



Biennial Report

2015-2016

“CCIJ envisions a world where human rights violators are held accountable and survivors of atrocities find healing through justice. CCIJ supports and assists people seeking justice for serious human rights violations and engages with Canadians through education and awareness programming”

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Message from the Board of Directors

The last two years at CCIJ have been both gratifying and challenging. On the litigation front, we had mixed results. In 2015, a Chambers judge granted a stay of proceedings to Canadian company Tahoe Resources on a forum non conveniens motion in proceedings for alleged human rights violations in Guatemala. (The decision has been appealed to the British Columbia Court of Appeal.) However, this loss was offset by an important win in October 2016 before the British Columbia Supreme Court in the Nevsun case, granting the right to hear a case involving forced conscription in Eritrea.

Through these cases, CCIJ is working to clarify the jurisdiction of Canadian courts for legal cases involving human rights violations allegedly connected to the overseas operations of Canadian companies. CCIJ's involvement in both cases underscores the importance of sustaining the slow but steady fight against impunity.

Our education division, the Philippe Kirsch Institute has welcomed new faculty members. Programming is now more closely aligned with CCIJ's overall mission. Including a focus on transnational justice, business and human rights, and international criminal law. This enhances CCIJ's overall mission and its strategic value-added for legal practitioners who work

in these specialized areas, as well as those who seek a broader understanding of how international and transnational justice may affect their practice.

We are a small organization that has long punched above its weight because of the quality and dedication of our staff and board members. This period has been one of considerable change. Jayne Stoyles, a CCIJ co-founder and our first Executive Director, moved on to Amnesty International Canada as Executive Director, but has remained in the CCIJ family, helping to ensure that our team has the benefit of continuity and her insights. Amanda Ghahremani, our former articling fellow, stayed with CCIJ to assume leadership roles in both PKI and CCIJ.

The Board of Directors is very grateful to Ms. Ghahremani, as well as to our Legal Director Matt Eisenbrandt and our Finance Director Roger Coady, for their collaborative work, intense commitment and sacrifice during this period of transition. CCIJ's mandate in support of international justice and the fight against impunity is more relevant and more compelling than ever before. We very much hope that you will join us in supporting the work of this exceptional organization.

Sharry Aiken, Co-Chair

Pearl Eliadis Co-Chair

Alex Neve, Outgoing Chair

In 2015-2016, CCIJ provided crucial legal assistance to survivors of grave international human rights violations in cases where the victim, survivor, or perpetrator was connected to Canada. This work involves violations that occurred in over a dozen countries and included legal research, drafting, and investigations for cases at the international, transnational and domestic levels. CCIJ worked closely with local and international partners, including *pro bono* counsel and, in some cases, Canadian authorities. All throughout, CCIJ's approach has continued to be client-centered and focused on the pursuit of healing through justice.

Our Casework

Roy Samathanam (Ontario - Sri Lanka)

CCIJ continued its advocacy work with Roy Samathanam, a Tamil-Canadian who was detained and tortured by the Sri Lankan Terrorist Investigation Division in 2007. In November 2016, three years after CCIJ helped Roy file a complaint with the United Nations Human Rights Committee, it was concluded that Sri Lanka had violated Roy's rights; the Committee ordered the Sri Lankan government to provide him with effective remedies for his arbitrary and inhumane detention and torture. The deadline set by the Committee for

Sri Lanka to comply with its decision will expire on 13 May 2017. CCIJ had yet to receive a response from the Sri Lankan government on the matter.

Despite Sri Lanka's refusal to compensate Roy, the Committee's decision is a positive step towards holding state officials in Sri Lanka accountable for torture and other grave human rights violations. CCIJ continues to advocate for Roy's rights through both legal and diplomatic channels.

Mamadou Seye (Quebec - Mauritania)

Mamadou Seye is seeking justice for the disappearance of his father, Papa Seye, in Mauritania. CCIJ assisted Mamadou in filing a communication before the African Commission on Human and Peoples' Rights in April 2015. The communication

alleges that the government of Mauritania is responsible for several violations of Papa Seye's rights and the rights of the Seye family under the African Charter on Human and Peoples' Rights and in customary international law. The Commission

informed Mamadou and CCIJ that it seized itself of the communication. This important first step will lead to a decision on admissibility in a future session (this process typically takes several years). This case is emblematic of the systemic racism and abuse faced by Mauritania's various black ethnic groups. In 1986, the government began a campaign of violent

repression against black Mauritians, which included widespread forced disappearances. Since Canada is home to one of the largest Mauritanian communities in the western hemisphere, CCIJ's work with Mamadou has the potential to engage and involve the Canadian Mauritanian community, particularly those members who are racialized.

Our Casework

Pascal Kabungulu (Quebec - Mauritania)

Pascal Kabungulu, a prominent human rights defender in the Democratic Republic of the Congo, was brutally murdered in 2005. As the official Commission of Inquiry into Pascal's death had been dropped and all domestic avenues for justice were blocked, his wife, Déborah Kitumaini and her children filed a communication before the UN Human Rights Committee on February 8, 2016 with the help of CCIJ and the Switzerland-based NGO called TRIAL International.

community to ensure that justice is finally rendered for Pascal Kabungulu's murder



Déborah Kitumaini Kasiba (far right) and her children.

In anticipation of the Human Rights Committee's decision on this case, CCIJ continues to support Déborah in both legal and advocacy related activities. Along with other prominent international human rights organizations, CCIJ has called upon the Congolese authorities and the international

and to take all measures necessary to protect human rights defenders in the DRC. CCIJ is using multimedia and photography to increase public awareness online as an emblematic case of grave violations against human rights defenders in the DRC.

Our Casework

Tahoe Resources (British Columbia – Guatemala)

CCIJ continued its partnership with the Vancouver law firm, Camp Fiorante Matthews Mogerman LLP (CFM) in groundbreaking litigation against Tahoe Resources Inc., a Canadian mining company. In the Tahoe case, several Guatemalan men had filed a civil lawsuit in a Vancouver court for injuries suffered when the mine's security personnel opened fire on them at close range. The men allege that Tahoe is legally responsible for the violence inflicted on them as they peacefully protested against the mine.

The lawsuit before the B.C. Supreme Court was initially dismissed in November 2015 on the basis that Guatemala was the more convenient forum. As a member of the legal team, CCIJ assisted CFM on the appeal. One of the plaintiffs, Adolfo García, and his Guatemalan lawyer, Rafael Maldonado, were present at the appeal hearing thanks in part to CCIJ's support. Our team argued that the evidence showed a real risk that the plaintiffs could not receive a fair trial in Guatemala. An important factor was that the mine's chief of security, who had been charged criminally for the shooting, was allowed to escape house arrest in Guatemala and flee to Peru. The B.C. Court of Appeal allowed this crucial information to be submitted as fresh evidence on the appeal.



CCIJ Legal Director Matt Eisenbrandt, plaintiff Adolfo García and Legal Director of Centro de Acción Legal Ambiental y Social de Guatemala, Rafael Maldonado, on their way to the *Tahoe* appeal hearing in Vancouver.

Our Casework

Nevsun Resources (British Columbia – Eritrea)

CCIJ again partnered with CFM, as well as Ontario law firm Siskinds LLP and Toronto lawyer James Yap, in a ground-breaking lawsuit against Nevsun Resources Inc., a Canadian mining company based in Vancouver.

Since 2014, CCIJ has contributed to the legal team with specialized legal expertise on international law and corporate accountability, and assisted with investigations and media communications.

In this case, dozens of Eritreans allege that they were slave labourers forced to work at Nevsun's Bisha mine under abhorrent conditions and threats of violence.

In October 2016, the BC Supreme Court dismissed several motions by Nevsun, allowing the case to move towards trial in British Columbia. This crucial decision marks the first time that a mass tort claim for modern slavery will go forward in a Canadian court. It is also one of the first



human rights lawsuits in Canada to assert claims based directly on international law norms. The Nevsun and Tahoe cases are the first lawsuits allowed going forward in BC for alleged abuses in mining companies' overseas operations.

Other Cases

For confidentiality reasons, CCIJ cannot share information on several of its ongoing cases. However in 2016, CCIJ supported approximately 90 survivors and their families in legal, social, psychological, and advocacy related matters.

Our Casework

Strategic Legal Interventions

CCIJ Intervention at the Supreme Court of Canada in the Chevron case (Ecuador)

The *Chevron* case is a decades-long struggle by members of Ecuadorian communities seeking to enforce in Canadian courts a US \$9.5 billion Ecuadorian judgment against Chevron Corporation for environmental damage. The plaintiffs argue that the judgment can be enforced in Canada. CCIJ, in partnership with Mining Watch Canada and the International Human Rights Program (IHRP) of the University of Toronto's Faculty of Law, intervened pro bono in the *Chevron* case, before the Supreme Court of Canada.

CCIJ argued that additional barriers should not be imposed on Canadian recognition of these kinds of judgments and that there is uncertainty around the issue of "piercing the corporate veil."

Defendants often argue in such cases that, as parent companies, they are separate legal entities that cannot be held responsible for the acts of subsidiaries.

In September 2015, the Supreme Court of Canada issued its judgment, agreeing that the plaintiffs could attempt to enforce their judgment in Canada.

CCIJ and IHRP monitored a four-day hearing in September 2016 before Mr. Justice Hailey of the Ontario Superior.

Court Summaries of the hearing are available on the CCIJ website.

Other Support for Survivors

As part of its holistic approach to healing through justice, CCIJ continued to provide emotional and practical support to its clients through referral services to health professionals and social services, including torture treatment programs. CCIJ's work often includes family members of survivors. We also assist clients in accessing non-legal services, securing pro bono counsel

for issues such as immigration and issues such as immigration and family law, filing Access to Information requests, conducting media and outreach activities, and supporting clients on personal projects, such as the drafting of memoirs and the development of public awareness campaigns.

CCIJ Articling Fellows

Thanks to CCIJ's designation as a Host Organization for the the Law Foundation

of Ontario's Public Interest Articling Fellowships Program (PIAF), CCIJ

Legal Training, Capacity Building & Education

welcomed an Articling Fellow for both 2015 and 2016.

During their articling periods, Fellows

acquired first-hand experience on CCIJ files, interacted with CCIJ clients, and actively partook in all aspects of CCIJ's mandate.

The Philippe Kirsch Institute

The last two years were very exciting for the Philippe Kirsch Institute (PKI), CCIJ's educational division. A strategic decision to align PKI's programming closely with CCIJ's mission has led us to focus on: **International Criminal Law, National Security Law, Business & Human Rights Law, Diversity in the Legal Profession, and International Law** more broadly. These five categories correspond with the areas of most interest from our PKI audience (both for video programming and in-person seminars). We continue to be inspired by the feedback about the quality of PKI's Faculty, unique areas of programming, and socially-conscious business model. The following are highlights of the past two years.

New affiliates, fellows and appointments

We were delighted to add three new affiliates to our list of sponsors: Lenczner Slaght in Toronto, Irving Mitchell Kalichman in Montreal, and Lexop in Montreal. Participation in PKI's activities by leading practitioners in law has recently increased and we saw approximately 120 lawyers attend our various seminars and events.

Three lawyers have joined PKI's team as new Fellows, with a total of seven Fellows assisting PKI in the conceptualization of our legal programming. New appointments to our Faculty have also been secured and there has been increasing interest by lawyers to provide guest lectures to our audiences.

ICL Certificate Program Launch in 2015

In October 2015, PKI began offering Canada's first online International Criminal

Law (ICL) Certificate program. The ICL program is taught by experts in the field of

Legal Training, Capacity Building & Education

ICL, including professors, government lawyers, former advisers to the Canadian government and to the United Nations, and counsel in war crimes cases. Lawyers from the Department of Justice have been among the largest supporters of and participants in our quality ICL lectures. Registrants who

complete the ICL program receive a Certificate of Accomplishment reviewed and signed by the former President of the International Criminal Court, Philippe Kirsch and Jayne Stoyles, co-founder of CCIJ and Executive Director of Amnesty International.

Expert Seminars

In the fall of 2016, PKI offered six Expert Seminars. Experienced practitioners discussed recurring and emerging issues related to international law. The seminars were held in Toronto and Ottawa, in partnership with experts from the University of Cambridge, University of Toronto and University of Western Ontario, as well as leading Canadian law firms such as Borden Ladner Gervais, Lenczner Slaght, and Osler, Hoskin & Harcourt. These seminars proved to be highly successful and attracted lawyers, students, and legal academics, with 120 participants in total.

PKI held its first Expert Seminar in May 2016 at the Borden Ladner Gervais offices in

Ottawa. The session on National Security was co-chaired by John Norris and François Dadour, Special Advocates for Security Certificate proceedings. The seminar included insightful and lively discussions about disruption warrants, recognizances to prevent terrorist activity, and the new privilege claims.

Workshop on Globalization & Criminal Law: In 2016, PKI held a workshop on Globalisation and International Criminal Law at McGill's Law Faculty, designed to spark debate and enable participants to interact and share thoughts with leading experts.

Partnership Grant Award with SSHRC

CCIJ is a partner institution in a five-year \$2.5 million Social Sciences and Humanities Research Council (SSHRC) partnership grant awarded in 2016. The project involves

leading academics and practitioners in the field of International Criminal Law working in both official languages across the country.

Networks & Partner- ships

The partnership connects research and practice to strengthen justice for international crimes. It also engages a large network of students in the work of CCIJ and other partnering institutions, as well as the

CCIJ continued to count on the invaluable support of legal professionals, students, volunteers and several organizations in assisting our clients and promoting international justice in Canada. During the 2015-2016 time frames, CCIJ's network of contributors included:

- Pro bono lawyers – whose time, effort, and dedication contributed to breakthroughs in our work.
- Articling Fellows – whose direct engagement in CCIJ and support for PKI have been central to CCIJ.
- Law students & volunteers – whose invaluable contributions have ranged from legal research to event organization, and are a critical part of our broader objectives of providing meaningful opportunities to future legal practitioners and to members of the community.
- A research team – the Clinique juridique de droit international penal de l'Université Laval, assisted CCIJ with addressing complex transnational legal issues in CCIJ's cases against corporations operating abroad.
- The International Federation for Human

International Criminal Court Legal Tools project. More information about the activities, events and research being made possible through the grant can be found on the partnership website: www.cpij-pciji.ca

Rights (FIDH) – sister organizations – which share our vision to end impunity for grave human rights violations. CCIJ has been a member FIDH since 2016.

- CCIJ's other partners include: Guatemalan Centre for Legal, Environmental and Social Action (CALAS); TRIAL International; Open Society Justice Initiative; MiningWatch Canada; Justice and Corporate Accountability Project (JCAP); University of Toronto International Human Rights Program; Network in Solidarity with the People of Guatemala (NISGUA); Breaking the Silence, and Conflict Awareness Project.
- Strategic partners, including Amnesty International, Above Ground, EarthRights International, and the NGOs and academics involved in the Canadian Network on Corporate Accountability (CNCA).
- Human Rights Defenders, such as Rafael Maldonado of the Centro de Acción Legal Ambiental y Social de Guatemala (CALAS), whose courageous work in Guatemala is an inspiration to all professionals in this field.

- London-based NGO Human Rights Concern Eritrea, which has collaborated closely with the legal team representing plaintiffs in their lawsuit against Nevsun Resources, of which CCIJ is a member.
- Member and affiliate law firms and organisations, which support CCIJ's educational division, the Kirsch Institute.

Opportunities for justice online tool

CCIJ launched the **Opportunities for Justice** online tool to support victims of human rights abuses and to help them seek justice in legal and other ways. Victims can now assess their opportunities for justice by

filling out a brief online questionnaire, and they now have access to a multitude of information on human-rights and justice-based institutions in Canada and abroad.

#FreeHoma Campaign

CCIJ's Amanda Ghahremani spearheaded an international campaign under the auspices of CCIJ, to release Concordia University professor Homa Hoodfar from the notorious Evin prison in Iran.

Evin prison is the same facility where Canadian-Iranian photojournalist Zahra Kazemi was detained and where she was tortured to death in 2003. CCIJ is very proud of Ms. Ghahremani's work and

leadership in coordinating the campaign and speaking out against the human rights violations that were experienced by Professor Hoodfar. Ms. Ghahremani helped to bring the case to the attention of Canadians across the country, and to the international community. The CCIJ family was thrilled that in September 2016, Professor Hoodfar was released after 112 days in prison.

Public interventions

CCIJ's staff members were engaged in a number of public interventions as part of their ongoing, passionate advocacy for international justice in Canada and from Canada.

- Jayne Stoyles co-hosted a special talk by former US Ambassador for War Crimes, Stephen J. Rapp, on why

Canada needs an international justice ambassador.

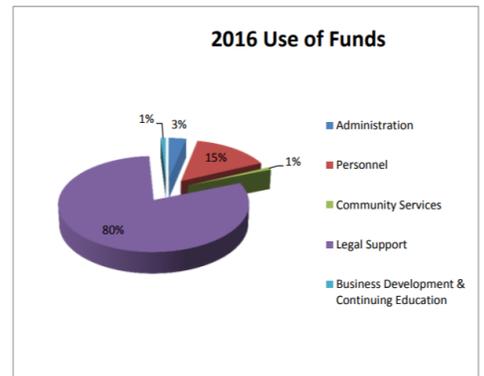
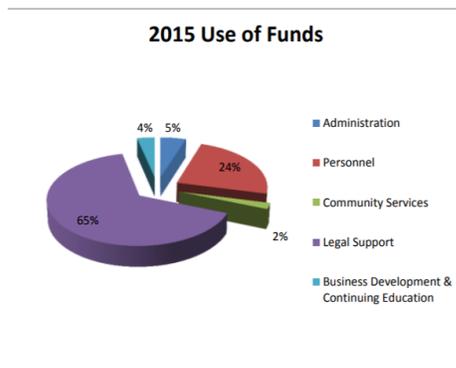
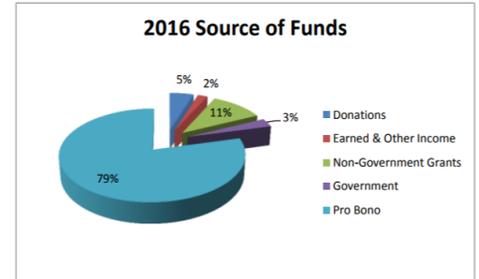
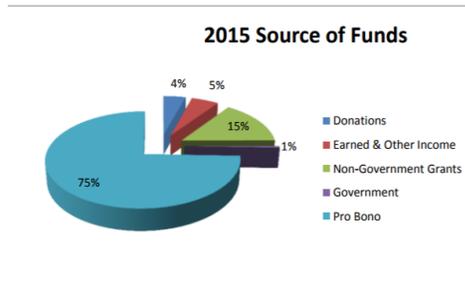
- Matt Eisenbrandt represented CCIJ at the FIDH Congress in Johannesburg.
- Amanda Ghahremani presented at the Amnistie Internationale Canada Francophone Youth Conference
- Matt Eisenbrandt participated in a workshop hosted by MiningWatch

Financial information

Canada and Red Mexicana de Afectados por la Minería concerning communities affected by Canadian

mining in Mexico.

- o CCIJ conducted numerous media interviews on our cases.



CCIJ is immensely grateful to our generous donors, without whom our work would not be possible. Their contributions have enabled individual quests for international justice and catalysed systemic change, often against considerable financial, political, and legal odds.

Acknowledgements and Thanks

Amnesty International Canada

Bealight Foundation

Canadian Bar Association

Freedom Fund

Inter Pares

Halifax Initiative

The Charles Johnson Charitable Fund

Law Foundation of Ontario

Lawson Family Foundation

Ottawa Community Loan Fund

Somerset Foundation

Steelworkers Humanity Fund

Social Sciences and Humanities Research Fund

TIDES Foundation

United Nations Voluntary Fund for Victims of Torture

Acknowledgements and thanks

Law Firms

We are also grateful to the law firms that have made invaluable contributions to our work during this period; their commitment to international justice and the rule of law sets an example to the legal profession.

Bennett Jones LLP

Bordon Ladner Gervais LLP

Camp Fiorante Matthews Mogerman LLP

Champ and Associates

Irving Mitchell Kalichman LLP

Klippensteins LLP

Lenczner Slaght LLP

Little Canada LLP

Osler, Hoskin & Harcourt LLP

Siskinds LLP

Torys LLP



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