ *Id.* at Principle 25.

⁴⁰ Universal Declaration of Human Rights, Art. 8, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948).

⁴¹ International Covenant on Civil and Political Rights, Art. 2(3), G.A. res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 52, UN Doc. A/6316 (1966), 99 UNTS 171, entered into force 23 march 1976.

All States must cooperate to ensure that non-State actors do not impair the enjoyment of the economic, social and cultural rights of any persons. This obligation includes measures to prevent human rights abuses by non-State actors, to hold them to account for any such abuses, and to ensure an effective remedy for those affected.⁴²

62. Principle 37 elaborates by articulating specific content of the general obligation to provide an effective remedy under conventional and customary international law. Principle 37 states:

States must ensure the enjoyment of the right to a prompt, accessible and effective remedy before an independent authority, including, where necessary, recourse to a judicial authority, for violations of economic, social and cultural rights. Where the harm resulting from an alleged violation has occurred on the territory of a State other than a State in which the harmful conduct took place, any State concerned must provide remedies to the victim.

To give effect to this obligation, States should:

- a) seek cooperation and assistance from other concerned States where necessary to ensure a remedy;
- b) ensure remedies are available for groups as well as individuals;
- c) ensure the participation of victims in the determination of appropriate remedies;
- d) ensure access to remedies, both judicial and non-judicial, at the national and international levels; and
- e) accept the right of individual complaints and develop judicial remedies at the international level.⁴³

63. Principle 38 goes on to state that:

Remedies, to be effective, must be capable of leading to a prompt, thorough and impartial investigation; cessation of the violation if it is ongoing; and adequate reparation, including, as necessary, restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition. To avoid irreparable harm, interim measures must be available and States must respect the indication of interim measures by a competent judicial or quasi-judicial body. Victims have the right to truth about the facts and circumstances surrounding the violations, which should also be disclosed to the public, provided that it causes no further harm to the victim.⁴⁴

⁴² *Id.* at Principle 27.

⁴³ *Id.* at Principle 37.

⁴⁴ *Id.* at Principle 38.

64. Principles 27, 37 and 38 are also based in part on the Guiding Principles on Business and Human Rights, which state in relevant part that:

States should take appropriate steps to ensure the effectiveness of domestic judicial mechanisms when addressing business-related human rights abuses, including considering ways to reduce legal, practical and other relevant barriers that could lead to a denial of access to remedy.⁴⁵

65. According to the Guiding Principles on Business and Human Rights such legal barriers can include “where claimants face a denial of justice in a host State and cannot access home State courts regardless of the merits of the claim.”⁴⁶

66. Furthermore, in affirming 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 UN General Assembly stated that “the obligation to respect *í* and implement international human rights law *í* includes *í* the duty to provide those who claim to be victims of a .. violation with equal and effective access to justice *í* and *í* to provide effective remedies to victims*í* .”⁴⁷

67. 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 reaffirm the requirement of access to an effective judicial remedy in Paragraph 12, stating that:

A victim of a gross violation of international human rights law or of a serious violation of international humanitarian law shall have equal access to an effective judicial remedy as provided for under international law.⁴⁸

68. Again, in the present case, Complainants sought remedies in the Canadian judicial system for both gross violations of international human rights law and of a serious violations of international humanitarian law caused by a corporation registered and based in Canada, but to no avail. The case was dismissed by the Canadian judicial system on grounds of *forum non conveniens*, although the Defendants are based in Canada and the Plaintiffs sought remedies in Canada due to the lack of remedies in the Israeli judicial system. Given the dismissal on the ground of *forum non conveniens*, Complainants never

⁴⁵ Guiding Principles on Business and Human Rights, included in the Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporation and other business enterprises, John G. Ruggie, UN Doc. A/HRC/17/31 (21 march 2011) (Principles 2 and 3 to 10 operationalizing the duty of States to protect human rights) endorsed by Human Rights Council resolution 17/4.

⁴⁶ *Id.* at Principle 26.

⁴⁷ United Nations General Assembly, resolution 60/147 of 2005.

⁴⁸ *Id.* at para. 12.

had the opportunity to be fully heard and have their case decided on the merits and consequently were denied access to any effective remedies. Again, this dismissal by the Supreme Court of Canada is consistent with its recent decision not to review the case of *Canadian Association Against Impunity (CAAI) v. Anvil Mining Ltd.* and demonstrates a structural and systemic problem in the Canadian judicial system whereby victims of violations of the extra-territorial obligation to ensure Covenant rights lack effective remedies.

69. Consequently, the Human Rights Committee should find that Canada has violated its extra-territorial obligation under the International Covenant on Civil and Political Rights to ensure the human rights of the Complainants by failing to ensure effective remedies whereby Complainants can hold accountable and seek remedies from Green Park International, Inc. and Green Mount International, Inc. for their activities in the occupied Palestinian territory.

C. Obligation to Protect: Regulating Home Corporations

70. The extra-territorial obligation to protect, or to ensure, human rights also entails regulating corporations incorporated under a State's jurisdiction. Since Green Park International, Inc. and Green Mount International, Inc. are incorporated in Canada, Canada consequently has an obligation to ensure that those corporations do not violate human rights at home or abroad, including human rights protected by the ICCPR.

71. According to the Maastricht Principles, "All States must take action, separately, and jointly through international cooperation, to protect economic, social and cultural rights of persons within their territories and extraterritorially, as set out in Principles 24 to 27."

72. According to Maastricht Principle 24:

All States must take necessary measures to ensure that non-State actors which they are in a position to regulate, as set out in Principle 25, such as private individuals and organisations, and transnational corporations and other business enterprises, do not nullify or impair the enjoyment of economic, social and cultural rights. These include administrative, legislative, investigative, adjudicatory and other measures. All other States have a duty to refrain from nullifying or impairing the discharge of this obligation to protect.

73. Principle 25 states that:

States must adopt and enforce measures to protect economic, social and cultural rights through legal and other means, including diplomatic means, in each of the following circumstances:

í

b) where the non-State actor has the nationality of the State concerned;

c) as regards business enterprises, where the corporation, or its parent or controlling company, has its centre of activity, is registered or domiciled, or has its main place of business or substantial business activities, in the State concerned;

í

e) where any conduct impairing economic, social and cultural rights constitutes a violation of a peremptory norm of international law. Where such a violation also constitutes a crime under international law, States must exercise universal jurisdiction over those bearing responsibility or lawfully transfer them to an appropriate jurisdiction.

74. The duty to regulate the conduct of private groups or individuals, including legal persons, in order to ensure that such conduct shall not result in violating the human rights of others, is well established in international human rights law.⁴⁹ Outside exceptional circumstances, only the conduct of the organs of the State may be attributable to the State and thus engage its responsibility;⁵⁰ however, such conduct includes the failure of the State to adopt regulations, or to implement them effectively, where such a failure is in violation of the human rights undertakings of the State. This principle has been affirmed by human rights bodies, including the Human Rights Committee.⁵¹

75. As mentioned above, the Human Rights Committee recently made clear that States parties have extra-territorial obligations to ensure, or protect, Covenant rights. These obligations include regulated corporate entities. In its 2012 Concluding Observations on the Committee stated:

16. While welcoming measures taken by the State party to provide remedies against German companies acting abroad

⁴⁹ See, e.g., Olivier De Schutter, *International Human Rights Law. Cases, Materials and Commentary*, (Cambridge University Press, 2010), chap. 4.

⁵⁰ International Court of Justice, *Case of Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America) (merits)*, judgment of 27 June 1986, I.C.J. Reports 1986, p. 14, para. 108. See generally International Law Commission, *Articles on Responsibility of States for Internationally Wrongful Acts*, Report of the International Law Commission on the Work of Its 53rd Session, 2001, UN Doc. A/56/10.

⁵¹ See, e.g., Human Rights Committee, *Concluding Observations: Germany*, UN Doc. CCPR/C/DEU/CO/6 (31 October 2012); Human Rights Committee, *General Comment No. 31, Nature of the General Legal Obligation Imposed on States Parties to the Covenant* (Eightieth session, 2004), UN Doc. CCPR/C/21/Rev.1/Add.13, para. 8 (“the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights in so far as they are amenable to application between private persons or entities”).

allegedly in contravention of relevant human rights standards, the Committee is concerned that such remedies may not be sufficient in all cases (art. 2, para. 2).

The State party is encouraged to set out clearly the expectation that all business enterprises domiciled in its territory and/or its jurisdiction respect human rights standards in accordance with the Covenant throughout their operations. It is also encouraged to take appropriate measures to strengthen the remedies provided to protect people who have been victims of activities of such business enterprises operating abroad.⁵²

76. Other treaty bodies have dealt with similar issues. For instance, the Committee on the Elimination of Racial Discrimination (CERD) has called upon States to regulate the extra-territorial actions of third parties registered in their territory. In 2007, it called upon Canada to "take appropriate legislative or administrative measures to prevent acts of transnational corporations registered in Canada which negatively impact on the enjoyment of rights of indigenous peoples in territories outside Canada", recommending in particular that the State party "explore ways to hold transnational corporations registered in Canada accountable."⁵³ Similarly, in its Concluding Observations on the United States in 2008, CERD stated that:

In light of Article 2, paragraph 1 (d), and 5 (e) of the Convention and of its General Recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee encourages the State party to take appropriate legislative or administrative measures to prevent acts of transnational corporations registered in the State party which negatively impact on the enjoyment of rights of indigenous peoples in territories outside the United States. In particular, the Committee recommends that the State party explore ways to hold transnational corporations registered in the United States accountable.⁵⁴

77. Finally, in the recent Human Rights Council's *Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem*, the Mission recommended that:

⁵² Human Rights Committee, Concluding Observations: Germany, UN Doc. CCPR/C/DEU/CO/6 (31 October 2012).

⁵³ Committee on the Elimination of Racial Discrimination, Concluding Observations: Canada, UN Doc. CERD/C/CAN/CO/18, paragraph 17 (25 May 2007).

⁵⁴ Committee on the Elimination of Racial Discrimination, Concluding Observations: United States, UN Doc. CERD/C/USA/CO/6, paragraph 30 (8 May 2008).

Private companies must assess the human rights impact of their activities and take all necessary steps – including by terminating their business interests in the settlements – to ensure they are not adversely impacting the human rights of the Palestinian People in conformity with international law as well as the Guiding Principles on Business and Human Rights. [And that] The Mission calls upon all Member States to take appropriate measures to ensure that business enterprises domiciled in their territory and/or under their jurisdiction, including those owned or controlled by them, that conduct activities in or related to the settlements respect human rights throughout their operations.⁵⁵

78. Consequently, the Human Rights Committee should find that Canada has violated its extra-territorial obligation under the International Covenant on Civil and Political Rights to ensure the human rights of the Complainants by failing to regulate and hold accountable Green Park International, Inc. and Green Mount International, Inc. for the activities in the occupied Palestinian territory which violate the ICCPR.

VI. CONCLUSION AND REQUEST FOR REMEDIES

79. Based on the foregoing, Canada has violated and is in violation of its extra-territorial obligation to ensure Articles 2, 7, 12, 17 and 27 of the International Covenant on Civil and Political Rights for failing to provide an effective remedy to the Complainants necessary to hold Green Park International, Inc. and Green Mount International, Inc., Canadian transnational corporations, accountable for human rights violations in the occupied Palestinian territory.

80. Based on the foregoing, Canada has violated and is in violation of its extra-territorial obligation to ensure Articles 2, 12, 17 and 27 of the International Covenant on Civil and Political Rights for failing to regulate the activities of Green Park International, Inc. and Green Mount International, Inc., Canadian transnational corporations, so as to prevent human rights violations in the occupied Palestinian territory.

81. Consequently, Canada should ensure in law and practice that victims of violations of the extra-territorial obligation to ensure respect for Covenant rights have effective judicial remedies available within the Canadian legal system.

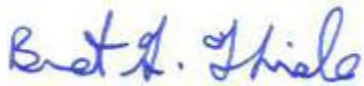
⁵⁵ Human Rights Council, *Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem*, UN Doc. A/HRC/22/63 (2013) para. 117 .

82. Furthermore, Canada should set out clearly the expectation that all business enterprises domiciled in its territory and/or its jurisdiction respect human rights standards in accordance with the Covenant throughout their operations including by taking appropriate legislative or administrative measures to prevent acts of transnational corporations registered in Canada which negatively impact the enjoyment of Covenant rights in territories outside Canada.

83. The Committee should call upon Canada to take measures to stop Green Park International, Inc. and Green Mount International, Inc. from undertaking activities or being complicit in activities that violate the Covenant and levy sanctions on them in the event of failure to end such activities.

84. The Committee should call upon Canada to ensure that effective remedies are available to the Complainants including an appeal before the Supreme Court of Canada.

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