

**IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)**

Between:

Rachidi EKANZA EZOKOLA

APPELLANT
(Respondent)

-and-

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

RESPONDENT
(Appellant)

MEMORANDUM OF ARGUMENT FOR LEAVE TO INTERVENE
(Rule 56(b) of the *Rules of the Supreme Court of Canada*)

AMNESTY INTERNATIONAL, INTERVENER

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PART I – FACTS

Overview

1. Amnesty International (Canadian Section, English Branch) (“Amnesty Canada”) seeks leave to intervene in this appeal with respect to the appropriate application of Article 1F(a) of the *United Nations Convention Relating to the Status of Refugees* (“*Refugee Convention*”), as incorporated into section 98 of the *Immigration and Refugee Protection Act*. Amnesty Canada has a strong record as a credible, trustworthy and objective organization that possesses a unique expertise in international refugee law and international criminal law, the interplay of which is at issue in this appeal. The organization has a legitimate and significant interest in this appeal, as it will affect its longstanding efforts to both promote the rights of refugees and asylum-seekers and prevent impunity for grave international offences.

Amnesty International: The Organization

2. Amnesty International (“AI”) is a worldwide voluntary movement founded in 1961 that works to prevent some of the gravest violations to people’s fundamental human rights. It is impartial and independent of any government, political persuasion or religious creed. AI Canada is the Canadian branch of the global AI movement. AI and Amnesty Canada are financed by subscriptions and donations from their membership, and receive no government funding. Currently, there are close to 3 million members of AI in over 150 countries. There are more than 7,500 AI groups, including local groups, youth or student groups and professional groups, in more than 90 countries and territories throughout the world. In 55 countries and territories, the work of these groups is coordinated by national sections like Amnesty Canada.¹

3. AI’s vision is of a world in which every person enjoys all of the human rights enshrined in the *Universal Declaration of Human Rights* and other international instruments.² In pursuit of

¹ Affidavit of Alex Neve at paras. 7-11 [Neve Affidavit].

² *Universal Declaration of Human Rights*, GA Res. 271 (III), UN GAOR, 3d. Sess., Supp. No. 3, UN Doc. A/810 (1948); *International Covenant on Civil and Political Rights*, 19 December 1996, 99 U.N.T.S. 171, Can. T.S. 1976 No. 47, 6 I.L.M. 368; *Convention Against Torture*, Can. T.S., 1987 No. 36; *United Nations Convention Relating to the Status of Refugees*, July 28, 1951, [1969] Can. T.S. No. 6 [*Refugee Convention*].

this vision, AI's mission is to conduct research and take action to prevent and end grave abuses of all human rights – civil, political, economic, social and cultural.³

4. In 1977, AI was awarded the Nobel Peace Prize for its work in promoting international human rights.⁴

Amnesty International's Significant Experience as an Intervener

5. Amnesty International has made oral and written submissions regarding international human rights to courts and legislatures around the world, as well as to international bodies.

6. Amnesty Canada has been granted intervener status at numerous inquiries and judicial proceedings at several levels of court.⁵ This Court has granted Amnesty Canada intervener status on multiple occasions, including *Canada (Prime Minister) v. Khadr*; *Gavrila v. Canada (Justice)*; *Charkaoui v. Canada (Minister of Citizenship and Immigration) No. 2*; *Charkaoui v. Canada (Minister of Citizenship and Immigration)*; *Schreiber v. Canada (Attorney General)*; *Suresh v. Canada (Minister of Citizenship and Immigration)*; *United States v. Burns*; *Reference Re Ng Extradition (Can.)*; and *Kindler v. Canada (Minister of Justice)*.⁶

7. AI has also intervened at high levels of court in other jurisdictions. In 2004, AI submitted an amicus curiae brief to the Federal High Court of Nigeria, regarding the interpretation of Article 1F of the *Refugee Convention*, in the context of a grant of asylum to Charles Taylor and his subsequent indictment by the Special Court for Sierra Leone.⁷ In recent years, AI interventions have included: *Graham v. Florida*; *Boumediene v. Bush*; *Al Odah v. United States*; *Al-Skeini and others v. the Secretary of State*; *A and others v. Secretary of State for the Home*

³ Neve Affidavit, *supra* at note 1 at paras. 12-13.

⁴ Neve Affidavit, *supra* at note 1 at para. 14.

⁵ Neve Affidavit, *supra* at note 1 at paras. 22-25.

⁶ *Canada (Prime Minister) v. Khadr*, 2010 SCC 3; *Gavrila v. Canada (Justice)*, 2010 SCC 57; *Charkaoui v. Canada (Minister of Citizenship and Immigration) No. 2*, [2008] 2 S.C.R. 326; *Charkaoui v. Canada (Minister of Citizenship and Immigration)*, [2007] 1 S.C.R. 350; *Schreiber v. Canada (Attorney General)*, [2002] 3 S.C.R. 269; *Suresh v. Canada (Minister of Citizenship and Immigration)*, [2002] 1 S.C.R. 3; *United States v. Burns*, [2001] 1 S.C.R. 283; *Reference Re Ng Extradition (Can.)*, [1991] 2 S.C.R. 858; *Kindler v. Canada (Minister of Justice)*, [1991] 2 S.C.R. 779.

⁷ Amnesty International, *Nigeria: Amicus Curiae Brief Submitted to the Federal High Court Reviewing Refugee Status Granted to Charles Taylor*, 23 September 2004, AFR 44/030/2004.

*Department (No. 2); A and others v. Sec. of State for the Home Department; R. v. Bow Street Metropolitan Stipendiary Magistrate, Ex parte Pinochet Ugarte (No. 3); and Chahal v. UK.*⁸

8. Amnesty Canada has also sought to advance international human rights directly through the legislative process. On many occasions, it has made written and oral submissions to government officials, legislators and House and Senate committees on human rights issues, including proposed reforms to Canada's immigration and refugee regime, as well as legislation implementing Canada's obligations as a signatory to the *Rome Statute of the International Criminal Court* ("Rome Statute").⁹

9. Finally, Amnesty Canada has made representations and submissions to numerous international bodies, including the UN Human Rights Committee and the UN Committee Against Torture.¹⁰

Expertise Regarding Human Rights

10. For five decades, AI has investigated, documented and reported on human rights abuses. Amnesty International's research is recognized in Canada and around the world as accurate, unbiased, and credible, which is why its reports are widely consulted by governments, intergovernmental organizations, journalists and scholars. AI's documentation of human rights abuses has been relied upon by the Immigration and Refugee Board as well as Canadian courts, including this Court and the Federal Court.¹¹

Expertise in International Refugee Law

11. Amnesty International has long been at the forefront of refugee protection worldwide. AI works to ensure that asylum-seekers are not prohibited from entering a country to seek asylum;

⁸*Graham v. Florida*, 982 So. 2d 43 (2010); *Boumediene v. Bush*; *Al Odah v. United States*, 128 S. Ct. 2229 (2008); *Al-Skeini and others v. the Secretary of State*, [2007] UKHL 26; *A and others v. Secretary of State for the Home Department (No. 2)*, [2005] UKHL 71; *A and others v. Secretary of State for the Home Department*, [2005] 2 A.C. 68; *R. v. Bow Street Metropolitan Stipendiary Magistrate, Ex parte Pinochet Ugarte (No. 3)*, [2000] 1 A.C. 147 (U.K.H.L.); *Chahal v. United Kingdom*, (1997) 23 E.H.R.R. 413 (E.Ct.H.R.).

⁹ Neve Affidavit, *supra* at note 1 at para. 29.

¹⁰ Neve Affidavit, *supra* at note 1 at paras. 30-32.

¹¹ Neve Affidavit, *supra* at note 1 at paras. 16-18.

are not returned to a country where they would be at risk of serious human rights abuses; have access to fair and effective asylum procedures; have access to the UN Refugee Agency (“UNHCR”) for assistance, where applicable; and are not unlawfully or arbitrarily detained.¹²

12. Amnesty Canada’s efforts in the area of international refugee law have taken many forms. It has participated in numerous judicial proceedings and legislative processes implicating Canada’s international obligations with respect to the rights of refugees and asylum-seekers. Amnesty Canada has also made submissions on this issue to a number of international bodies.¹³

Expertise in International Criminal Law

13. Amnesty International has a unique expertise in international criminal law. AI strongly supports government efforts to ensure that individuals who have committed crimes against humanity and other serious human rights violations are brought to justice. Amnesty International has actively campaigned for more robust international laws and institutions in the area of international justice, including the creation of the International Criminal Court (“ICC”).¹⁴ The organization has also made amicus submissions to international criminal justice institutions, including the ICC and Special Court for Sierra Leone.¹⁵

14. Amnesty Canada welcomed law reform initiatives that enshrined universal jurisdiction in the Canadian justice system, including amendments to the *Criminal Code* in the late 1980s dealing with torture, and the passage of the *Crimes against Humanity and War Crimes Act* in 2000. In recent years, Amnesty Canada has participated in relevant judicial and legislative proceedings at the domestic and international levels.¹⁶

¹² Neve Affidavit, *supra* at note 1 at para. 33.

¹³ Neve Affidavit, *supra* at note 1 at para. 35.

¹⁴ Neve Affidavit, *supra* at note 1 at paras. 36-38.

¹⁵ Amnesty International, *Amicus Curiae Observations on Superior Responsibility submitted pursuant to Rule 103 of the Rules of Procedure and Evidence* (2009), ICC-01/05-01/08-406; Amnesty International, *Amicus Curiae Brief of Amnesty International Concerning the Public Interest Information Privilege* (2005), Case No. SCSL-04-16-AR73B.

¹⁶ Neve Affidavit, *supra* at note 1 at paras. 39-40.

PART II – QUESTION IN ISSUE

15. The question on this motion is whether Amnesty Canada should be granted leave to intervene in this appeal.

PART III – ARGUMENT

16. Leave to intervene may be granted where a party has an interest in the subject matter before the Court and will be able to make submissions that are useful to the Court and different from those of other parties.¹⁷

(1) Amnesty Canada has a strong and legitimate interest in this appeal

17. Any interest in an appeal is sufficient to support an application for intervener status, subject always to the discretion of the Judge hearing the motion.¹⁸

18. As indicated above, Amnesty Canada has a deep and longstanding commitment to both international refugee protection and international criminal justice. Amnesty Canada has demonstrated its interest in multiple fora, including governments, courts and international bodies.

19. The Court's determination in this appeal will have a significant effect on Amnesty International's goals, within Canada and internationally, to ensure that the rights of asylum-seekers and refugees are adequately protected and that perpetrators of serious international offences are held accountable for their crimes.

(2) Amnesty Canada will make unique, useful submissions

20. As an international non-governmental organization, Amnesty Canada is uniquely positioned to apply a truly international human rights perspective to the issues raised in this appeal. Amnesty Canada has extensive knowledge of the international norms that are relevant in

¹⁷*Rules of the Supreme Court of Canada*, SOR/2002-156, Rules 55-57; *Reference re Worker's Compensation Act*, [1989] 2 S.C.R. 335, at 339, 340 [*Worker's Compensation*]; *R. v. Finta*, [1993] 1 S.C.R. 1139 [*Finta*].

¹⁸*Workers Compensation*, *supra* at note 17; *Finta*, *supra* at note 17 at 1143-44.

this appeal, most notably the *Refugee Convention* and *Rome Statute*. Moreover, Amnesty Canada has expertise in both international refugee law (“IRL”) and international criminal law (“ICL”). Given that the interplay between these two areas of law is at issue in this appeal, the perspective of an organization whose work encompasses both will be essential.

21. If granted leave to intervene, Amnesty Canada would focus on the human rights principles that should guide this Court in determining the test for excluding an individual under Article 1F(a) of the *Refugee Convention*. Amnesty Canada does not intend to take a position on issues that are specific and personal to the Appellant. Rather, the submissions will pertain only to the appropriate guiding principles for the exclusion analysis.

22. In particular, Amnesty Canada proposes to make the following submissions:

- (a) the exclusion provisions must be strictly construed;
- (b) the exclusion analysis must be individualized; and
- (c) the exclusion analysis must encompass the subjective and objective elements of a recognized international crime and established modes of international criminal liability.

(a) Relevant International Conventions, Treaties and Norms

23. This appeal concerns the appropriate scope of exclusion in the context of a claim for asylum. Section 98 of Canada’s *Immigration and Refugee Protection Act*,¹⁹ under which the appellant was excluded, incorporates Article 1F(a) of the *Refugee Convention*, which provides:

The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that: he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes.²⁰

¹⁹*Immigration and Refugee Protection Act* (S.C. 2001, c. 27), s.98.

²⁰*Refugee Convention*, *supra* at note 2, Article 1F(a).

24. Amnesty Canada recognizes the tension underlying this appeal, in particular between IRL, which focuses on protecting individuals from persecution, and ICL, which aims to bring people to justice. This tension is clear when articulating the criteria for excluding asylum-seekers from *Refugee Convention* protection. If the scope of Article 1F(a) is too expansive, people who are innocent of international crimes will be denied the rights associated with the *Refugee Convention*. If the scope of this provision is too narrow, individuals for whom there are serious reasons for considering that they have committed those crimes may eventually be granted asylum.

25. Amnesty Canada submits that it is important to recognize the nature of the legal regime at issue in this appeal, which is clearly an IRL context. Although IRL and ICL are two different branches of the international human rights regime, their respective purposes and processes are fundamentally different. A refugee determination is not a criminal trial, in which an accused person's guilt or innocence is being determined, and in which s/he is granted robust procedural protections, including the presumption of innocence and the right to silence. A refugee hearing is one in which an individual's claim for asylum is being adjudicated by an administrative body, and in which the rules of evidence and procedure are significantly relaxed.²¹ The difference between the respective standards of proof – “beyond a reasonable doubt” in the criminal context, as opposed to “serious reasons for considering”²² in the exclusion analysis – is not an invitation to broaden the scope of Article 1F, but rather an indication of the non-criminal character of this decision-making process.

26. As a first guiding principle, Amnesty Canada will submit that the IRL context requires the *decision-maker to strictly construe the exclusion provisions*. The UNHCR has reiterated the exceptional nature of the exclusion provisions on multiple occasions.²³ The consequence of

²¹ Immigration and Refugee Board, *Guideline 7 Concerning Preparation and Conduct of a Hearing in the Refugee Protection Division*, Issued by the Chairperson Pursuant to Section 159(1)(h) of the *Immigration and Refugee Protection Act*, December 1, 2003.

²² *Refugee Convention*, *supra* at note 2, Article 1F.

²³ UNHCR, *The Exclusion Clauses: Guidelines on their Application*, 2 December 1996; UNHCR, *Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, HCR/GIP/03/05, 4 September 2003; UNHCR, *Statement on Article 1F of the 1951 Convention Issued in the context of the preliminary ruling references to the Court of Justice of the European Communities from the German Federal Administrative Court*, July 2009 [UNHCR 2009]; UNHCR, *Exclusion at a Crossroads: The Interplay between International Criminal Law and Refugee Law in the Area of Extended Liability*, 30 June 2011.

exclusion under Article 1F is extremely serious: it means the denial of the entire array of rights attached to refugee status, including the potential of being returned to a country where the claimant would be at risk of serious human rights abuses. Exclusion must therefore always be treated as an exceptional and limited measure.

27. The second guiding principle also flows from the protection context of the decision-making process: *the exclusion analysis must be individualized*. A fundamental principle of international refugee protection – as well as a basic requirement of procedural fairness – is that claims must be treated on the basis of their individual merits.²⁴ This tenet is violated when the exclusion analysis focuses entirely on the purposes or character of an organization to which the refugee claimant belonged, or the gravity of the offences committed by that organization. Throughout the exclusion analysis, the focus must remain squarely on the refugee claimant and whether there are serious reasons for considering that s/he was personally involved in and criminally responsible for a serious international crime.

28. It is crucial to recognize that at issue in the exclusion analysis is potential individual criminal responsibility, which is different from the concept of state liability for international crimes, which may well be considerably broader. This conceptual distinction must be clearly maintained, even in the case of civil servants in the employ of regimes that have committed war crimes or crimes against humanity.

29. Amnesty Canada's third guiding principle is that *the exclusion analysis must encompass the subjective and objective elements of a recognized international crime and established modes of international criminal liability*. This means that the decision-maker must begin by identifying an international crime at issue. Next, there must be serious reasons to consider that the asylum-seeker fulfilled the required subjective and objective elements of that crime. Finally, the

²⁴ UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, HCR/IP/4/Eng/REV.1 Reedited, Geneva, January 1992; UNHCR 2009, *supra* at note 23.

decision-maker must clearly identify the mode of commission of the offence, as defined in the statutes and jurisprudence of the ICC and ad hoc tribunals.²⁵

30. The rationale for the third guiding principle is also related to the IRL context of the exclusion analysis. The protection-oriented and administrative decision-making process in which asylum claims are adjudicated is not an appropriate forum to resolve unsettled issues in ICL. Furthermore, given the humanitarian character of the refugee protection regime, it would be contrary to Canada's obligations under the *Refugee Convention* to exclude someone from this instrument's rights and protections on a tenuous or uncertain basis.²⁶

31. Amnesty Canada submits that with a human rights framework underpinning the exclusion analysis, the goals of ICL and IRL can mutually reinforce one another. Adequately protecting the human rights of refugees requires that perpetrators of serious crimes (including those that create refugees) be held legally responsible for their acts. Likewise, an international system of accountability must respect the human rights of all individuals, particularly asylum-seekers. In other words, a systematic and principled decision-making framework will simultaneously fulfil Canada's international obligations towards asylum-seekers and advance its efforts to prevent impunity for grave international crimes.

32. Properly applied, Article 1F(a) will not exclude refugee claimants who could not be convicted of an international crime, nor will it provide protection to those undeserving of protection. Amnesty Canada submits that the only way to achieve this result is to ensure that the test for exclusion under Article 1F(a) is aligned with accepted ICL principles.

33. If granted leave to intervene, Amnesty Canada will be mindful of submissions made by parties and other interveners in this appeal and will seek to avoid duplication of argument and materials before the Court.

²⁵ See for example: *Statute of the International Criminal Tribunal for the Former Yugoslavia*, 25 May 1993, S.C. Res. 827, U.N. Doc. S/RES/827; *Statute of the International Criminal Tribunal for Rwanda*, 8 November 1994, S.C. Res. 955; *Statute of the Special Court for Sierra Leone*, 14 August 2000, S/RES/1315, 2178 U.N.T.S. 138, 145; UN Doc. S/2002/246, appendix II; *Rome Statute of the International Criminal Court*, 17 July 1998, U.N. Doc. A/CONF.183/9.

²⁶*Vienna Convention on the Law of Treaties*, (1969) United Nations, Treaty Series, vol. 1155, p. 331, Articles 31, 32; *Refugee Convention*, *supra* at note 2, Preamble.

PART IV – SUBMISSIONS ON COSTS

34. Amnesty Canada does not seek or expect to pay costs.

PART V – ORDER SOUGHT

35. Amnesty Canada requests an order

- (a) granting leave to intervene in this appeal;
- (b) if leave to intervene is granted, leave to present oral and written arguments at the hearing of the appeal; and
- (c) such further and other order as this Court may deem appropriate.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 11th DAY OF SEPTEMBER, 2012
BY:

Solicitors for Amnesty Canada

PART VI – TABLE OF AUTHORITIES

	AUTHORITY	PARA.
1	<i>A and others v. Secretary of State for the Home Department</i> , [2005] 2 A.C. 68	7
2	<i>A and others v. Secretary of State for the Home Department (No. 2)</i> , [2005] UKHL 71	7
3	<i>Al-Skeini and others v. the Secretary of State</i> , [2007] UKHL 26	7
4	Amnesty International, <i>Amicus Curiae Brief of Amnesty International Concerning the Public Interest Information Privilege</i> (2005), Case No. SCSL-04-16-AR73B	13
5	Amnesty International, <i>Amicus Curiae Observations on Superior Responsibility submitted pursuant to Rule 103 of the Rules of Procedure and Evidence</i> (2009), ICC-01/05-01/08-406	13
6	Amnesty International, <i>Nigeria: Amicus Curiae Brief Submitted to the Federal High Court Reviewing Refugee Status Granted to Charles Taylor</i> , 23 September 2004, AFR 44/030/2004	7
7	<i>Boumediene v. Bush; Al Odah v. United States</i> , 128 S. Ct. 2229 (2008)	7
8	<i>Canada (Prime Minister) v. Khadr</i> , 2010 SCC 3	6
9	<i>Chahal v. United Kingdom</i> , (1997) 23 E.H.R.R. 413 (E.Ct.H.R.).	7
10	<i>Charkaoui v. Canada (Minister of Citizenship and Immigration)</i> , [2007] 1 S.C.R. 350	6
11	<i>Charkaoui v. Canada (Minister of Citizenship and Immigration) No. 2</i> , [2008] 2 S.C.R. 326	6
12	<i>Gavrila v. Canada (Justice)</i> , 2010 SCC 57	6
13	<i>Graham v. Florida</i> , 982 So. 2d 43 (2010)	7
14	Immigration and Refugee Board, <i>Guideline 7 Concerning Preparation and Conduct of a Hearing in the Refugee Protection Division</i> , Issued by the Chairperson Pursuant to Section 159(1)(h) of the <i>Immigration and Refugee Protection Act</i> , December 1, 2003	25
15	<i>Kindler v. Canada (Minister of Justice)</i> , [1991] 2 S.C.R. 779	6
16	<i>R. v. Bow Street Metropolitan Stipendiary Magistrate, Ex parte Pinochet Ugarte (No. 3)</i> , [2000] 1 A.C. 147 (U.K.H.L.)	7
17	<i>R. v. Finta</i> , [1993] 1 S.C.R. 1139	16, 17
18	<i>Reference Re Ng Extradition (Can.)</i> , [1991] 2 S.C.R. 858	6
19	<i>Reference re Worker's Compensation Act</i> , [1989] 2 S.C.R. 335	16, 17
20	<i>Schreiber v. Canada (Attorney General)</i> , [2002] 3 S.C.R. 269	6
21	<i>Suresh v. Canada (Minister of Citizenship and Immigration)</i> , [2002] 1 S.C.R. 3	6
22	UNHCR, <i>Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees</i> , HCR/GIP/03/05, 4 September 2003	26
23	UNHCR, <i>Exclusion at a Crossroads: The Interplay between International Criminal Law and Refugee Law in the Area of Extended Liability</i> , 30 June 2011	26
24	UNHCR, <i>Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees</i> , HCR/IP/4/Eng/REV.1 Reedited, Geneva, January 1992	27
25	UNHCR, <i>Statement on Article 1F of the 1951 Convention Issued in the context of the preliminary ruling references to the Court of Justice of the European Communities from the German Federal Administrative Court</i> , July 2009	26

26	UNHCR, <i>The Exclusion Clauses: Guidelines on their Application</i> , 2 December 1996	26
27	<i>United States v. Burns</i> , [2001] 1 S.C.R. 283	6

PART VII – STATUTORY PROVISIONS

	STATUTORY PROVISION	PARA.
1	<i>Convention Against Torture</i> , Can. T.S., 1987 No. 36	3
2	<i>Immigration and Refugee Protection Act</i> (S.C. 2001, c. 27)	23
3	<i>International Covenant on Civil and Political Rights</i> , 19 December 1996, 99 U.N.T.S. 171, Can. T.S. 1976 No. 47, 6 I.L.M. 368	3
4	<i>Rome Statute of the International Criminal Court</i> , 17 July 1998, U.N. Doc. A/CONF.183/9	29
5	<i>Rules of the Supreme Court of Canada</i> , SOR/2002-156	16
6	<i>Statute of the International Criminal Tribunal for Rwanda</i> , 8 November 1994, S.C. Res. 955	29
7	<i>Statute of the International Criminal Tribunal for the Former Yugoslavia</i> , 25 May 1993, S.C. Res. 827, U.N. Doc. S/RES/827	29
8	<i>Statute of the Special Court for Sierra Leone</i> , 14 August 2000, S/RES/1315, 2178 U.N.T.S. 138, 145; UN Doc. S/2002/246, appendix II	29
9	<i>United Nations Convention Relating to the Status of Refugees</i> , July 28, 1951, [1969] Can. T.S. No. 6	3, 23, 25, 30
10	<i>Universal Declaration of Human Rights</i> , GA Res. 271 (III), UN GAOR, 3d. Sess., Supp. No. 3, UN Doc. A/810 (1948)	3
11	<i>Vienna Convention on the Law of Treaties</i> , (1969) United Nations, Treaty Series, vol. 1155, p. 331	30

Immigration and Refugee Protection Act, (S.C. 2001, c. 27)

98. A person referred to in section E or F of Article 1 of the Refugee Convention is not a Convention refugee or a person in need of protection.

98. La personne visée aux sections E ou F de l'article premier de la Convention sur les réfugiés ne peut avoir la qualité de réfugié ni de personne à protéger.

Rules of the Supreme Court of Canada, SOR/2002-156

55. Any person interested in an application for leave to appeal, an appeal or a reference may make a motion for intervention to a judge.

55. Toute personne ayant un intérêt dans une demande d'autorisation d'appel, un appel ou un renvoi peut, par requête à un juge, demander l'autorisation d'intervenir.

Rules of the Supreme Court of Canada, SOR/2002-156

56. A motion for intervention shall be made in the case of

- (a) an application for leave to appeal, within 30 days after the filing of the application for leave to appeal;
- (b) an appeal, within four weeks after the filing of the factum of the appellant; and
- (c) a reference, within four weeks after the filing of the Governor in Council's factum.

56. La requête en intervention est présentée dans les délais suivants :

- a) dans le cas de la demande d'autorisation d'appel, dans les trente jours suivant son dépôt;
- b) dans le cas d'un appel, dans les quatre semaines suivant le dépôt du mémoire de l'appelant;
- c) dans le cas d'un renvoi, dans les quatre semaines suivant le dépôt du mémoire du gouverneur en conseil.

Rules of the Supreme Court of Canada, SOR/2002-156

57. (1) The affidavit in support of a motion for intervention shall identify the person interested in the proceeding and describe that person's interest in the proceeding, including any prejudice that the person interested in the proceeding would suffer if the intervention were denied.

(2) A motion for intervention shall

(a) identify the position the person interested in the proceeding intends to take in the proceeding; and

(b) set out the submissions to be advanced by the person interested in the proceeding, their relevance to the proceeding and the reasons for believing that the submissions will be useful to the Court and different from those of the other parties.

57. (1) L'affidavit à l'appui de la requête en intervention doit préciser l'identité de la personne ayant un intérêt dans la procédure et cet intérêt, y compris tout préjudice que subirait cette personne en cas de refus de l'autorisation d'intervenir.

(2) La requête expose ce qui suit :

a) la position que cette personne compte prendre dans la procédure;

b) ses arguments, leur pertinence par rapport à la procédure et les raisons qu'elle a de croire qu'ils seront utiles à la Cour et différents de ceux des autres parties.

Vienna Convention on the Law of Treaties, (1969) United Nations, Treaty Series, vol. 1155, p. 331

Article 31

General rule of interpretation

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.
2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:
 - a. Any agreement relating to the treaty which was made between all the parties in connexion with the conclusion of the treaty;
 - b. Any instrument which was made by one or more parties in connexion with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.
3. There shall be taken into account, together with the context:
 - a. Any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;
 - b. Any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;
 - c. Any relevant rules of international law applicable in the relations between the parties.
4. A special meaning shall be given to a term if it is established that the parties so intended.

Vienna Convention on the Law of Treaties, (1969) United Nations, Treaty Series, vol. 1155, p. 331

Article 32

Supplementary means of interpretation

Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:

- a. Leaves the meaning ambiguous or obscure; or
- b. Leads to a result which is manifestly absurd or unreasonable.

***United Nations Convention Relating to the Status of Refugees, July 28, 1951, [1969] Can.
T.S. No. 6***

Preamble

The High Contracting Parties,

Considering that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

Considering that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavoured to assure refugees the widest possible exercise of these fundamental rights and freedoms,

Considering that it is desirable to revise and consolidate previous international agreements relating to the status of refugees and to extend the scope of and the protection accorded by such instruments by means of a new agreement,

Considering that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international co-operation,

Expressing the wish that all States, recognizing the social and humanitarian nature of the problem of refugees, will do everything within their power to prevent this problem from becoming a cause of tension between States,

Noting that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner,

Have agreed as follows:

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Article 1F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

- (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
- (c) he has been guilty of acts contrary to the purposes and principles of the United Nations.