

January 2, 2014

Memorandum: UK Funding for UN Complaint against Canada

Summary

According to documents obtained by NGO Monitor¹ from the UK Foreign and Commonwealth Office, **the UK financed a complaint against Canada at the UN Human Rights Committee, impugning the Canadian justice system.**

The complaint was part of a Norwegian Refugee Council (NRC) project titled “Information, Counseling and Legal Assistance for Internally Displaced Persons and Persons/Communities Affected by Displacement in the Occupied Palestinian Territories.”

Between January 2011 and March 2013, the UK’s Department for International Development (DFID) transferred £3 million to this project. An unknown amount was used for the complaint.

This project appears to be part of a broader political warfare strategy (“lawfare”) that exploits legal frameworks to target Israel and its allies, initiated by non-governmental organizations (NGOs) at the 2001 UN Durban Conference.

To the best of our knowledge, senior officials from the UK government are unaware that UK funds were used to exploit the UN Human Rights Committee, target the Canadian government, and impugn the Canadian legal system.

The Complaint

The UN Human Rights Committee is the body established to monitor state compliance with the International Covenant on Civil Political Rights (ICCPR). Under the First Protocol of the ICCPR treaty, the Human Rights Committee is allowed to “receive and consider” complaints from individuals claiming to be victims of violations of the Covenant.

Having lost repeatedly in Canadian courts (see below), in February 2013 lawyers for the Palestinian Village of Bil’in filed a [complaint against Canada](#) at the UN Human Rights Committee. The complainants allege that because the Canadian courts did not rule in their favor, “Canada violated its extra-territorial obligation to ensure respect for Articles 2, 7, 12, 17 and 27 of the International Covenant on Civil and Political Rights.”

According to the complaint, there is a

“structural and systemic problem in the Canadian judicial system whereby victims of violations of the extra-territorial obligation to ensure Covenant rights lack effective remedies. Consequently, the Human Rights Committee should find that Canada has violated its extra-territorial obligation under the International Covenant on Civil and Political Rights...” (emphasis added)

¹ NGO Monitor (www.ngo-monitor.org) is a Jerusalem-based research institute, promoting critical debate and accountability regarding the political activities of non-governmental organizations (NGOs) that are active in the Arab-Israel conflict.

Funding

The funds for this complaint originated with the British government.

1. **The British government, through the Department for International Development, transferred £3 million to the Norwegian Refugee Council** “to provide legal assistance and counseling for internally displaced persons/communities and persons/communities at risk of displacement.” The goal of this project was “the prevention/reduction of displacement” and “Improved access to justice in the OPTs (West Bank, Including East Jerusalem and Gaza) for (a) refugees, IDPs and persons/communities at risk of displacement or affected by displacement; and (b) persons who have had their homes destroyed.” ■

2. A [Project Completion Review from May 2013](#), obtained by NGO Monitor from the British government, describes the activities undertaken by the Norwegian Refugee Council (NRC) as part of this project. One of the desired outcomes was “Preventative Legal Response: Increased protection of Palestinians...through a longer-term preventative legal response.” The Review lists “**NRC Public Interest Cases using Israeli legal system and/or international mechanisms,**” including “**One international case lodged, namely complaint to UN Human Rights Committee in Bil’in case.**” Although not mentioned in the Review, the complaint to the UN Human Rights Committee was against the government of Canada, not Israel.

3. The evidence suggests that **Norwegian Refugee Council paid Minnesota-based consultant Global Initiative for Economic, Social and Cultural Rights to write and file the complaint.** The URL of the complaint, <http://globalinitiative-escr.org/wp-content/uploads/2013/03/130228-NRC-Individual-Complaint-ICCPR-Canada-ETOs-FINAL.pdf>, highlights the collaboration between these two organizations.²

Background: Canadian Court Case

For the past decade, NGOs have exploited legal frameworks in Canada to advance their anti-Israel campaigns. These legal attacks (“lawfare”) are part of a broader strategy of political warfare developed at the 2001 UN Durban Conference.³ NGOs have tried to cancel the charitable status of Magen David Adom (Israeli Red Cross) and to bring criminal charges against Israeli officials for “war crimes.”

As part of the broader campaign, in 2008, the Village of Bil’in (West Bank), Palestinian NGO “Al Haq,” and Israeli attorney Michael Sfard (connected to a number of radical political advocacy NGOs) brought a civil case in Quebec against three Canadian companies, charging them with aiding and abetting alleged Israeli “war crimes.” The companies were alleged to have been involved with construction of homes near Bil’in. The case was brought in Canada even though the Village had filed more than six lawsuits in Israel on the same issues (in some of which it achieved a favorable result).

2 In 2012, the Global Initiative for Economic, Social and Cultural Rights [received](#) \$5,850 from NRC. It is unknown if this grant was for the complaint against Canada.

3 Anne Herzberg, “NGO ‘Lawfare’: Exploitation of Courts in the Arab-Israeli Conflict,” NGO Monitor Monograph Series (2008, 2d ed. 2010)

Based on statements made by Sfard in an [Al Jazeera documentary](#), although they initiated many lawsuits in Israeli courts, the Village and its NGO partners also filed in Canada to expand the controversy internationally and to generate anti-Israel publicity. According to an Al Haq researcher, the NGO originally envisioned filing a criminal suit in Canada, but did not get approval to do so from the authorities.⁴

On September 18, 2009, the court issued a decision dismissing the lawsuit and awarding the defendants partial costs. The court remarked that the plaintiffs “offered no evidence whatsoever to this Court of their alleged ownership of the Lands” in question or that such land was “confiscated.” The court further highlighted that “as it is presently framed [plaintiffs’ case] can hardly lead to a just result”: Plaintiffs were seeking the demolition of many homes, yet had failed to include the “numerous owners or occupants” in the case, “thereby depriving those persons of the right to be heard, a fundamental tenet of natural justice.” The court concluded that the plaintiffs were engaging in “inappropriate forum shopping” and had simply chosen a Quebec forum to “avoid the necessity of . . . proving [their case] . . . in Israel... thus ensuring for themselves a juridical advantage based on a merely superficial connection of the Action with Quebec.”

On August 11, 2010, the Court of Appeal issued a [decision](#) affirming the lower court’s dismissal, noting that “it requires a great deal of imagination to claim that the action has a serious connection with Quebec.” In March 2011, the Canadian Supreme Court also dismissed the suit with costs.

Implications

These events raise a number of concerns:

- 1) The complaint asks the UN Human Rights Committee to reject the independence of the Canadian justice system, in particular its due process and judicial review. It is highly irregular for the British government to fund such initiatives instead of raising concerns directly with Canada via diplomatic channels.
- 2) Under the guise of “human rights” and “democracy,” British government funding is being used for political warfare against Canada and Israel. It is unknown if senior UK officials are aware of this exploitation of British taxpayer funding, as well as its diplomatic implications. This reflects a serious lack of transparency, due diligence, and accountability in government funding for non-governmental organizations (NGOs).
- 3) By funding such initiatives, the UK undermines the credibility of its foreign policy.
- 4) The complaint rejects the legitimacy of Israeli judicial processes, whereas the Canadian courts repeatedly affirmed it. It is highly irregular for the British government to fund such initiatives instead of raising concerns directly with Israel via diplomatic channels.

⁴ Remarks at “Accountability for IHL Violations” Forum, Al Quds University, Jerusalem, March 2009.