Court of Appeal File No. COA-25-CV-0229
Court File Nos. CV-22-00-690649-0000; CV-24-00-714148-0000

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

SOPHIA MATIKO JOHN, IN HER PERSONAL CAPACITY AND AS LITIGATION GUARDIAN FOR HER MINOR CHILD, KELVIN; ANACRETUS MARINGO GIMANWA; ESTA GEORGE RANGE, IN HER PERSONAL CAPACITY AND AS LITIGATION GUARDIAN FOR HER MINOR CHILDREN JOSEPH, GODFREY, FILEMON AND REBEKA; ELIZABETH MATIKO IRONDO; NEEMA STEPHEN JOHN, IN HER PERSONAL CAPACITY AND AS LITIGATION GUARDIAN FOR HER MINOR CHILDREN JOHN, MIRIAM, ESTA AND TIMOTHY; MASWI MARWA MOHABE; DOTTO WILLIAM ITAMA, IN HER PERSONAL CAPACITY AND AS LITIGATION GUARDIAN FOR HER MINOR CHILD CHRISTINA; LYIMO ITAMA MACHELA; ITAMA MACHELA MAX; CHARLES DANIEL NYAKINA; BHOKE HAGALE MARO; DANIEL NYAKINA GHATI; DICKSON JULIUS SISE; SIBORA MARWA MWITA; EMMANUEL NYAKORENGA MBURI; RYOBA ELIAS KEBWE; PASCO MAREMBELA MWITA; NYAHELI MARWA NYAKORENGA; CHRISTOPHER JHOMU MAKENDE; RANGE MWITA RANGE; AND FREDY CHACHA WAMBURA LEMA

Plaintiffs (Appellants)

and

BARRICK GOLD CORPORATION

Defendant(Respondent)

AND BETWEEN:

ESTER NYANGI PETRO, IN HER PERSONAL CAPACITY AND AS LITIGATION GUARDIAN FOR HER MINOR CHILD LUCIA; LEONIDA RUBEN JOSHUA, IN HER PERSONAL CAPACITY AND AS LITIGATION GUARDIAN FOR HER MINOR CHILDREN MACHUGU, NEEMA, AND DANIEL; ABEL SAIMA MACHUGU NYAMARUNGU; CLEMENSIA PROTAS MARWA; MACHERA KIMIRA W ANKA; CHARLES IKAYA MGAYA; MAHERI MWITA NTORA; AND CHARLES MWITA MSETI

Plaintiffs (Appellants)

and

BARRICK GOLD CORPORATION

Defendant (Respondent)

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PART I: OVERVIEW

1. Human rights abuses associated with the activities of transnational corporations are recognized as a matter of significant global concern. Too often, victims of serious human rights abuses have encountered legal obstacles in their efforts to obtain justice and accountability. In cases where Canadian companies operating abroad are alleged to be responsible for human rights abuses, jurisdictional and forum rules must be balanced with access to justice and the fundamental human right to an effective remedy.

2. Amnesty International Canada intervenes on this appeal to bring to the Court's attention international law and standards that inform the doctrine of *forum non conveniens*. The right to an effective remedy at international law is a fundamental human right that must be given full consideration as a factor in the *forum non conveniens* analysis. Disadvantaged litigants pursuing justice against powerful transnational corporations should not be prevented from asserting claims in the jurisdiction where a corporation is domiciled. This is consistent with jurisprudence in the Supreme Court of Canada recognizing that "access to justice requires that jurisdictional rules be interpreted flexibly"[1] and claimants should be permitted to pursue their chosen remedy "directly and without procedural detours."[2]

3. Amnesty International Canada further submits that international standards and foreign jurisprudence support the view that parent companies owe a duty of care to individuals harmed by the activities of their subsidiaries. It is now well-established that, where some degree of control exists, particularly through enterprise-wide policies, transnational corporations have a duty to take care to ensure individuals are not subject to human rights violations by their subsidiaries.[3]

4. With respect, the Motions Judge was not sensitive in any way to these legal principles, dismissing them out of hand as "platitudes about human rights and corporate responsibility".[4]

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[1] *Newfoundland and Labrador (Attorney General) v Uashaunnuat (Innu of Uashat and of Mani-Utenam),* 2020 SCC 4 at para 50.
[2] *Canada (Attorney General) v TeleZone Inc.,* 2010 SCC 62 at para 19.
[3] *Lungowe v Vedanta Resources plc*, [2019] UKSC 20 at paras 51-53.
[4] *Matiko John v. Barrick Gold Corporation*, 2024 ONSC 6240 at para 169.

Amnesty International Canada submits that the Motions Judge failed to have proper regard for the developments in this area of the law, and that international law can assist this Honourable Court with properly situating the required legal analysis for transnational human rights claims.

PART II: FACTS

5. The Respondent is a Canadian-based "international gold mining giant", with 23,000 employees managing and operating mining projects in many countries around the world. This includes the North Mara Gold Mine (the "Mine") in Tanzania. The Respondent owns 84% of the Mine, with the Tanzanian government owning the balance. The Respondent and the Tanzanian government together also own a company that provides management services to the Mine.[5]

6. The Tanzanian companies owned by the Respondent contract with and pay the Tanzanian Police Force ("TPF") to provide security at the Mine. This includes paying for "equipment" for the Police Force. The agreements with the TPF were signed by directors who were specifically appointed by the Respondent to the corporate board of the Tanzanian company.[6]

7. The Respondent's CEO does not reside in Canada but has homes and alternately resides in a number of countries, including South Africa, the UK and the US. He visits the Mine in Tanzania a few times a year, as do other executives with the Respondent.[7]

8. The Appellants are claiming for abuses and killings of family members on Mine property by the TPF. As found by the Motions Judge, it is likely the family members were shot by the TPF on mine property, and there is no indication the killings were ever investigated by the authorities.[8]

PART III: STATEMENT OF ARGUMENT

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[5] *Matiko John v. Barrick Gold Corporation*, 2024 ONSC 6240 at para 4
[6] *Matiko John v. Barrick Gold Corporation*, 2024 ONSC 6240 at paras 7, 9 and 27
[7] *Matiko John v. Barrick Gold Corporation*, 2024 ONSC 6240 at paras 18 and 31
[8] *Matiko John v. Barrick Gold Corporation*, 2024 ONSC 6240 at paras 45 and 49

A. The Right to An Effective Remedy and Access to Transnational Justice

9. The Supreme Court of Canada has affirmed the principle that customary international law forms part of Canadian common law.[9] The common law should also be guided by and developed in accordance with Canada's international obligations and with relevant customary and conventional international norms.[10] Amnesty International Canada submits that the right to an effective remedy at international law takes into account the challenges faced by disadvantaged litigants in transnational claims against powerful corporations that routinely operate across jurisdictions. The right to an effective remedy and access to justice should inform the *forum non conveniens* analysis as a contextual factor.

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

10. The right to an effective remedy for human rights violations is a fundamental human right protected under international law. Pursuant to Article 2(3) of the *International Covenant on Civil and Political Rights* ("*ICCPR*"), Canada has an obligation to ensure that individuals whose human rights have been violated – including the rights to be free from torture and extra-judicial killings – will have access to an effective remedy.[11] Canada must also ensure that such persons are able to have their rights determined by a competent judicial, administrative or legislative authority.[12] As such, Canadian courts should develop the common law consistently with the right to an effective remedy for human rights abuses.[13]

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[9] *R. v. Hape,* 2007 SCC 26 at para 39; and *Nevsun Resources Ltd. v. Araya*, 2020 SCC 5 at paras 94-95.
[10] *R. v. Hape,* 2007 SCC 26, at para 39.
[11] *International Covenant on Civil and Political Rights*, 16 December 1966, Can. TS 1976 No. 47, entered into force 23 March 1976, accession by Canada 19 May 1976 ["*ICCPR*"], Article 2(3). See also UN Human Rights Committee, *General Comment No. 31, The nature of the general legal obligation imposed on States Parties to the Covenant*, 26 May 2004, CCPR/C/21/Rev.1/Add.13, para 15
[12] *ICCPR*, *ibid,* Articles 2(3), 7 and 8.
[13] *R v Hape*, 2007 SCC 26 at para 39 ("[T]he courts may look to prohibitive rules of customary international law to aid in the interpretation of Canadian law and the development of the common law."; *Ordon Estate v Grail*, 1998 CanLII 771 (SCC), [1998] 3 SCR 437 at paras 78-79 (international maritime law invoked to develop the common law). It should also be noted that the Supreme Court of Canada in *Hape* stressed at para 55 that treaties ratified by Canada are critical to interpreting *Charter* rights. If the

11. The UN Human Rights Committee ("HRC") – a body created under Part IV of the *ICCPR* to interpret provisions of the treaty and consider whether State parties are in compliance with the treaty[14] – has concluded that the obligations under Article 2 of the *ICCPR*, including the right to an effective remedy, are binding on the State Party as a whole and that all branches of government (executive, legislative and judicial) are in a position to engage the responsibility of the State Party. Therefore, this Court is in a position to engage Canada's responsibility and is at risk of putting Canada in breach of its obligation if it fails to consider the right to an effective remedy.[15] Expressing concern about impunity for serious human rights abuses, the HRC emphasized such remedies must be both accessible and effective (meaning they must "function effectively in practice"), and "should be appropriately adapted so as to take account of the special vulnerability of certain categories of person."[16]

(ii) The right to an effective remedy and transnational corporations

12. The right to an effective remedy applies whether human rights abuses are committed by state or non-state actors, such as transnational corporations and other business enterprises. UN treaty bodies have concluded that international human rights conventions oblige states to provide access to effective remedies to victims of human rights abuses committed abroad by corporations domiciled within their territory.[17] Importantly, UN treaty bodies have expressed concern that

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Charter is to be interpreted in line with Canada's international obligations, so too should the common law.

[14] *ICCPR*, *supra*, Part IV generally and Articles 41-42. The Supreme Court of Canada has referred to reports and general comments of the UN treaty bodies as important authorities for interpretation of relevant international law: see, e.g., *Suresh v. Canada (Minister of Citizenship and Immigration),* 2002 SCC 1 (CanLII), [2002] 1 SCR 3, at paras 66-67 and 73; *Sauvé v. Canada (Chief Electoral Officer),* 2002 SCC 68 (CanLII), [2002] 3 SCR 519 at para 133; *Divito v. Canada (Public Safety and Emergency Preparedness),* 2013 SCC 47 at paras 26-27; *Amaratunga v. Northwest Atlantic Fisheries Organization*, 2013 SCC 66 (CanLII), [2013] 3 SCR 866 at para 62; *Kazemi Estate v. Islamic Republic of Iran*, 2014 SCC 62 at paras 146-148; *Quebec (Attorney General) v. 9147-0732 Québec inc.,* 2020 SCC 32 at para 111; and *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Directrice de la protection de la jeunesse du CISSS A*, 2024 SCC 43 at paras 62-63.

[15] UN Human Rights Committee, *General Comment No. 31, The nature of the general legal obligation imposed on States Parties to the Covenant*, 26 May 2004, CCPR/C/21/Rev.1/Add.13, para 4

[16] UN Human Rights Committee, *General Comment 31, ibid*, para 15, 18 and 20, 15 and 20 for quotes.

[17] See e.g., UN Committee on Economic, Social, and Cultural Rights, *General Comment No 24 (2017): State obligations under the covenant in the context of business activities,* 10 August 2017, UN Doc E/C.12/GC/24 at paras 30-34, 40, 44 and 51 ["CESCR General Comment 24"].

Canada has not taken sufficient steps to comply with its obligation to ensure an effective remedy for victims who allege human rights abuses by Canadian companies operating abroad.[18]

13. The *United Nations Guiding Principles on Business and Human Rights* (the "*UN Guiding Principles*"), which were endorsed by the Human Rights Council in 2011 and have become the authoritative global standard for business and human rights, further confirm the requirement to ensure access to an effective remedy in cases where transnational corporations cause or contribute to human rights abuses. [19] The *UN Guiding Principles* were prepared by Professor John Ruggie, the Special Representative appointed by the UN Secretary General to study human rights and transnational corporations. The Special Representative relied heavily on consultations, surveys and submissions with and from states, corporations, business associations, and civil society organizations. Importantly, the Special Representative's mandate was not to create or set new norms or standards, but rather to elaborate and clarify widely accepted *existing standards.*[20] Notably, the Respondent Barrick Gold's Human Rights Policy refers to and maintains that the company will act in accordance with the *UN Guiding Principles.*[21]

14. The *UN Guiding Principles* emphasize that access to an effective remedy, particularly through judicial mechanisms, is an essential pillar in a transnational system aimed at preventing and redressing business-related human rights abuses.[22] There is a growing appreciation that this duty also applies with respect to foreign claimants where the state is in a position to influence the extraterritorial activity of companies domiciled within its jurisdiction.[23] The *UN Guiding Principles* recognize that states should "ensure that they do not erect barriers to prevent

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[18] UN Human Rights Committee, *Concluding Observations on the sixth periodic report of Canada,* 13 August 2015, UN Doc CCPR/C/CAN/CO/6 at para 6.
[19] Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, *Guiding Principles on Business and Human Rights*, UN Doc A/HRC/17/31 (March 21, 2011) ("Report of the Special Representative, *UN Guiding Principles*")
[20] Report of the Special Representative, *UN Guiding Principles*, *supra*, at p. 5, para. 14
[21] Barrick Human Rights Policy [Appeal Book and Compendium, Volume II, Tab 41, p. 388].
[22] Report of the Special Representative, *UN Guiding Principles*, *supra*, at pp 3-4.
[23] See, e.g., CESCR General Comment No. 24, *supra*, at para 30; and United Nations Committee on the Rights of the Child, *General Comment No. 16 (2016), State obligations regarding the impact of the business sector on children's rights*, U.N. Doc. CRC/C/GC/16, at paras 43-44.

legitimate cases from being brought before the courts".[24] The *UN Guiding Principles* highlight that many of these barriers are exacerbated by the imbalance of power between victims of human rights abuses and transnational corporations, particularly as it relates to financial resources, access to information and expertise.[25]

15. A *forum non conveniens* analysis that fails to take into account human rights considerations, including the right to an effective remedy, can represent a significant legal barrier that leads to many cases of alleged human rights abuses not being adjudicated on their merits. The UN Committee on Economic, Social and Cultural Rights – a committee of the UN Economic and Social Council created under Part IV of the *International Covenant on Economic Social and Cultural Rights* to interpret the treaty provisions and make recommendations for State compliance with the treaty[26] – has noted that the *forum non conveniens* doctrine may in effect constitute a barrier to the ability of victims residing in one State to seek redress before the courts of the State where the defendant business is domiciled.[27] It has expressed concern that in practice, claims are often dismissed under the doctrine in favour of another jurisdiction without necessarily ensuring that victims have access to effective remedies in that alternative jurisdiction. According to the Committee, "[t]he extent to which an effective remedy is available and realistic in the alternative jurisdiction should be an overriding consideration in judicial decisions relying on *forum non conveniens* considerations."[28]

16. These cases tend to pit individual plaintiffs of modest means against powerful multinational corporations that are able to deploy considerable resources in order to parry, extend, delay or displace proceedings, without ever having to offer a proper defence on the merits. Victims of human rights abuses may choose to sue the transnational corporation in its jurisdiction of domicile for numerous reasons, including assurances of greater access to information and discovery, juridical advantages, or obstacles to accessing justice in the country

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[24] Report of the Special Representative, *UN Guiding Principles*, *supra*, at p. 23, Commentary to Guiding Principle 26.
[25] Report of the Special Representative, *UN Guiding Principles*, *supra*, at pp. 28-30.
[26] *International Covenant on Economic Social and Cultural Rights*, 16 December 1966, entered into force 3 January 1976, accession by Canada 19 May 1976, Can. T.S. 1976 No. 46, Part IV generally and Articles 19, 21-22; and UN Economic and Social Council Resolution 1985/17 creating the CESCR
[27] CESCR, *General Comment 24*, *supra*, at para 43.
[28] CESCR, *General Comment 24*, *supra*, at para 44.

where the harm was inflicted. The right to an effective remedy should be determined with reference to the needs of rights holders seeking justice.

17. Transnational corporations like the Respondent have no difficulty moving between jurisdictions and easily have the resources to pursue business activities or defend litigation in many countries. That is simply not the case for individual claimants. Amnesty International Canada submits that the imbalance of power between victims of human rights abuses and transnational corporations is a significant contextual factor that must be considered in a justice-oriented approach to *forum non conveniens*.[29] Consistent with this approach, courts should only decline to exercise jurisdiction over a claim of human rights abuse made by a plaintiff against a corporation domiciled in that forum in exceptional circumstances. As the Supreme Court of Canada emphasized in *Club Resorts Ltd v Van Breda,* "the normal state of affairs is that jurisdiction should be exercised once it is properly assumed."[30]

(iii) Access to justice and the right to a remedy as fundamental principles of law

18. The Supreme Court of Canada has increasingly recognized the significance of access to justice in our legal system, and its importance to the rule of law. As Justice Karakatsanis asserted in *Hryniak*, "Without an effective and accessible means of enforcing rights, the rule of law is threatened."[31]

19. In other cases, the Supreme Court of Canada has upheld access to justice as a fundamental value and interpretive principle in the Canadian legal system. The Supreme Court has stressed that jurisdictional rules should be interpreted flexibly to ensure they do not interfere with an individual's access to a forum to hear their dispute. In *Telezone*, Justice Binnie commented that "[a]ccess to justice requires that the claimant be permitted to pursue its chosen remedy directly and, to the greatest extent possible, without procedural detours."[32] More recently

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[29] *Club Resorts Ltd v Van Breda*, 2012 SCC 17, [2012] 1 SCR 572 at para 110, where the Court emphasizes that "the factors that a court may consider in deciding whether to apply *forum non conveniens* may vary depending on the context."
[30] *Club Resorts Ltd v Van Breda*, 2012 SCC 17 at para 109
[31] *Hryniak v Mauldin,* 2014 SCC 7 at para 1
[32] *Canada (Attorney General) v TeleZone Inc.,* 2010 SCC 62 at para 19

in the context of Aboriginal rights, Chief Justice Wagner and Justices Abella and Karakatsanis held in *Uashaunnuat* that "access to justice requires that jurisdictional rules be interpreted flexibly".[33]

20. Finally, the interests of justice and fairness to the parties are at the heart of the *forum non conveniens* analysis.[34] There is little injustice to a transnational corporation being required to defend its own actions in its home jurisdiction.

B. Liability of Parent Company for Human Rights Abuses by Subsidiaries

21. The Motions Judge did not appear to accept that a parent company could be liable for the activities of a subsidiary unless there was somehow direct control. However, the jurisprudence on the duty of care of parent companies has developed beyond that. The U.K. Supreme Court in *Vedanta Resources* recently reviewed the jurisprudence and affirmed that there is a wide range of models of management, influence and control of parent companies over subsidiaries, from passive investment at one end to complete vertical integration of a corporate enterprise, where individual legal personalities are irrelevant. A duty of care and liability can fall in between those extremes and can encompass circumstances where a parent has put out group-wide policies and provided "relevant advice to the subsidiary about how it should manage a particular risk."[35]

22. The UK Supreme Court has further held that liability may be found with the parent company where there is no control at all, provided the parent company holds itself out through its policies as monitoring the operations of the subsidiary:

> … the parent may incur the relevant responsibility to third parties if, in published materials, it holds itself out as exercising that degree of supervision and control of its subsidiaries, even if it does not in fact do so. In such circumstances its very omission may constitute the abdication of a responsibility which it has publicly undertaken.[36]

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[33] *Newfoundland and Labrador (Attorney General) v Uashaunnuat (Innu of Uashat and of Mani-Utenam),* 2020 SCC 4 at para 50
[34] *Club Resorts Ltd v Van Breda*, 2012 SCC 17 at para 107; *Newfoundland and Labrador (Attorney General) v Uashaunnuat (Innu of Uashat and of Mani-Utenam),* 2020 SCC 4 at para 68
[35] *Lungowe v Vedanta Resources plc*, [2019] UKSC 20 at paras 51-53, 52 for quote
[36] *Lungowe v Vedanta Resources plc*, [2019] UKSC 20 at para 53; 51-53

23. The Supreme Court of Canada has observed that foreign jurisprudence can be instructive for Canadian courts. While not binding, it can have persuasive significance. For example, it can show how alternative approaches can address complex or new issues of law and demonstrate that other jurisdictions have implemented legal changes without repercussions.[37]

24. Tort law plays an important role in regulating the conduct of Canadian corporations, and there is no principled reason why activities that adversely impact individuals abroad should be exempt. Canadian society has a strong interest in ensuring that Canadian corporations respect human rights, wherever they may operate and whatever business structure they may put in place to advance their operations. This reflects the interest all Canadians share in ensuring that victims of gross human rights abuses have an effective and meaningful avenue to seek justice and accountability.

25. The human rights implications of transnational corporate activity have been a subject of global concern for decades, and a range of voluntary codes of conduct have been developed over the years with the full participation of corporations to address this risk. They include the *Voluntary Principles on Security and Human Rights*,[38] the *United Nations Guiding Principles on Business and Human Rights*[39] and the *OECD Guidelines for Multinational Enterprises*. Notably, the Respondent Barrick Gold's Human Rights Policy refers to and maintains that the company will act in accordance with the *UN Guiding Principles*, the *Voluntary Principles* and the *OECD*

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[37] *R. v. Kirkpatrick*, 2022 SCC 33 at paras 250-251; and *Dayco (Canada) Ltd. v. CAW-Canada,* 1993 CanLII 144 (SCC), [1993] 2 SCR 230 at 281

[38] *Voluntary Principles on Security and Human Rights*. The Voluntary Principles were first adopted in December 2000.

[39] Report of the Special Representative, *UN Guiding Principles*, *supra*

Guidelines.[40] The Respondent's annual reports also repeatedly refer to these documents, [41] as does the Memorandum of Understanding with the Tanzanian Police. [42]

26. The *UN Guiding Principles* are the authoritative standard and emphasize that businesses operating in some environments and contexts are at a heightened risk of becoming complicit in egregious violations of human rights.[43] For this reason, businesses are required to carry out "human rights due diligence". In the Commentary for Principle 23, the Guidelines say,

> Some operating environments, such as conflict-affected areas, may increase the risks of enterprises being complicit in gross human rights abuses committed by other actors (security forces, for example). Business enterprises should treat this risk as a legal compliance issue, given the expanding web of potential corporate legal liability arising from extraterritorial civil claims…[44]

27. In environments where there is a risk of violence, one of the main concerns relate to security forces operating at business sites. These risks are particularly acute in the extractive sector. The *Voluntary Principles on Security and Human Rights* elaborate norms for corporate conduct in the extractive industry when engaging public and private security forces to protect business interests in areas with a potential for violence or conflict. These Principles call for a risk assessment of the human rights impacts of security forces, as well as requiring corporations to take action to screen and train security personnel and establish clear parameters on the use of force by security forces.[45]

28. The *UN Guiding Principles* also make clear that business enterprises bear the responsibility to respect all human rights wherever they operate.[46] This responsibility to respect

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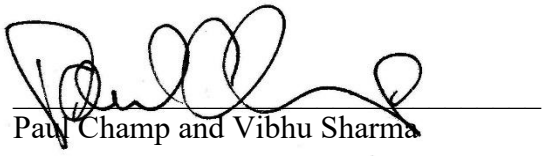
[40] Barrick Human Rights Policy [Appeal Book and Compendium, Volume II, pp. 388]
[41] Barrick Annual Report 2020 [ABC, Vol. I, p. 229]; Barrick Annual Report 2022 [ABC, Vol I, p. 225]; and Barrick Annual Information Form 2022 [ABC, Vol I, p. 233]
[42] Memorandum of Understanding with Tanzania Police Force, sections (G)(iii), (J), (N)(ii), (P)(v)-(vi), (Q), 2.2, 7(a(ii) and (vii), 7(b)(i), 11(c), and Schedules C and D [Appeal Book and Compendium, Volume II, pp. 429-434 and 439-441]
[43] Report of the Special Representative, *UN Guiding Principles*, *supra*, pp. 16-17 and p. 21, Principles 17 and 23 Commentaries
[44] Report of the Special Representative, *UN Guiding Principles*, *supra*, p. 21, Principle 23
[45] *Voluntary Principles on Security and Human Rights*
[46] Report of the Special Representative, *UN Guiding Principles*, *supra*, p. 13, Principle 11

human rights requires business enterprises to avoid causing or contributing to adverse human rights impacts through their own activities, and seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations or services by their business relationships.[47] The *UN Guiding Principles* confirm that business enterprises are also bound to respect the right to an effective remedy. As such, where businesses identify that they may have caused or contributed to human rights abuses they should cooperate in "legitimate processes".[48] Notably, the Respondent Barrick Gold has publicized the fact that it adheres to the *Voluntary Principles* and the *UN Guiding Principles* as a guide to their own corporate conduct.[49]

29. The Canadian government has also endorsed the main relevant standards, including the *UN Guiding Principles on Business and Human Rights* and the *Voluntary Principles on Security and Human Rights*.[50] Canadian courts should follow, recognize and avoid undermining Canada's commitment to these principles of business conduct.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 3rd day of November, 2025.



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[47] Report of the Special Representative, *UN Guiding Principles*, *supra*, p. 14, Principle 13.

[48] Report of the Special Representative, *UN Guiding Principles*, *supra*, pp. 13-14 and 20-21, Principles, Principles 12 and 22.

[49] Barrick Annual Report 2020 [ABC, Vol. I, p. 229]; Barrick Annual Report 2022 [ABC, Vol I, p. 225]; Barrick Annual Information Form 2022 [ABC, Vol I, p. 233]; and Barrick Press Release dated December 10, 2021 [ABC, Vol I, p. 247]

[50] *Voluntary Principles on Security and Human Rights*, Our Members/Governments

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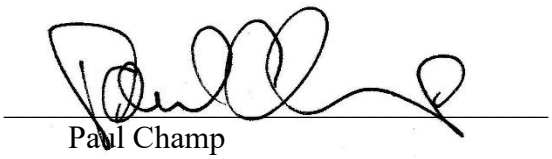
SOLICITOR'S CERTIFICATE

I, Paul Champ, solicitor for the Appellant, certify that I am satisfied as to the authenticity of every authority listed in Schedule A.

November 3, 2025



Paul Champ

SCHEDULE A – LIST OF AUTHORITIES

Jurisprudence

Amaratunga v. Northwest Atlantic Fisheries Organization, 2013 SCC 66 (CanLII), [2013] 3 SCR 866

Canada (Attorney General) v TeleZone Inc., 2010 SCC 62

Club Resorts Ltd v Van Breda, 2012 SCC 17, [2012] 1 SCR 572

Dayco (Canada) Ltd. v. CAW-Canada, 1993 CanLII 144 (SCC), [1993] 2 SCR 230

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Lungowe v Vedanta Resources plc, [2019] UKSC 20

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Ordon Estate v Grail, 1998 CanLII 771 (SCC), [1998] 3 SCR 437

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SCHEDULE B – LEGISLATION

N/A

Court File Number: COA-25-CV-0229

SOPHIA MATIKO JOHN et al
Plaintiffs (Appellants)

-and-

BARRICK GOLD CORPORATION
Defendant (Respondent)

COURT OF APPEAL
FOR ONTARIO

MOVING PARTY'S MOTION RECORD

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