



No justice in Canada for Congolese massacre victims as Canada's Supreme Court dismisses leave to appeal

Ottawa, 1 November 2012. In a decision that represents the end of any judicial relief in Canada for victims of the Kilwa massacre, the Supreme Court of Canada dismissed the application for leave to appeal brought in the case against Anvil Mining by The Canadian Association against Impunity (CAAI), an organization representing survivors and families of victims of the 2004 Kilwa massacre.

The CAAI expressed its profound disappointment with the Supreme Court's refusal to hear the case. "It is unacceptable that in 2012, victims are still unable to hold Canadian companies accountable in Canadian courts, for their alleged involvement in serious human rights violations committed abroad. We look forward to a time when Canadian companies are held responsible for their actions," said Matt Eisenbrandt, a member of the Board of Directors of the CAAI.

In November 2010, families of the Congolese victims, through the CAAI, filed a class action against Anvil Mining accusing it of involvement in the atrocities through having provided logistical support to the Congolese army. The army raped, murdered and brutalized the people of the town of Kilwa in the DRC. According to the United Nations, an estimated 100 civilians died as a direct result of the military action, including some who were executed and thrown in mass graves. Anvil Mining has admitted to providing the army with trucks, food, lodging and other logistical support but claims it was requisitioned by the authorities and denies any wrongdoing.

In April 2011, Justice Benoit Emery of the Quebec Superior Court ruled the case could proceed to the class certification stage. However, the Quebec Court of Appeal, despite stating sympathy for the obstacles faced by the victims in seeking justice, overturned the earlier Court's decision on jurisdiction.

CAAI asked the Supreme Court of Canada to hear the case to determine whether the appeal court's interpretation of Quebec's jurisdiction was unduly restrictive, and whether it ignored abundant evidence indicating that there was no access to justice in other countries.

The appeal was on a technical legal issue. Neither Court considered the facts of the case and the decision to dismiss leave to appeal therefore does not clear Anvil Mining on the facts. In the only previous examination of the massacre, in a much-criticized military trial in the DRC, three of Anvil Mining's employees, including one Canadian citizen, were indicted and then acquitted. Anvil Mining's Congolese subsidiary (Anvil Mining Congo) was also "cleared" despite never having been indicted.

Patricia Feeney, President of the CAAI, said: "This is an extremely disappointing outcome. Anvil Mining's alleged involvement in this massacre has never been scrutinised by a Court in good faith proceedings and no one has ever been held accountable for the crimes committed."

"This case highlights the extreme difficulty victims of gross human rights violations face when trying to receive justice. It has been eight years since the Kilwa massacre and the victims and their families have met another roadblock in their search for accountability for the crimes they were subjected to. Despite this setback, we will continue to work with the families affected to fight for justice in this case," said Andie Lambe of the CAAI.

"It is another rebuff for the families who have suffered so much and struggled so long to have this case heard. But we won't give up," said Adèle Mwayuma, whose two teenage sons were extra-judicially executed during the massacre.

The Canadian Association against Impunity is represented by the Montréal based firm Trudel & Johnston.

For more information, please contact members of the Canadian Association Against Impunity:

- Tricia Feeney, RAID, (French, English): +44 (0) 7796178447 (in the UK)
- Matt Eisenbrandt, Canadian Centre for International Justice (CCIJ), (English): +1 604 569-1778 (in Canada)
- Denis Tougas, L'Entraidemissionnaire, (French, English): +1 514 270 6089 (in Canada)
- Andie Lambe, Global Witness, (English): +44 (0) 7809 616 545 (in the UK)
- Emmanuel UmpulaNkumba, ACIDH, (French): +243 997 025 331 (in the DRC)
- Alfred Lukhanda, ASADHO (French): +1 514 244 7055 (in Canada)