Court File No. 39346

IN THE SUPREME COURT OF CANADA

(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)

B E T W E E N:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

APPELLANT
(Respondent)

-and-

CHEYENNE SHARMA

RESPONDENT
(Appellant)

-and-

ATTORNEY GENERAL OF SASKATCHEWAN, ATTORNEY GENERAL OF BRITISH COLUMBIA, ABORIGINAL LEGAL SERVICES INC., FEDERATION OF SOVEREIGN INDIGENOUS NATIONS, BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION, QUEEN'S PRISON LAW CLINIC, HIV & AIDS LEGAL CLINIC ONTARIO AND HIV LEGAL NETWORK (JOINTLY), CANADIAN BAR ASSOCIATION, WOMEN'S LEGAL EDUCATION AND ACTION FUND INC., LEGAL SERVICES BOARD OF NUNAVUT, CRIMINAL LAWYERS' ASSOCIATION (ONTARIO), CANADIAN CIVIL LIBERTIES ASSOCIATION, NATIVE WOMEN'S ASSOCIATION OF CANADA, DAVID ASPER CENTRE FOR CONSTITUTIONAL RIGHTS, ONTARIO NATIVE WOMEN'S ASSOCIATION, ASSEMBLY OF MANITOBA CHIEFS, CANADIAN ASSOCIATION OF ELIZABETH FRY SOCIETIES, JOHN HOWARD SOCIETY OF CANADA, CRIMINAL TRIAL LAWYERS ASSOCIATION, L'ASSOCATION QUÉBÉCOISE DES AVOCATS ET AVOCATES DE LA DÉFENSE

INTERVENERS

FACTUM OF THE INTERVENER, WOMEN'S LEGAL EDUCATION AND ACTION FUND INC.

(Pursuant to Rule 42 of the *Rules of Supreme Court of Canada*, S.O.R./2002-156)

LOMBARD LAW
83 Clarence Street, Suite 2
Ottawa, Ontario K1N 5P5

Alisa Lombard
Tel: 613.914.7726
Email: alombard@lombardlaw.ca

Aubrey Charette
Tel: 343.542.4624
Email: aubrey@aubreycharette.ca

Counsel for the Intervener, Women's Legal Education and Action Fund Inc. (LEAF)

BORDEN LADNER GERVAIS LLP
100 Queen Street, Suite 1300
Ottawa, Ontario K1P 1J9

Nadia Effendi

Tel: 613.787.3562
Fax: 613.230.8842
Email: neffendi@blg.com

Ottawa Agent for the Intervener, Women's Legal Education and Action Fund Inc. (LEAF)

ORIGINAL TO: **Registrar**
Supreme Court of Canada
301 Wellington Street
Ottawa, Ontario K1A 0J1

COPY TO:

PUBLIC PROSECUTION SERVICE OF CANADA
Ontario Regional Office
130 King Street West, Suite 2400, Box 340
Toronto, Ontario, M5X 2A2

Jennifer Conroy
Jeanette Gevikoglu
Tel: 416.952.1505
Fax: 416.973.8253
E-mail: jconroy@ppsc-sppc.gc.ca
jgevikoglu@ppsc-sppc.gc.ca

Counsel for the Appellant

KATHLEEN ROUSSEL
Director of Public Prosecutions
160 Elgin Street, 12th floor
Ottawa, Ontario, K1A 0H8

François Lacasse
Tel: 613.957.4770
Fax: 613.941.7865
E-mail:flacasse@ppsc-sppc.gc.ca

Ottawa Agent for the Appellant

STOCKWOODS LLP
77 King Street West, Suite 4130
Toronto, Ontario M5K 1H1

Nader R. Hasan
Stephen Aylward
Tel: 416.593.1668

JURISTES POWER
130 rue Albert, bureau 1103
Ottawa, Ontario K1P 5G4

Maxine Vincelette
Tel: 613.702.5560
Fax: 613.702.5561

Fax: 416.593.9345
Email: naderh@stockwoods.ca

Counsel for the Respondent

Email: mvincelette@juristespower.ca

Ottawa Agent for the Respondent

ATTORNEY GENERAL OF BRITISH COLUMBIA
Criminal Appeals and Special Prosecutions
3rd Floor, 940 Blanshard Street
Victoria, British Columbia V8W 3E6

GOWLING WLG (CANADA) LLP
160 Elgin Street, Suite 2600
Ottawa, Ontario K1P 1C3

Micah B. Rankin
Tel: 778.974.3344
Fax: 250.216.0264
Email: micah.rankin@gov.bc.ca

Matthew Estabrooks
Tel: 613.786.0211
Fax: 613.788.3573
Email: matthew.estabrooks@gowlingwlg.com

Counsel for the Intervener, Attorney General of British Columbia

Ottawa Agent for the Intervener, Attorney General of British Columbia

MINISTRY OF JUSTICE SASKATCHEWAN
820-1874 Scarth Street
Regina, Saskatchewan S4P 4B3

GOWLING WLG (CANADA) LLP
160 Elgin Street, Suite 2600
Ottawa, Ontario K1P 1C3

Noah Wernikowski
Tel: 306.786.0206
Fax: 306.787.9111
Email: noah.wernikowski@gov.sk.ca

D. Lynne Watt
Tel: 613.786.8695
Fax: 613.788.3509
Email: lynne.watt@gowlingwlg.com

Counsel for the Intervener, Attorney General of Saskatchewan

Ottawa Agent for the Intervener, Attorney General of Saskatchewan

ABORIGINAL LEGAL SERVICES INC.
211 Yonge Street, Suite 500
Toronto, ON M5B 1M4

BORDEN LADNER GERVAIS LLP
World Exchange Plaza
1300 - 100 Queen Street
Ottawa, ON K1P 1J9

Jonathan Rudin
Tel: 416.408.4041
Fax: 416.408.1568
E-mail: rudinj@lao.on.ca

Nadia Effendi
Tel: 613.787.3562
Fax: 613.230.8842
Email: neffendi@blg.com

Counsel for the Intervener, Aboriginal Legal Services Inc.

Ottawa Agent for the Intervener, Aboriginal Legal Services Inc.

SUNCHILD LAW
Box 1408
Battleford, SK S0M 0E0

Eleanore Sunchild, Q.C.
Michael Seed
Tel : 306.937.6154 | 306.441.1473
Fax : 306.937.6110
E-mail: eleanore@sunchildlaw.com
michael@sunchildlaw.com

Counsel for the Intervener,
Federation of Sovereign Indigenous Nations

BORDEN LADNER GERVAIS LLP
World Exchange Plaza
1300 - 100 Queen Street
Ottawa, ON K1P 1J9

Nadia Effendi
Tel: 613.787.3562
Fax: 613.230.8842
Email: neffendi@blg.com

Ottawa Agent for the Intervener,
Federation of Sovereign Indigenous Nations

LAROCHELLE LAW
4133 Fourth Avenue, Suite 201
Whitehorse, YT, Y1A 1H8

Vincent Larochelle
Tel: 867.456.2325
E-mail: vincent@larochellelaw.ca

Counsel for the Intervener,
British Columbia Civil Liberties Association

JURISTES POWER LAW
99 Bank Street, Suite 701
Ottawa, ON K1P 6B9

Maxine Vincelette
Tel. / Fax: 613.702.5573
Email: mvincelette@powerlaw.ca

Ottawa Agent for the Intervener,
British Columbia Civil Liberties Association

RUSONIK, O'CONNOR, ROBBINS, ROSS & ANGELINI, LLP
36 Lombard Street, Suite 100 Toronto,
ON M5C 2X3

Chris Rudnicki and Theresa Donkor
Tel: 416.559.5441
Fax: 416.598.3384
E-mail: rudnicki@criminaltriallawyers.ca
donkor@criminaltriallawyers.ca

Counsel for the Intervener,
The Queen's Prison Law Clinic

SUPREME ADVOCACY LLP
340 Gilmour Street, Suite 100
Ottawa, ON K2P 0R3

Cory Giordano
Tel: 613.2961246
Fax: 613.695.8580
Email: cgiordano@supremeadvocacy.ca

Ottawa Agent for the Intervener,
The Queen's Prison Law Clinic

HIV & AIDS LEGAL CLINIC ONTARIO
1400-55 University Avenue
Toronto, ON M5J 2H7

SUPREME ADVOCACY LLP
100-340 Gilmour Street
Ottawa, ON K2P 0R3

Robin Nobleman
Ryan Peck
Tel: 416.340.7790 ext. 4043
Fax: 416.3407248
E-mail: noblemar@lao.on.ca
peckr@lao.on.ca

Counsel for the Intervener,
HIV & AIDS Legal Clinic Ontario and HIV Legal Network

PECK AND COMPANY
610 - 744 West Hastings
Vancouver, BC V6C 1A5

Eric V. Gottardi, Q.C.
Chantelle Van Wiltenburg
Tel: 604.669.0208
Fax: 604.669.0616
E-mail: egottardi@peckandcompany.ca
cvw@peckandcompany.ca

Counsel for the Intervener,
Canadian Bar Association

NUNAVUT LEGAL AID
1104-B Inuksugait Plaza, PO Box 29
Iqaluit, NU X0A 0H0

Eva Tache-Green
Tel: 867.975.6528
Fax: 867.979.2323
E-mail: eva.tache-green@nulegalaid.com

Counsel for the Intervener,
Legal Services Board of Nunavut

PROMISE HOLMES SKINNER,
BARRISTER & SOLICITOR
96 Forsythe Street
Oakville, ON L6K 1C5

Promise Holmes Skinner
Tel: 647.865.5820
E-mail: promise@promiseandco.com

Marie-France Major
Tel: 613.695.8855
Fax: 613.695.8580
Email: mfmajor@supremeadvocacy.ca

Ottawa Agent for the Intervener,
HIV & AIDS Legal Clinic Ontario and HIV Legal Network

MICHAEL J. SOBKIN
331 Somerset Street West
Ottawa, ON K2P 0J8

Tel: 613.282.1712
Fax: 613.288.2896
Email: msobkin@sympatico.ca

Ottawa Agent for the Intervener,
Canadian Bar Association

SUPREME ADVOCACY LLP
340 Gilmour Street, Suite 100
Ottawa, ON K2P 0R3

Thomas Slade
Tel: 613.695.8855
Fax: 613.695.8580
Email: tslade@supremeadvocacy.ca

Ottawa Agent for the Intervener,
Legal Services Board of Nunavut

SUPREME ADVOCACY LLP
100-340 Gilmour Street
Ottawa, ON K2P 0R3

Marie-France Major
Tel: 613.695.8855
Fax: 613.695.8580

Email: mfmajor@supremeadvocacy.ca

DANIEL BROWN LAW LLP
400-103 Church Street
Toronto, ON M5C 2G3

Andrew Bigioni
Tel: 416.297.7200 ext. 105
E-mail: bigioni@danielbrownlaw.ca

Counsel for the Intervener,
Criminal Lawyers' Association (Ontario)

Ottawa Agent for the Intervener,
Criminal Lawyers' Association (Ontario)

GREENSPAN HUMPHREY LAVINE
15 Bedford Rd.
Toronto, ON M5R 2J7

SUPREME ADVOCACY LLP
340 Gilmour Street, Suite 100
Ottawa, ON K2P 0R3

David M. Humphrey
Michelle M. Biddulph
Tel: 416.944.0244
Fax: 416.369.3450
E-mail: dmh@15bedford.com
mbiddulph@15bedford.com

Thomas Slade
Tel: 613.695.8855
Fax: 613.695.8580
Email: tslade@supremeadvocacy.ca

Counsel for the Intervener,
Canadian Civil Liberties Association

Ottawa Agent for the Intervener,
Canadian Civil Liberties Association

NATIVE WOMEN'S ASSOCIATION OF CANADA
1688 Sunview Drive Ottawa,
ON, K1C 7M8

Adam Bond
Tel: 343.997.1352
E-mail: abond@nwac.ca

Laura Ezeuka
Tel: 416.835.6907
E-mail:lezeuka@nwac.ca

Counsel for the Intervener,
Native Women's Association of Canada

GOLDBLATT PARTNERS LLP
1100 - 20 Dundas Street West
Toronto, ON M5G 2G8

GOLDBLATT PARTNERS LLP
500 - 30 Metcalfe St. Ottawa,
ON K1P 5L4

Jessica Orkin
Adriel Weaver
Tel: 416.977.6070
Fax: 416.591.7333
E-mail: jorkin@goldblattpartners.com
aweaver@goldblattpartners.com

Colleen Bauman
Tel: 613.482.2463
Fax: 613.235.5327
Email: cbauman@goldblattpartners.com

Counsel for the Intervener,
The David Asper Centre for Constitutional Rights

McCARTHY TETRAULT LLP
Suite 5300, Toronto Dominion Bank Tower
Toronto, ON M5K 1E6

Adam Goldenberg
Connor Bildfell
Alana Robert
Tel: 416.362.1812
Fax: 416.868.0673
E-mail: agoldenberg@mccarthy.ca
cbildfell@mccarthy.ca
alrobert@mccarthy.ca

Ottawa Agent for the Intervener,
The David Asper Centre for Constitutional Rights

JURISTES POWER LAW
99 Bank Street, Suite 701
Ottawa, ON K1P 6B9

Darius Bossé
Tel: 613.702.5566
Fax: 613.702.5566
Email: DBosse@juristespower.ca

Counsel for the Intervener,
Ontario Native Women's Association

FOX FRASER LLP
#1630, 1800 4 Street SW
Calgary, AB T2S 2S5

Carly Fox and Emily Guglielmin
Tel: 403.910.5392
Fax: 403.407.7795
E-mail: cfox@foxfraserlaw.com
eguglielmin@foxfraserlaw.com

Ottawa Agent for the Intervener,
Ontario Native Women's Association

CHAMP & ASSOCIATES
43 Florence Street,
Ottawa, ON K2P 0W6

Bijon Roy
Tel: 613.237.4740
Fax: 613.232.2680
Email: broy@champlaw.ca

Counsel for the Intervener,
Assembly of Manitoba Chiefs

CHAMP AND ASSOCIATES
Equity Chambers
43 Florence Street
Ottawa, ON K2P 0W6

Emilie Taman

Ottawa Agent for the Intervener,
Assembly of Manitoba Chiefs

Tel: 416.237.4740
Fax: 416.232.2680
E-mail: etaman@champlaw.ca

Counsel for the Intervener,
Canadian Association of Elizabeth Fry Societies

POLLEY FAITH LLP
TD North Tower
77 King St. W., Suite 2110
Toronto ON M5K 2A1

Andrew Max
Emily Young
Tel: 416.365.1600
E-mail: amax@polleyfaith.com
eyoung@polleyfaith.com

Counsel for the Intervener,
The John Howard Society of Canada

DAWSON DUCKETT GARCIA & JOHNSON
Suite 300, 9924 106 Street
Edmonton, AB, T5K 1C4

Kathryn A. Quinlan
Tel: 780.424.9058
Fax: 780.425.0172
E-mail: kquinlan@dsscrimlaw.com

BERESH LAW
2402 Bell Tower, 101004 – 103 Avenue
Edmonton, AB, T5J 0H8

Kristofer J. Advent
Tel: 780.421.4766
Fax: 780.429.0346
E-mail: kristofer@bereshlaw.ca

Counsel for the Intervener,
Criminal Trial Lawyers' Association

LE GROUPE CAMPEAU RAYMOND INC.

500, Place d'Armes, bureau 2350
Montreal (Quebec) H2Y 2W2

Me Maxime F. Raymond
Me Emmanuelle Arcand
Tel: 514.318.5724
Fax: 855.877.5923
E-mail: mraymond@legroupecr.com
earcand@legroupecr.com

Counsel for the Intervener,
Association Québécoise des Avocats et
Avocates de la Défense

Table of Contents

PART I – OVERVIEW

1. At the heart of this case is an Indigenous woman whose lived experience embodies the intergenerational harms wrought by colonialism. She is an example of why this country's Parliament introduced changes to criminal sentencing in 1996, changes that this Honourable Court recognized as an embodiment of substantive equality. She is also an example of why this country needs reconciliation, in all facets of its law and politics, including in criminal sentencing.

2. The decision under appeal concerns the constitutionality of ss 742.1(c) and 742.1(e)(ii) of the *Criminal Code*,[1] curtailing the availability of conditional sentences that had been introduced in 1996. The Court of Appeal for Ontario found that these provisions were discriminatory and overbroad, violating sections 15 and 7 of the *Charter of Rights and Freedoms*.[2]

3. LEAF submits that a substantive equality approach is required when assessing the constitutionality of the impugned provisions, and that substantive equality is reinforced and affirmed by the imperatives of reconciliation. Both require consideration of and efforts to remediate the historical and current circumstances of Indigenous peoples' interactions with the criminal justice system, including through the availability of conditional sentencing. Further, reconciliation is a goal of Parliament, and the reform of criminal sentencing which introduced special considerations for Indigenous people and the availability of conditional sentencing is a manifestation of that goal. Sections 718.2(e) and 742.1 thus require a purposive interpretation consistent with a substantive equality analysis and the advancement of reconciliation. LEAF further submits that removing the option of conditional sentencing, contrary to the goal of reconciliation, disregards recognition of Indigenous legal orders, deprives Indigenous offenders of the possibility of a sentence that accords with their conception of justice, and constitutes a discriminatory disadvantage. Finally, LEAF submits that the Court of Appeal employed the correct two-step test for substantive equality. The Crown's proposed approach is formalistic and fails to consider the broader purpose and relevance of conditional sentencing for Indigenous offenders.

4. This appeal provides an opportunity for this Honourable Court to establish the proper interpretation of s 15 in the context of historic injustice and systemic discrimination to Indigenous

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[1] *Criminal Code*, RSC 1985, c C-46, ss 742.1(c) and 742.1(e)(ii).
[2] *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), c 11, ss 7 and 15.

peoples in criminal sentencing, and to affirm the imperative of reconciliation between Indigenous and non-Indigenous Canadians in all areas.

PART II – FACTS

5. LEAF accepts the facts as stated by the parties.

PART III – ISSUES AND LAW

A. Substantive equality and the imperative of reconciliation require the acknowledgement of history and circumstances in equality analyses.

6. This Court and the Court of Appeal have expressly endorsed a substantive equality approach to s 15 claims.[3] This approach recognizes that "identical treatment may frequently produce serious inequality",[4] and requires that differences be acknowledged and accommodated.[5] The Canadian Human Rights Tribunal has held that the standard of substantive equality requires that First Nations people receive child and family services (as well as policing services[6]) that meet "their cultural, historical and geographical needs and circumstances."[7] In other words, a claimant must be taken as they are, in the light of their full circumstances and history, and may be entitled to differential treatment in order to reach a fair result.

7. The criminal justice system is historically complicit in, and is a modern location of, what this Court has called "staggering injustice"[8] and "systemic discrimination" against Indigenous people.[9] It was the criminal justice system that implemented and enforced the policies and laws of colonialism, including the *Indian Act* and residential schools. As stated by the National Inquiry into Missing and Murdered Indigenous Women and Girls, "When a First Nations, Métis, or Inuit woman appears in court, they go before the same justice system that established the reserve system,

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[3] *R v Kapp,* 2008 SCC 41 at para 15 [*Kapp*]; see also *Fraser v Canada (Attorney General)*, 2020 SCC 28 at para 42.
[4] *Andrews v Law Society of British Columbia,* [1989] 1 SCR 143 at 164, 1989 CanLII 2.
[5] *Kapp* at para 28.
[6] *Dominique (on behalf of Pekuakamiulnuatsh) v Public Safety Canada*, 2022 CHRT 4.
[7] *First Nations Child and Family Caring Society of Canada et al v Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada),* 2016 CHRT 2 at para 465.
[8] *R v Gladue,* [1999] 1 SCR 688 at para 88, 1999 CanLII 679 [*Gladue*].
[9] *R v Williams,* [1998] 1 SCR 1128 at para 58, 1998 CanLII 782.

the residential school system, and continues the removal of children from their families, and they ask that court for justice."[10]

8. Indigenous women have been uniquely impacted by their interactions with the criminal justice system. They have been disproportionately affected by policies and programs that remove children from Indigenous families, from the residential school system through the "Sixties Scoop" through today's over-representation of Indigenous children in care.[11] They fear the involvement of child protection organizations when they engage the police.[12] They have suffered serious rights violations such as forced sterilization and other coercive birth control measures without redress or recourse.[13] They have been subjected to hypersexualization and harmfully stereotyped, leading to inadequate and unjust law enforcement.[14] At the same time, they have been subject to astonishing rates of physical and sexual violence.[15] The criminal justice system has failed to protect Indigenous people in the ways it protects non-Indigenous Canadians, as reflected in the ongoing epidemic of violence against Indigenous women and girls.[16]

9. Indigenous women are vastly overrepresented in the prison system, and to an *increasing* degree. The Office of the Correctional Investigator released new data that show that the proportion of federally-incarcerated women who are Indigenous will soon constitute over half of the women in federal prisons, up from 30% in less than two years. The Correctional Investigator called this "the Indigenization of Canada's correctional population", and noted that current efforts to reverse this trend are not working.[17]

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[10] Canada, National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, vol 1a* (Vancouver: Privy Council, 2019) at 281-283, quoting Kassandra Churcher [MMIWG Report].
[11] MMIWG Report at 281-283.
[12] MMIWG Report at 632.
[13] MMIWG Report at 266-267.
[14] MMIWG Report at e.g. 254-256, 630-633, 648-654.
[15] MMIWG Report at 54-57 (stating, amongst other things, that Indigenous women are sexually assaulted three times more often than non-Indigenous women and are 12 times more likely to be murdered or missing than any other women in Canada).
[16] MMIWG Report at 50 and 55.
[17] Canada, Office of the Correctional Investigator, "Proportion of Indigenous Women in Custody nears 50%: Correctional Investigator Issues Statement" (17 December 2021) accessed 6 January 2022.

10. Substantive equality recognizes that such a differential history and circumstances require a differential criminal law response, one that acknowledges and takes account of this history of Indigenous peoples' experience with and in the criminal justice system. Parliament and this Court have recognized this.[18] The availability of conditional sentencing, which permits courts to avoid the incarceration that is a symptom and a cause of Indigenous peoples' dysfunctional relationship with criminal justice, was a key element of that legislative response. We agree with the intervener Canadian Bar Association that section 718.2(e) gives expression to the *Charter* right of equality,[19] and is the legislative embodiment of a constitutional guarantee of substantive equality under section 15.

11. The need to take account of and attempt to address a tragic history is also an important part of a larger, society-wide imperative in Canada: the project of reconciliation. While the term reconciliation has been potentially overused and certainly misinterpreted,[20] we submit that its core precepts have been acknowledged by this Court and are useful and relevant in this case.

12. Reconciliation is "establishing and maintaining a mutually respectful relationship between Aboriginal and non-Aboriginal peoples in this country."[21] A part of that reconciliation includes acknowledging the long, dark period in which Indigenous societies were subjugated, a period in which both the Truth and Reconciliation Commission and former Chief Justice Beverley McLachlin acknowledge cultural genocide occurred.[22] The Canadian government, Parliament, and the courts have all made efforts to do this, and to provide some form of redress through, in part, law reform intended for that important purpose. In particular, all three have attempted to acknowledge and remedy historical violations of legal obligations owed to Indigenous people by the Canadian state. That project has been explicitly linked to reconciliation; this Court has found

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[18] *Gladue* at paras 66 and 77; *R v Ipeelee*, 2012 SCC 13 at para 82 [*Ipeelee*].
[19] Factum of the Intervenor, the Canadian Bar Association.
[20] See Aimee Craft, "Neither Infringement nor Justification: The Supreme Court of Canada's Mistaken Approach to Reconciliation" in Karen Drake & Brenda L Gunn, eds, *Renewing Relationships: Indigenous Peoples and Canada* (Saskatoon: Native Law Center, 2019) 59.
[21] Canada, Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (Winnipeg: The Commission, 2015) at 6 [TRC, *Final Report*].
[22] TRC, *Final Report* at 1; Beverley McLachlin, "Reconciling Unity and Diversity in the Modern Era: Tolerance and Intolerance", remarks delivered at the Aga Khan Museum in Toronto, ON (28 May 2015).

that a "just resolution of these types of claims is essential to the process of reconciliation."[23] Justice Rowe has recognized that "[i]t is difficult to overstate the significance of [the resolution of historical breaches] to the ongoing project of reconciliation between the Canadian state and Indigenous peoples, and of remedying historical wrongs."[24]

13. Recognizing and attempting to overcome the history of marginalization and mistreatment in the criminal justice system is consistent with these government-wide efforts to meaningfully address the past. Reconciliation is relevant when considering changes to how Canada punishes citizens from the Indigenous population, in light of the complicity of the criminal justice system in the dark era of colonialism that reconciliation seeks to move past. The imperatives of reconciliation – an acknowledgement of this past and making efforts to resolve and move beyond it – dovetail with a substantive equality approach to s 15, which takes into account historical injustice when assessing whether a measure treats people differentially or reinforces existing disadvantage. Both pull in the same direction, and support the availability of conditional sentences for Indigenous people, where possible, based on the objective of ameliorative results.

B. Sections 718.2(e) and 742.1 require a purposive interpretation consistent with a substantive equality analysis and the advancement of reconciliation.

14. Parliament chose to respond to the problem of Indigenous overincarceration and the many ways in which the criminal justice system has failed Indigenous people by mandating unique considerations in the sentencing of Indigenous offenders, grounded in s 718.2(e) of the *Criminal Code*. The majority decision of the Court of Appeal for Ontario laid out the circumstances and purpose of the 1996 reforms that introduced sections 718.2(e) and the original 742.1 of the *Criminal Code*, demonstrating that Parliament selected these provisions in order to take account of the challenges and circumstances faced by Indigenous offenders.[25] These sections are remedial,[26] and can be viewed as a legislative effort to proactively promote the substantive equality promise of the *Charter*. Section 15(2), which envisions proactive programs to overcome inequality, specifically legitimizes and promotes the idea that the *Charter* can and should be used

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[23] *Williams Lake Indian Band v Canada (Aboriginal Affairs and Northern Development)*, 2018 SCC 4 at paras 2-3 [*Williams Lake*]. See also: preamble to *Specific Claims Tribunal Act*, SC 2008, c 22; Canada, Minister of Indian Affairs and Northern Development, *The Specific Claims Policy and Process Guide* (Ottawa: Minister of Public Works and Government Services Canada, 2009) at 12.
[24] *Williams Lake* at para 209 (in dissenting opinion, on unrelated grounds).
[25] *R v Sharma,* 2020 ONCA 478 at paras 29-33 [ONCA Decision].
[26] ONCA Decision at para 34; *Gladue* at paras 39-40.

to protect the interests of the disadvantaged. The 1996 reforms are an example of Parliament's intent to do just that, and this effort must be recognized and interpreted as such by this Honourable Court.

15. Parliament's actions in the 1996 reforms were also an early example of its efforts at reconciliation, which have been recognized by this Court. In *Daniels*, which concerned the interpretation of a provision of the Constitution, this Court indicated that reconciliation is a goal of Parliament, and that it can and should guide the interpretation of constitutional provisions:

> The constitutional changes, the apologies for historic wrongs, a growing appreciation that Aboriginal and non-Aboriginal people are partners in Confederation, the *Report of the Royal Commission on Aboriginal Peoples*, and the *Final Report of the Truth and Reconciliation Commission of Canada*, all indicate that **reconciliation with all of Canada's Aboriginal peoples is Parliament's goal**.[27]

16. The recent passage of the *United Nations Declaration on the Rights of Indigenous People Act* reinforces the conclusion that Parliament has reconciliation as a goal. In its preamble, the statute states that the Declaration provides a framework for reconciliation, which the government of Canada is committed to adopting.[28]

17. Reconciliation has animated Parliament's efforts to address historical injustices in the sentencing of Indigenous offenders, including the enactment of s 718.2(e) and its efforts to craft differentiated solutions for Indigenous offenders. Section 742.1 is a key tool in that reconciliatory effort. Changes to those provisions should be subjected to an equality analysis interpreted in light of this reconciliatory goal, one that favours an interpretation that does not perpetuate past wrongs and cause harm to Indigenous people.[29]

18. Parliament intended to fulfill substantive equality and advance reconciliation with the 1996 reforms. This requires, at a minimum, an assessment of the full impact of any changes to the 1996 provisions in terms of the ways in which Indigenous people, and specifically Indigenous women,

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[27] *Daniels v Canada (Indian Affairs and Northern Development),* 2016 SCC 12 at para 37. [Emphasis added].
[28] *United Nations Declaration on the Rights of Indigenous People Act*, SC 2021, c 14.
[29] See Naiomi Metallic, "NIL/TU,O Child and Family Services Society v B.C. Government and Service Employees' Union' and Communications, Energy and Paperworkers Union of Canada v Native Child and Family Services of Toronto" (2020) Special Edition CNLR 21.

may be harmed. It also requires assessment of the impact of changes on the broader goals of reconciliation and equality.

C. Removing the option of conditional sentencing denies space to Indigenous legal orders and deprives Indigenous offenders of the possibility of a sentence that accords with their conception of justice.

19. Conditional sentencing plays a uniquely important role in the sentencing provisions available to Indigenous offenders under the *Criminal Code*. It allows for community-based solutions in the place of incarceration. Such solutions offer multifaceted benefits, given the unique circumstances in many Indigenous communities, the need to provide space for Indigenous legal orders, and the role of community restoration in many Indigenous legal orders. On the flip side, the unavailability of community-based solutions imposes multifaceted harms. Its removal from the options available for Indigenous offenders has an amplified and discriminatory effect that both principles of substantive equality and reconciliation demand be taken into account.

20. Many First Nation reserve communities are rural and remote, and incarceration thus means disproportionately distant removals from community. The intervener Legal Services Board of Nunavut has compellingly laid out the impact of community removal in the context of Nunavut.[30] The effects of community removal are not limited to the Nunavut context, and the same factors can be at issue in the remote and fly-in communities further south.[31]

21. Moreover, conditional sentences are a key way in which judges may recognize and give effect to Indigenous legal orders, which is an important part of reconciliation. This Court has emphasized the importance of recognizing Indigenous legal orders within Canada's legal system in the context of Aboriginal rights and title, and there is increasing acknowledgment that the Indigenous perspective on matters concerning Indigenous interests is relevant in a growing number of contexts[32] - sentencing being one of them.[33] Chief Justice Lamer (as he then was) stated that:

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[30] Factum of the Intervenor, the Legal Services Board of Nunavut.
[31] *R v Turtle*, 2020 ONCJ 429.
[32] The Honourable Chief Justice Lance Finch, "The Duty to Learn: Taking Account of Indigenous Legal Orders in Practice" (Vancouver: Continuing Legal Education Society of British Columbia, 2012) at para 14.
[33] See *Gladue* at para 74 wherein the Court stated "…it is appropriate to attempt to craft the sentencing process and the sanctions imposed in accordance with the aboriginal perspective."

> …the only fair and just reconciliation is ... one which takes into account the aboriginal perspective while at the same time taking into account the perspective of the common law. True reconciliation will, equally, place weight on each.[34]

22. He went on to say that traditional laws are sources for the Indigenous perspective.[35] That is, reconciliation requires attention to both the common law and Indigenous laws.

23. This Court has acknowledged that in the "highly individualized process" of sentencing, judges "must have sufficient manoeuvrability to tailor sentences to the circumstances of the particular offence and the particular offender."[36] For Indigenous people who come before the courts, their circumstances necessarily include Indigenous legal orders. After centuries of colonial oppression, Indigenous peoples are actively reinvigorating and reclaiming their laws. By restricting the availability of conditional sentences and mandating imprisonment for certain offences, the impugned provisions constrain the ability of Indigenous legal orders to respond to community harms and hold offenders accountable in ways that are meaningful for Indigenous communities. This Court has affirmed that appreciating these "fundamentally different world views" may mean giving effect to alternative sanctions to imprisonment.[37] Conditional sentences are a necessary part of the toolkit in redressing the legacies of colonialism.

24. The Nunavut Court of Justice has created space for Inuit Qaujimajatuqangit (IQ), often translated as Inuit traditional knowledge or "what Inuit have always known to be true"[38], in the sentencing process. In applying *Gladue*, the Court has considered IQ, in recognition of legal plurality and the importance of having Inuit conceptions of justice reflected in the criminal justice system.[39] Sentencing judges should have the discretion to craft a sentence that responds to community needs and affirms Indigenous legal orders, such as Inuit laws informed by IQ. Maintaining the availability of conditional sentences is one small step this Honourable Court can take to support Indigenous peoples' work in revitalizing their legal traditions.

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[34] *R v Van Der Peet*, [1996] 2 SCR 507 at para 50, 1996 CanLII 216 [*Van Der Peet*]; see also *Delgamuukw v British Columbia*, [1997] 3 SCR 1010, 1997 CanLII 302.
[35] *Van Der Peet* at paras 40-41.
[36] *Ipeelee* at para 38.
[37] *Ipeelee* at para 74.
[38] *Department of Human Resources (Re)*, 2021 NUIPC 14 at para 77.
[39] *R v Ituriligaq*, 2018 NUCJ 31 at para 106, rev'd 2020 NUCA 6. See also *R v Jaypoody*, 2018 NUCJ 36 at para 75 in the context of bail.

25. Further, requiring incarceration rather than a conditional sentence may deprive Indigenous offenders of the chance for a sentence that resonates with their sense of justice. As stated in *Gladue*, "[w]hat is important to note is that the different conceptions of sentencing held by many aboriginal people share a common underlying principle: that is, the importance of community-based sanctions."[40] Without the option of a conditional sentence, the possibility of community-based and driven rehabilitation is removed. Offenders like Ms Sharma are condemned to a sentence that simply perpetuates the alienation they experience within the criminal justice system and – for mothers like Ms Sharma – passes that legacy on to their young children. These are impacts that go beyond the disadvantage suffered by the deprivation of a sentencing option without socio-cultural significance. Both substantive equality principles, which take account of differential harms, and reconciliation, which attempts the accommodation of Indigenous legal orders into Canadian law, mandate that these impacts be fully considered in an analysis of the constitutionality of restricting the availability of conditional sentencing.

D. The Crown is advocating for a formal equality approach that is inconsistent with this Honourable Court's pronouncements.

26. In its factum, the Crown submits that the Court of Appeal applied the incorrect approach to the two-step test for substantive equality under s 15, conflating the steps and "working backwards" from Ms Sharma's disadvantage.[41] This Court has the opportunity to affirm the correct application of the test, which is consistent with the Court of Appeal's approach and the advancement of reconciliation imperatives.

27. The first step of the s 15 test is satisfied by a facially neutral sentencing provision that impairs the operation of the remedial *Gladue* framework.[42] Although ss 742.1(c) and 742.1(e)(ii) apply to both Indigenous and non-Indigenous offenders, they create a distinction on the basis of Indigeneity because only Indigenous offenders are deprived of the benefit of the different approach to sentencing enshrined in the *Gladue* framework. The number or proportion of Indigenous offenders actually caught by the provisions is irrelevant. Where impairment of the *Gladue* framework is at issue, the distinction is made out on the basis that *all* Indigenous offenders subject

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[40] *Gladue* at para 74.
[41] Factum of the Appellant, Her Majesty the Queen in Right of Canada, at para 33.
[42] *Kahkewistahaw First Nation v Taypotat*, 2015 SCC 30 at para 19; *Vriend v Alberta*, [1998] 1 SCR 493 at para 97.

to the impugned provision are deprived of the benefit of that framework. The Court of Appeal concluded precisely this.[43] The Crown's claim that there is no discrimination in these provisions on their face applies a formalistic approach to equality, failing to consider the broader purpose of the sections.

28. The second step of the test is where the harm must be identified.[44] It will only be satisfied in the far narrower and more limited class of cases where depriving an Indigenous offender of the benefit of the *Gladue* framework results in a sentence more onerous than the one she would otherwise have been given, thus reinforcing, perpetuating, and exacerbating her pre-existing disadvantage. This step was also satisfied in this case, as the sentencing judge was not able to consider a conditional sentence despite acknowledging Ms Sharma's history of precisely the forms of intergenerational trauma identified in *Gladue*. While it is not clear that she would have received a conditional sentence, the lost opportunity of even considering a conditional sentence as an option is a disadvantage. The Court of Appeal also recognized this.[45]

29. The Court's s 15 analysis must account for this case involving an Indigenous woman affected by the intergenerational trauma and poverty wrought by the legacy of residential schools, the ongoing crisis of care in the Indigenous child welfare system, and the violence disproportionately experienced by Indigenous women in this country. The Crown calls Ms Sharma "sympathetic,"[46] and we call her a prime example of why the *Gladue* framework exists and must continue to exist. Consistent with its prior jurisprudence, we urge the Court to ensure that s 15's promise of substantive equality is realized and that the expections of reconciliation are met.

PART IV – ORDER REQUESTED

30. LEAF takes no position on the ultimate disposition of this appeal, and respectfully requests that it be decided in accordance with these submissions.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 1st day of March, 2022.

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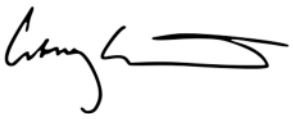
[43] ONCA Decision at paras 69-70 and 72.
[44] *Quebec (Attorney General) v Alliance du personnel professionnel et technique de la sant et des services sociaux*, 2018 SCC 17 at 28.
[45] ONCA Decision at paras 88-89.
[46] Factum of the Appellant, Her Majesty the Queen in Right of Canada, at paras 31, 41.



Alisa Lombard

Aubrey Charette

Counsel for the Intervener Women's Legal Education and Action Fund

PART VII – TABLE OF AUTHORITIES

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2.	*Andrews v Law Society of British Columbia*, [1989] 1 SCR 143, 1989 CanLII 2.	6
3.	*Daniels v Canada (Indian Affairs and Northern Development),* 2016 SCC 12.	15
4.	*Delgamuukw v British Columbia,* [1997] 3 SCR 1010, 1997 CanLII 302.	21
5.	*Department of Human Resources (Re)*, 2021 NUIPC 14.	24
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12.	*R v Ituriligaq*, 2018 NUCJ 31.	24
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14.	*R v Jaypoody*, 2018 NUCJ 36.	24
15.	*R v Kapp,* 2008 SCC 41.	6
16.	*R v Sharma,* 2020 ONCA 478.	14, 27, 28

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17.	*R v Turtle*, 2020 ONCJ 429.	20
18.	*R v Van Der Peet*, [1996] 2 SCR 507, 1996 CanLII 216.	21, 22
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20.	*Vriend v Alberta*, [1998] 1 SCR 493.	27
21.	*Williams Lake Indian Band v Canada (Aboriginal Affairs and Northern Development)*, 2018 SCC 4.	12

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1.	Canada, Minister of Indian Affairs and Northern Development, *The Specific Claims Policy and Process Guide* (Ottawa: Minister of Public Works and Government Services Canada, 2009).	12
2.	Canada, National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, vol 1a* (Vancouver: Privy Council, 2019).	7, 8
3.	Canada, Office of the Correctional Investigator, "Proportion of Indigenous Women in Custody nears 50%: Correctional Investigator Issues Statement" (17 December 2021) accessed 6 January 2022.	9
4.	Canada, Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (Winnipeg: The Commission, 2015).	12
5.	Aimee Craft, "Neither Infringement nor Justification: The Supreme Court of Canada's Mistaken Approach to Reconciliation" in Karen Drake & Brenda L Gunn, eds, *Renewing Relationships: Indigenous Peoples and Canada* (Saskatoon: Native Law Center, 2019) 59.	11

6.	The Honourable Chief Justice Lance Finch, "The Duty to Learn: Taking Account of Indigenous Legal Orders in Practice", (Vancouver: Continuing Legal Education Society of British Columbia, 2012).	21
7.	The Right Honourable Chief Justice Beverley McLachlin, "Reconciling Unity and Diversity in the Modern Era: Tolerance and Intolerance", remarks delivered at the Aga Khan Museum in Toronto, ON (28 May 2015).	12
8.	Naiomi Metallic, "NIL/TU,O Child and Family Services Society v B.C. Government and Service Employees' Union' and Communications, Energy and Paperworkers Union of Canada v Native Child and Family Services of Toronto" (2020) Special Edition CNLR 21.	17

Statutes, Legislation and Rules

	Statutes, Legislation and Rules	Section, Rule, etc.
1.	*Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.	
	*Loi constitutionnelle de 198*2, Annexe A de la Loi de 1982 *sur le Canada* (R-U), 1982, c 11, ss 7, 15, 25.	ss 7, 15, 25.
2.	*Criminal Code,* RSC, 1985, c C-46.	ss 718.2(e), 742.1(c), 742.1(e)(ii).
	Code criminel, LRC (1985), ch C-46.	art. 718.2(e), 742.1(c), 742.1(e)(ii).
3.	*Specific Claims Tribunal Act,* SC 2008, c 22.	Preamble
	Loi sur le Tribunal des revendications particulières, LC 2008, ch 22.	Préambule
4.	*United Nations Declaration on the Rights of Indigenous People Act*, SC 2021, c 14.	Preamble
	Loi sur la Déclaration des Nations Unies sur les droits des peuples autochtones, LC 2021, ch 14.	Préambule