

FEDERAL COURT

BETWEEN:

**MADA AL-CARMEL – ARAB CENTER
FOR APPLIED SOCIAL RESEARCH**

Applicant

-and-

**INTERNATIONAL DEVELOPMENT RESEARCH CENTRE,
MINISTER OF FOREIGN AFFAIRS, AND
ATTORNEY GENERAL OF CANADA**

Respondents



NOTICE OF APPLICATION

Pursuant to section 18.1 of the *Federal Courts Act*

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the Applicant. The relief claimed by the Applicant appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of the hearing will be as requested by the Applicant. The Applicant requests that this application be heard at Ottawa.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the Applicant's solicitor, or where the Applicant is self-represented, on the Applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN
IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

April 1, 2010

Issued by:



~~FATHA KHAYOU~~
~~(Registry Officer)~~
~~REGISTRY OFFICER~~
~~AGENT DU GREFFE~~

Address of
local office:

~~90 Sparks Street / 90, rue Sparks~~
~~Ottawa, Ontario / Ottawa (Ontario)~~
~~K1A 0H9~~

TO: John H. Sims, Q.C.
Deputy Attorney General of Canada
284 Wellington Street
Ottawa, ON K1A 0H8
Tel: (613)957-4998
Fax: (613)941-2279
Solicitor for the Respondent

APPLICATION

This is an application pursuant to section 18.1 of the *Federal Courts Act*, to quash a March 3, 2010 decision of the Respondents arbitrarily terminating without cause two grants awarded to the Applicant by the International Development Research Centre. The grants are known to the Respondents under project numbers 105538 and 105042, and broadly speaking concern the human rights of Palestinian women in Israel, and Arab political participation and the future of democracy in Israel.

The Applicant, Mada Al-Carmel, is a prominent non-governmental academic and public policy research centre headquartered in Haifa, Israel. Mada Al-Carmel's work focuses on the social problems faced by Israeli citizens who are ethnic Palestinians, and its overarching goal is to promote a democracy rooted in equal citizenship for such individuals. Mada Al-Carmel works closely with university scholars and thought leaders in Israel and around the world. Mada Al-Carmel's Director, Nadim Rouhana, is on the faculty of the prestigious Fletcher School of Law & Diplomacy at Tufts University in Boston, where he is Professor of International Negotiation and Conflict Studies. Professor Rouhana is also project leader of the grants at issue in this judicial review.

Following deliberations by IDRC's President and Governors, on March 3, 2010, the Respondents sent a letter to Professor Rouhana, notifying him that they had decided to terminate the grants. There was no warning or prior consultation with Mada Al-Carmel on this decision. The Respondents expressed no dissatisfaction with the performance of Mada Al-Carmel, and reached their decision without first affording Mada Al-Carmel an opportunity to make submissions. As the termination letter reads, "termination is solely as a result of a review of programming strategy within IDRC and is by no means a reflection on the quality of the work being done by [Mada Al-Carmel]."

Mada Al-Carmel has been criticised in written submissions to Canadian Parliamentarians by an aggressive Israeli organization, NGO Monitor. The

Respondents are aware of NGO Monitor's submissions, which are inflammatory and incorrect in accusing Mada Al-Carmel of advancing "a one-sided agenda of demonizing and delegitimizing Israel." Prior to Mada Al-Carmel's termination, the Respondents have sought to terminate the government grants of other persons and organizations whose political message was deemed offensive by NGO Monitor. It is evident that the Respondents terminated Mada Al-Carmel's contracts as a result of these inaccurate and inflammatory representations from NGO Monitor, on issues that have nothing to do with the proper performance of the contracts in question.

The Applicant makes application for:

- (a) a declaration that the Respondents violated the Applicant's common law right to procedural fairness, when terminating the grants without notice or opportunity for submissions;
- (b) a declaration that the Respondents violated the common law rule against arbitrariness, when terminating the grants for no reason related to the Applicant's performance;
- (c) a declaration that the Respondents violated the Applicant's right to free expression, as protected by s. 2(a) and 2(b) of the *Canadian Charter of Rights and Freedoms*, when terminating the grants for reasons related to the Applicant's political message or alleged associations;
- (d) an order quashing the decision of the Respondents to terminate the grants;
- (e) the costs of this application; and
- (f) such further and other relief as counsel may request and this Honourable Court may permit.

The grounds for the application are:

- (a) s. 2(a) and s. 2(b) of the *Canadian Charter of Rights and Freedoms*; and
- (b) *International Development Research Centre Act*, R.S.C. 1985, c. I-19;

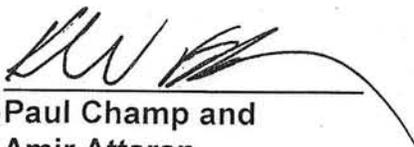
The application will be supported by the following material:

- (a) The Affidavit of Professor Nadim Rouhana; and
- (b) such further and other materials as counsel may advise and this Honourable Court may permit.

The Applicant requests a copy and that the Registrar receive a certified copy of all materials and documentation that are not in the Applicant's possession but that are in the possession of the International Development Research Centre:

- (a) pursuant to Rule 317, disclosure of such material as was in the possession of the Respondents when the termination of the grants was considered, decided and communicated to the Applicant, and without limiting the generality of the foregoing, any communications from NGO Monitor to the Respondents, or communications from other Government departments or officials regarding complaints made against the Applicant.

Dated: April 1, 2010


for: **Paul Champ and
Amir Attaran**
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