SCC No. 40061

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR QUÉBEC)

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(Pursuant to Rule 42 of the *Rules of the Supreme Court of Canada*)

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TABLE OF CONTENTS

PART I – OVERVIEW AND STATEMENT OF FACTS

A. OVERVIEW

1. The First Nations of the Maa-nulth Treaty Society (the "**Society**") represents the modern treaty interests of its five members, Huu-ay-aht First Nations, Toquaht Nation, Yuułuʔiłʔatḥ First Nation, Uchucklesaht Tribe, and Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations (the "**Maa-nulth Nations**"). The Maa-nulth Nations are from the broader Nuu-chah-nulth cultural and linguistic group, with territories on the west coast of Vancouver Island.

2. The Maa-nulth Nations, along with British Columbia and Canada, are signatories to the Maa-nulth Final Agreement (the "**Treaty**"), which recognizes treaty rights within the meaning of s. 35 of the *Constitution Act, 1982.*[1] The Treaty codifies, among other rights, the right of the Maa-nulth Nations to legislate respecting child protection on certain lands identified for Maa-nulth Nations in the Treaty ("**Treaty Lands**"), and respecting adoption beyond Treaty Lands.[2] One of the Maa-nulth Nations, Huu-ay-aht, was one of the first of the Nations in Canada to serve notice under s. 20 of the *Act Respecting First Nations, Inuit and Métis children, youth and families,* SC 2019, c. 24 (the "**Federal Act**") of its intent to enter into a coordination agreement and is preparing to enact its own child and family services law.

3. The Maa-nulth Nations stand to be impacted by this Court's decision. As the legal landscape in Canada necessarily evolves to recognize and integrate existing inherent rights and Indigenous laws, agreements such as the Treaty must not be treated in law as a limiting factor to the realization of inherent authority.

4. Parliament today recognizes under the Federal Act an inherent Indigenous jurisdiction of broader scope than that negotiated in the Treaty in 2007. In particular, Indigenous law-making authority over child protection services is limited under the Treaty to Treaty Lands only, despite the fact that a large proportion of Maa-nulth children reside off Treaty Lands. By contrast, the Federal Act recognizes the inherent and constitutionally protected right of Indigenous governments to regulate how child and family services are provided to their children regardless of where they reside. The Maa-nulth Nations support this recognition, both because it is correct in

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[1] Maa-nulth First Nations Final Agreement, s. 1.1.1 ["Treaty"]; *Constitution Act, 1982,* being Schedule B to the *Canada Act, 1982,* (UK), 1982, c. 11, s. 35

[2] Treaty, ss. 13.15.3, 13.16.2. Treaty Lands are defined in s. 29.1.1; see Appendices B-1 to B-5.

law and because it is an important step toward the reconciliation of prior existing legal orders with the assertion of Crown sovereignty.[3]

5. The Quebec Court of Appeal recognized that Parliament's approach in the Federal Act "leave[s] behind particularized negotiation (bipartite or tripartite) as a prerequisite to rights recognition."[4] The Maa-nulth Nations' experience and Treaty provide context and support for this approach. These interveners caution against the view advanced by Quebec that recognition of inherent jurisdiction is lawfully contingent upon or should be limited to recognition by agreement with all levels of government, litigation, or constitutional amendment. Canada's constitutional framework does not compel that conclusion, and the Treaty itself demonstrates why this is not a correct legal result.

6. Treaties and agreements may well facilitate *how* best to enable the exercise of inherent rights, but cannot be determinative of *whether* such rights will be recognized or enabled. As our national history evolves from a *de facto*, if not legal, paradigm of rights denial toward recognition, it is essential that full rights recognition follows for all Indigenous peoples, including those that have sought to advance reconciliation through treaty negotiation.

7. The imperative that the Federal Act serves is to put the Canadian legal system to work—without further undue delay—on integrating the essential and inherent authority Indigenous peoples have over the protection of their own children and families into the Canadian legal framework. The experience of the Maa-nulth Nations as modern treaty Nations, and the operational knowledge of Huu-ay-aht specifically with respect to such integration, underscores why this imperative must and can be supported under a principled approach to the inter-relationship of laws in concurrent spheres of jurisdiction.

B. OPERATIONAL CONTEXT

8. The Treaty was negotiated over the course of nearly two decades and ratified by each Nation in 2007, by British Columbia in 2007, and by Canada in 2009, coming into force on April 1, 2011.[5] The Treaty sets out the Maa-nulth Nations' law-making authority in various areas, including, as it is termed in the Treaty, "child protection services" for Maa-nulth families. As

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[3] *R. v. Van der Peet,* [1996] 2 SCR 507, para. 31 [*Van der Peet*]; *R. v. Gladstone*, [1996] 2 SCR 723, para. 73 [*Gladstone*]

[4] Reasons for judgment in *Reference to the Court of Appeal of Quebec in relation with the Act respecting First Nations, Inuit and Métis children, youth and families,* 2022 QCCA 185, para. 196 [RFJ]

[5] *Maanulth First Nations Final Agreement Act,* SC 2009, c. 18; *Maa-nulth First Nations Final Agreement Act*, SBC 2007, c. 43

noted, this authority is limited to Treaty Lands, which omits many Maa-nulth children and families.[6] In some respects, the Treaty and the Act employ similar mechanisms, including recognition of supremacy of Indigenous laws where laws conflict, imposition of minimum standards as between levels of government, concurrent application of provincial law, and the application of Maa-nulth law to children in the care of the Province.[7] The individual Nations are at various stages along their paths toward exercising jurisdiction over child and family services. Huu-ay-aht has progressed furthest in this process and is preparing to enact its own child and family services law.

9. Huu-ay-aht has been active in supporting its children and families, including significant involvement at the interface of the provincial child welfare system, case by case.[8] This front-line organizational experience, along with structured community engagement and independent research and reporting have informed Huu-ay-aht's approach to exercising its legislative authority in relation to child and family services.

10. Huu-ay-aht's legislative model is a concurrent one, in which in addition to Huu-ay-aht law, provincial laws would continue to apply with respect to child and family services for Huu-ay-aht children both on and off Treaty Lands. The Huu-ay-aht model does not override the jurisdiction of the provincial or federal governments, but rather complements provincial and federal laws to ensure that all service providers, including the provincial Director and its delegates, when making decisions affecting Huu-ay-aht children and families: (a) do so in a manner that meets Huu-ay-aht standards of conduct, care and practice; (b) follow processes that help service providers meet the Federal Act's national standards and provincial legislative guiding principles[9] in the context of serving Huu-ay-aht children and families; (c) coordinate with Huu-ay-aht and integrate Huu-ay-aht knowledge and resources into decisions affecting Huu-ay-aht children and families; and (d) provide culturally appropriate services. The mechanisms for exercising jurisdiction established under the Federal Act assist Huu-ay-aht in developing a framework for providing integrated child and family services to its citizens.

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[6] Treaty, s. 13.16.2; "Child Protection Service" is defined in s. 29.1.1.
[7] Treaty, ss. 13.16.3 to 13.16.7
[8] See e.g. *L.S. v British Columbia (Director of Child, Family and Community Services)*, 2018 BCSC 255, paras. 20, 21 [*LS,* BCSC]; *Director v. L.D.S. and C.C.C.*, 2018 BCPC 61, paras. 21, 32, 54, 81-82 [*LS,* BCPC]
[9] *Child, Family and Community Service Act,* RSBC 1996, c. 46, ss. 2, 3 [CFCSA]

PART II – POSITION OF INTERVENER

11. The inherent right of self-government of Indigenous peoples exists, can be enabled within Canada's constitutional architecture through "recognition," and is not lawfully contingent on agreement or litigation. Further, the Federal Act in its entirety is a valid and urgently needed remedial mechanism to support respect for and the realization of Indigenous jurisdiction regarding the vitally important matter of child and family services. It is consistent with federalism, concurrent jurisdiction and reconciliation.

PART III – STATEMENT OF ARGUMENT

12. Agreements such as the Treaty are one important and useful means by which the exercise of inherent jurisdiction can be arranged and realized in Canada, but they are not the necessary or only means. Moreover, agreements such as the Treaty may be limited by their historical context. Treaties do not create s. 35 rights, which are pre-existing, but rather delineate them by agreement and legislation. At the same time, the Treaty does provide an example of how Indigenous laws can be integrated into a broader federal and provincial constitutional framework, consistent with a paradigm of cooperative federalism,[10] without constitutional amendment.[11] This includes a recognition that successfully integrating Indigenous laws means that Indigenous laws may prevail over provincial and federal laws,[12] and apply to all those who are providing services to Indigenous children.[13]

A. TREATY: TERRITORIAL LIMITATION

13. In the Federal Act, Parliament recognized, and the QCCA accepted, that Indigenous governments have an inherent right to make laws regarding child and family services, and that

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[10] See too AGC position on this point: AGC Factum, para. 105.

[11] The Treaty states that the Treaty does not modify the Constitution, that the Treaty delineates and modifies s. 35 Aboriginal rights, and that the Treaty has paramountcy over federal and provincial laws where these conflict (Treaty, ss. 1.3.1, 1.11.2, 1.11.3, 1.8.1, 1.8.2); and both the federal and provincial governments enacted legislation to this effect (see note 5, *supra*). Both the language of the Treaty and the settlement legislation counter the assertion by the AGQ, at paras. 69-72 and 77 of their Factum, that governments do not have the power to recognize or give scope to s. 35 rights through legislation and without constitutional amendment.

[12] Treaty, s. 13.16.7

[13] Treaty, s. 13.16.2, and definitions of Child Protection Service, Child in Care, Director, Child in Need of Protection (s. 29.1.1)

those laws apply to all children and families belonging to their communities regardless of where they reside.[14] These interveners support this conclusion.

14. However, what is today recognized by Parliament as an inherent right was something governments were reluctant to recognize 20 years ago, in the negotiation of the Treaty. Maa-nulth Nations have long held that they have an inherent right to care for their children in their own ways, according to their own laws, regardless of where they reside. Despite this, the resulting final agreement does not recognize the full scope of the inherent rights now recognized by Parliament, as the Treaty provides no law-making authority for child and family services off Treaty Lands.[15] This is an important perspective for this Court to consider with respect to Quebec's argument that treaty-making is the "preferred route" to deal with recognizing the right of Indigenous self-government on a "case-by-case basis."[16]

15. The "grand purpose" of s. 35 is the reconciliation of Indigenous and non-Indigenous Canadians in a "mutually respectful long-term relationship."[17] However, the signing of a treaty alone does not indicate that this purpose has been achieved. Rather, the making of a modern treaty "represents but a step – albeit a very important step – in the long journey of reconciliation."[18] Treaties themselves "must be seen as a living document that evolves with changing times according to the underlying original intent."[19] Indeed, the BC Supreme Court recently described the Tsawwassen Final Agreement as a "living document with the potential for change."[20] As this Court recently stated, and as Canada has recognized, reconciliation is an "ongoing process."[21] A treaty does not, therefore, either encapsulate or exhaust the process of reconciliation or the Crown's obligations.[22] Modern treaties are valuable tools, but they are not the only tool that governments, or First Nations, have at their disposal.[23]

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[14] RFJ, para. 250, and see especially footnote 278; AGC Factum, paras. 30-31
[15] Treaty, s. 13.16.2
[16] See RFJ, para. 289, and AGQ Factum, paras. 34, 50, 57
[17] *Beckman v. Little Salmon/Carmacks First Nation*, 2010 SCC 53, para. 10 [*Beckman*]
[18] *Beckman*, para. 12
[19] *R. v. Ireland (Gen. Div.),* 1990 CanLII 6945 (ONSC)
[20] *Cowichan Tribes v. Canada (Attorney General),* 2016 BCSC 1660, paras. 59, 64 (in Chambers)
[21] *R. v. Desautel,* 2021 SCC 17, para. 22 [*Desautel*]; Department of Justice, *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples*, Ottawa, Department of Justice, 2018, item 9, as cited in RFJ, para. 193 [2018 *Principles*]
[22] *Beckman*, para. 61; *First Nation of Nacho Nyak Dun v. Yukon*, 2017 SCC 58, para. 38 [*Nacho Nyak Dun*]
[23] RFJ, paras. 448-449

16. Moreover, the negotiation of tripartite treaties is a difficult and lengthy process.[24] So too is litigation. Even where there is a court declaration of a s. 35 right or duty to negotiate, it still falls to one or more levels of government to delineate and implement rights.[25] Moreover, Aboriginal rights litigation is notoriously expensive and onerous for First Nations.[26] The result can be undue delay in the realization of inherent rights, and in the present context, the corollary impacts upon further generations of Indigenous children who are denied the jurisdiction of their own First Nations. Moreover, negotiated rights may not fully recognize inherent rights.

17. The territorial restriction under the Treaty is not grounded in the inherent right or Canadian law—indeed, it reflects a model repudiated in Canadian law,[27] and perpetuates an injustice given the fact that many Indigenous people live away from their traditional territories as a direct result of both colonialism generally and historic child welfare policy specifically.[28] Further, it hinders Indigenous governments from providing all children and families with access to the same suite and quality of services, and undermines a Nation's ability to promote cultural continuity and to perpetuate itself as a distinct people.[29] This example illustrates that tripartite agreements are not a full answer to or the source of inherent jurisdiction.

18. Recognition and integration of the full scope of inherent rights is essential to the project of reconciliation. Our legal system, governments and courts must work in service of this recognition, employing the tools available, including legislation, agreement, and policy, in service of this goal.

19. The QCCA recognized that the approach taken by Parliament in the Federal Act of "leaving behind particularized negotiation (bipartite or tripartite) as a prerequisite to recognition" of Indigenous rights is consistent with the recommendations made by the Royal Commission on Aboriginal Peoples many years ago.[30] The Court also noted that Canada's 2018 *Principles*

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[24] RFJ, para. 27
[25] *Ahousaht Indian Band and Nation v. Canada*, 2021 BCCA 155, paras. 200, 290, 299, 300
[26] *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, [2010] 2 SCR 650, para. 33
[27] *Corbiere v. Canada (Minister of Indian and Northern Affairs),* [1999] 2 SCR 203 [*Corbiere*], para. 18, per McLachlin and Bastarache JJ., for the majority; paras. 62, 71-72, per L'Heureux-Dubé J., dissenting with respect to remedy, but not on this point.
[28] *Corbiere,* para. 62; *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (Montreal: McGill-Queen's University Press, 2015), pp. 49-50, 55, 58, 137-138, 154; *Truth and Reconciliation Commission Reports: Canada's Residential Schools: The History, Part 1 Origins to 1939*, vol 1 (Montreal: McGill-Queen's University Press, 2015), pp.14-15, 21; *Canada's Residential Schools: The Legacy*, vol 5 (Montreal: McGill-Queen's University Press, 2015), pp. 11-15, 103-105
[29] RFJ, paras. 59, 489
[30] RFJ, para. 196 (emphasis added)

Respecting the Government of Canada's Relationship with Indigenous peoples include that "The Government of Canada recognizes that Indigenous self-government is part of Canada's evolving system of cooperative federalism and distinct orders of government" which is described as recognizing "the inherent right of self-government as an existing Aboriginal right within section 35" and that "recognition of the inherent jurisdiction and legal orders of Indigenous nations is, and should be, therefore, the starting point of discussions aimed at interactions between federal, provincial, territorial, and Indigenous jurisdictions and laws."[31] These policy statements, and Parliament's approach, are consistent with recognition by this Court that pre-existing social orders, including laws and customs, of Indigenous peoples are the foundation of s. 35 rights,[32] that Aboriginal rights pre-exist the enactment of s. 35 (and therefore any specific court declaration),[33] and that "promoting" processes of Indigenous self-governance furthers reconciliation.[34] As this Court recently stated, it is for Indigenous peoples "to choose by what means to make their decisions, according to their own laws, customs, and practices."[35]

20. The purpose of the s. 35 rights framework is "to provide cultural security and continuity."[36] Treaties are a means to this objective, not an end. Cultural security and an "equal partnership"[37] between Indigenous peoples and the Crown will be furthered by recognizing the shortcomings of past models and creating new opportunities for Indigenous jurisdiction and control over their lives and well-being.

21. The recognition and the mechanism for implementation of Indigenous laws in the Federal Act provide important, valid, and needed means to move past the harms that have arisen from denial of jurisdiction of Indigenous peoples with respect to their own children and families, and to avoid the challenges and limitations associated with waiting for either treaties or litigation.

B. INTEGRATING INDIGENOUS LAWS UNDER COOPERATIVE FEDERALISM

22. Principles of federalism and the overarching goal of reconciliation coincide in this case to support an interpretation of the Federal Act that upholds both its national standards of care (ss. 9-17) and the provisions which imbue Indigenous child and family services laws with the force and

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[31] RFJ, para. 193 (emphasis added), and see footnote 241
[32] *Van der Peet*, paras. 40-43; *Desautel*, paras. 26-28; *Gladstone*, para. 73
[33] *Van der Peet*, paras. 28-29; *Desautel*, para. 34; *R. v. Sparrow,* [1990] 1 SCR 1075, para. 23 [*Sparrow*]
[34] *Anderson v. Alberta*, 2022 SCC 6, para. 27
[35] *Desautel*, para. 86
[36] *R. v. Sappier; R. v. Gray*, 2006 SCC 54, para. 33
[37] *Nacho Nyak Dun*, para. 33

effect of federal law and provide for prevalence of Indigenous laws where these conflict (ss. 21-22).

23. The interveners have relevant experience with the integration of Indigenous laws into the provincial and federal framework, including with paramountcy of Indigenous laws,[38] and recognize that this integration is facilitated by coordination and agreement such as the Treaty. However, it is not, under principles of cooperative federalism, lawfully contingent upon such agreement.[39]

24. As the Quebec Court of Appeal held, the modern view of federalism is increasingly accommodating of overlapping jurisdictions.[40] While an agreement may be chosen as a means to address overlapping jurisdiction, it is not required by the division of powers or cooperative federalism.[41] This Court has been clear that cooperative federalism does not circumscribe the exercise of the valid legislative jurisdiction of either the federal or provincial governments. So long as a level of government is acting in furtherance of its jurisdiction, it may incidentally encroach on the jurisdiction of another level of government, even significantly, and without agreement of that government.[42] These effects can include imposing administrative requirements on the other level of government.[43]

25. Thus, the federal government is entitled to legislate standards in relation to child and family services delivered to Indigenous peoples, and incorporate Indigenous laws by reference, as

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[38] See, e.g., *Trespass and Community Safety Act,* UTS 57/2019, ss. 6.7-6.8; *Subsurface Resources Act*, UTS 48/2017, ss. 1.4, 5.1, 5.15; *Real Property Tax Act*, KCFNS 19/2011, s. 1.5; *Enforcement Act*, TNS 16/2011, ss. 2-4-2.6, 7.1.1; *Land Act*, TNS 12/2011, ss. 2.4, 4.24; *Business Licensing Act*, YFNS 72/2021, ss. 2.4, 3.1; *Wildlife and Migratory Birds Regulation,* TNR 7/2011, s. 1.3; *Fisheries Regulation* TNR 5/ 2011, s. 1.3(b); *Zoning Act*, UTS 46/2015, s. 1.4

[39] *Contra* AGQ Factum, paras. 22-24

[40] RFJ, paras. 320, 347; *NIL/TU,O Child and Family Services Society v. British Columbia Government and Service Employees Union*, 2010 SCC 45, para. 42 [*NIL/TU,O*]

[41] This includes jurisdiction with respect to child and family services for Indigenous persons. In *NIL/TU,O,* paras. 2, 42-44, the Court recognized a multilateral agreement including the province, the federal government and an Indigenous society as an example of cooperative federalism. The Court did not say that such an agreement was required, only that it existed and was consistent with cooperative federalism and the reality of overlapping jurisdictions (vs. AGQ paras. 20, 27, 56).

[42] *Quebec (Attorney General) v. Canada (Attorney General),* 2015 SCC 14 ["Long Gun Registry case"], paras. 18-19; *Canadian Western Bank v. Alberta*, 2007 SCC 22, para. 37

[43] *Reference re Goods and Services Tax*, [1992] 2 SCR 445, pp. 469, 471, 484-5; Long Gun Registry case, paras. 5, 6, 26; *Alberta Government Telephones v. (Canada) Canadian Radio-television and Telecommunications Commission*, [1989] 2 SCR 225, p. 275

an exercise of its jurisdiction under s. 91(24) of the *Constitution Act, 1867* (UK), 30 & 31 Vict., c. 3. It is not constitutionally required to reach agreement with provinces first or as a condition of its application.

26. In incorporating Indigenous laws, the Federal Act provides a mechanism by which Indigenous laws are not only recognized but may be more readily enforced. Though inherent jurisdiction does not, legally, require federal legislation to give it effect, in practice, as this Reference demonstrates, short of court declaration or treaty, Indigenous rights and jurisdiction continue to be denied. Consistent with the promise of s. 35,[44] the Act addresses, and has a remedial effect upon, the history of denial of Indigenous inherent jurisdiction and laws.

27. Moreover, the Act efficiently enables mechanisms by which Indigenous laws can be integrated with existing provincial and federal law in respect of the provision of child and family services. As set out above, this is the model Huu-ay-aht First Nations has determined to pursue. It too is a remedial model, intended to proactively avoid the sorts of gaps and failures in the administration of the CFCSA articulated by the BC Supreme Court and the BC Provincial Court in cases where review was sought by Huu-ay-aht.[45]

28. The model supplements, but does not displace, the provincial scheme, requiring all service providers to Huu-ay-aht children and families to carry out their responsibilities in a manner that is consistent with protections and processes established under Huu-ay-aht law. Such proactive preventions and processes align with the guiding principles and legislative requirements of the CFCSA;[46] however, Huu-ay-aht's experience has been that these guiding principles are too often honoured in the breach, and their enforcement relies upon retrospective court intervention, after the impacts have occurred.[47] Furthermore, oversight by the courts is frequently inaccessible on a timely basis, due to systemic delays.[48]

29. The Act properly encourages tripartite negotiation in support of the exercise of jurisdiction but does not make the exercise contingent upon agreement. This is consistent with existing principles of federalism.[49] Canada's "evolving system of cooperative federalism"[50] must continue to proceed on a principled basis to recognize and accommodate overlapping spheres of

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[44] *Sparrow*, para. 56
[45] See e.g. *LS*, BCSC, para. 32; *LS*, BCPC, paras. 79, 90; *B.J.T. v. J.D.*, 2022 SCC 24, paras. 68-79
[46] CFCSA, ss. 2, 3 and e.g. s. 30(1)(b) and 33, and see *LS*, BCPC para. 94
[47] See e.g. *LS*, BCSC, paras. 9, 11, 20-22, 37 and *LS*, BCPC, paras. 18-19, 32-35, 50-51
[48] See e.g. *LS*, BCSC, paras. 25-27, 31-32 and *LS*, BCPC, paras. 69-70
[49] See para. 24 and note 40, *supra*
[50] RFJ, para. 193, citing 2018 *Principles*

jurisdiction, including finally, with Indigenous governments. Just as, under principles of cooperative federalism, agreements between federal and provincial governments are favoured but not required, so too must these principles inform the relationship of laws with respect to inherent jurisdiction.

30. Whether Indigenous laws proceed of their own force, with the constitutional protection of s. 35 and its robust proscription against unjustified infringement (imposing a "heavy burden" upon the Crown),[50] or incorporated by reference under s. 91(24) with concomitant paramountcy, the fundamental premise must be that Indigenous laws apply, and cannot be readily over-ridden by federal or provincial law.[51]

31. The Maa-nulth Nations caution against an anachronistic vision of federalism, which finds room for Indigenous legislative authority only with federal and provincial agreement.[52] Canada is not just a bi-jural but a multi-jural nation, albeit one in which Indigenous legal orders have often been relegated to the margins.[53] Regardless, Indigenous legal orders have always existed in Canada. Although the attitude of courts and governments with respect to Indigenous laws has historically been "one of denial and suppression," nevertheless, "Indigenous legal traditions are among Canada's legal traditions. They form part of the law of the land."[54] The Federal Act provides a means to recognize and enforce them, and does so in a manner consistent with the Constitution and the objective of reconciliation.

PART IV– COSTS

32. The Maa-nulth Nations seek no costs for or against them.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 14th day of November, 2022.

Maegen M. Giltrow, K.C. | Lisa C. Glowacki | Natalia D. Sudeyko

[50] *Sparrow*, para. 81
[51] Royal Commission of Aboriginal Peoples, *Partners in Confederation: Aboriginal Peoples, Self-Government, and the Constitution* (Ottawa, Ontario: Canada Communication Group, 1993), pp. 36-39
[52] AGQ Factum, paras. 34, 50, 57; RFJ, paras. 288-289
[53] *Sparrow,* paras. 49-50, Finch, CJBC (as he then was), "The Duty to Learn: Taking Account of Indigenous Legal Orders in Practice", CLEBC, 2012, para. 1; and see generally Kent McNeil, "Indigenous Law and the Common Law" (2021) *Articles & Book Chapters. 2829*
[54] *Pastion v. Dene Tha' First Nation*, 2018 FC 648, para. 8

PART VII – LIST OF AUTHORITIES

No.	Authorities	Para.
Statutes/Legislation		
1.	*Business Licensing Act*, YFNS 72/2021	23
2.	*Child, Family and Community Service Act,* RSBC 1996, c. 46	10, 27-28
3.	*Constitution Act, 1867* (UK), 30 & 31 Vict., c. 3 *Loi Constitutionnelle de 1867,* 30 & 31 Victoria, ch. 3 (R.-U.)	25
4.	*Constitution Act, 1982,* being Schedule B to the *Canada Act, 1982,* (UK), 1982, c. 11 *Loi Constitutionnelle de 1982, Annex B de la Loi de 1982 sur le Canada (R-U)*, 1982, c. 11	2
5.	*Enforcement Act*, TNS 16/2011	23
6.	*Fisheries Regulation*, TNR 5/ 2011	23
7.	*Land Act*, TNS 12/2011	23
8.	*Maa-nulth First Nations Final Agreement Act*, SBC 2007, c. 43	8
9.	*Maanulth First Nations Final Agreement Act,* SC 2009, c. 18 *Loi sur l'accord définitif concernant les premières nations maanulthes*, LC 2009, ch. 18	8
10.	*Real Property Tax Act*, KCFNS 19/2011	23
11.	*Subsurface Resources Act*, UTS 48/2017	23
12.	*Trespass and Community Safety Act,* UTS 57/2019	23
13.	*Wildlife and Migratory Birds Regulation,* TNR 7/2011	23
14.	*Zoning Act*, UTS 46/2015	23
Caselaw		
15.	*Ahousaht Indian Band and Nation v. Canada*, 2021 BCCA 155	16

16.	*Alberta Government Telephones v. (Canada) Canadian Radio-television and Telecommunications Commission*, [1989] 2 SCR 225	24
17.	*Anderson v. Alberta*, 2022 SCC 6	19
18.	*Beckman v. Little Salmon/Carmacks First Nation*, 2010 SCC 53	15, 20
19.	*B.J.T. v. J.D.*, 2022 SCC 24	27
20.	*Canadian Western Bank v. Alberta*, 2007 SCC 22	24
21.	*Corbiere v. Canada (Minister of Indian and Northern Affairs)*, [1999] 2 SCR 203	17
22.	*Cowichan Tribes v. Canada (Attorney General)*, 2016 BCSC 1660	15
23.	*Director v. L.D.S. and C.C.C.*, 2018 BCPC 61	9, 27-28
24.	*First Nation of Nacho Nyak Dun v. Yukon*, 2017 SCC 58	15, 20
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26.	*NIL/TU,O Child and Family Services Society v. British Columbia Government and Service Employees Union*, 2010 SCC 45	24
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