

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)

BETWEEN:

**JENNIFER TANUDJAJA, JANICE ARSENAULT, ANSAR MAHMOOD,
BRIAN DUBOURDIEU and CENTRE FOR EQUALITY RIGHTS IN
ACCOMMODATION**

APPLICANTS
(Appellants)

-and-

**ATTORNEY GENERAL OF CANADA and ATTORNEY GENERAL OF
ONTARIO**

RESPONDENTS
(Respondents)

AFFIDAVIT OF ALEX NEVE, O.C.

I, Alex Neve, of the City of Ottawa, in the Province of Ontario, MAKE OATH AND SAY:

Coalition

1. I swear this affidavit on behalf of the coalition of Amnesty International, Canadian Section, English Branch (“AI Canada”) and the International Network for Economic Social and Cultural Rights (“ESCR-Net”) (collectively, the “Coalition”). I am the Secretary General of AI Canada, and, as such, have knowledge of the matters contained in this affidavit. Where information in this affidavit has been provided by others, I believe that information to be true.

Amnesty International and ESCR-Net: The Organizations

2. Amnesty International (“AI”) is a worldwide voluntary movement that works to prevent some of the gravest violations to people’s fundamental human rights. AI is impartial and independent of any government, political persuasion or religious creed. AI Canada is a corporation incorporated under the *Canada Not-For-Profit Corporations Act*, SC 2009, c 23. A

selected summary of AI's human rights work in Canada and abroad is attached as Exhibit "A" to this affidavit.

3. ESCR-Net is a collaborative initiative of groups and individuals from around the world working to secure economic and social justice through human rights. ESCR-Net has worked extensively on issues related to the right to adequate housing and access to justice in cases of violations of economic, social and cultural rights. A non-comprehensive summary of ESCR-Net's work in these areas is attached as Exhibit "B".

4. The Coalition was granted intervener status in this case at both the Superior Court of Justice and the Court of Appeal for Ontario, and will seek leave to intervene if the appellants are granted leave to appeal to this Court. I have read the Court of Appeal decision released December 1, 2014.

Impact of Decision: The Coalition's Perspective

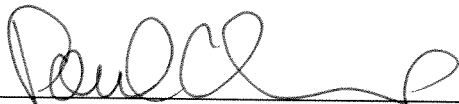
5. The issues raised by the decisions of the motions judge and the Court of Appeal are of immediate significance to the Coalition's human rights work. The proposed appeal raises issues with respect to Canada's compliance with its international human rights obligations, the justiciability of *Charter* claims linked to economic and social rights, and the role of international and comparative law in informing the interpretation of *Charter* guarantees to life, security of the person, and equality. Should leave to appeal be granted, the Coalition will seek to provide its unique perspective and expertise in international law to assist this Court in determining the justiciability of the claims raised by the appellants.

6. The decisions in this case will affect the Coalition's longstanding efforts to ensure (a) that Canadian courts interpret domestic law consistently with this country's obligations under international human rights law, and (b) that the rights of the most vulnerable in our society – to life, security of the person, and equal protection and benefit of the law – are protected and enforced by the courts. Both AI and ESCR-Net have worked extensively in these areas by monitoring, reporting, and participating in judicial, legislative and United Nations proceedings on Canada's compliance with international human rights, the role of domestic courts, and the application of international obligations to domestic laws.

Fundamental Issues

7. The Court of Appeal’s finding that an allegation of manifest non-compliance with international human rights obligations with respect to, *inter alia*, the rights to life and non-discrimination cannot be subject to a hearing on the evidence in Canadian courts under the *Charter* creates an unprecedented denial of access to justice. The United Nations Human Rights Committee has stated that positive measures to address homelessness, as sought by the appellants in this case, are required to comply with Canada’s international obligations to protect the right to life. If allowed to stand, the Court of Appeal’s decision would irrevocably sever the ongoing interpretation and application of the *Charter* from international human rights values, which are its historic foundation.

SWORN BEFORE ME at the City of
Ottawa, in the Province of Ontario on
January 26th, 2015

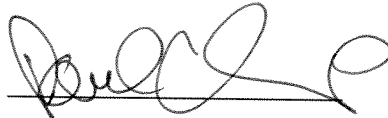


Commissioner for Taking Affidavits
(or as may be)



Alex Neve

Exhibit "A" referred to in the
affidavit of Alex Neve, sworn
before me this 26th day of January,
2015

A handwritten signature in black ink, appearing to be "Paul", written over a horizontal line.

A commissioner, etc.