Court File No. 40061

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

IN THE MATTER OF REFERENCE TO THE COURT OF APPEAL FOR QUEBEC RELATING TO THE ACT CONCERNING CHILDREN, YOUNG PEOPLE AND FIRST NATIONS, INUIT AND MÉTIS FAMILIES (Decree No. 1288-2019)

BETWEEN:

ATTORNEY GENERAL OF QUÉBEC

Appellant

-and-

ATTORNEY GENERAL OF CANADA, ASSEMBLY OF FIRST NATIONS QUÉBEC-LABRADOR, FIRST NATIONS OF QUÉBEC AND LABRADOR HEALTH AND SOCIAL SERVICES COMMISSION, MAKIVIK CORPORATION, ASSEMBLY OF FIRST NATIONS, ASENIWUCHE WINEWAK NATION OF CANADA, SOCIÉTÉ DE SOUTIEN À L'ENFANCE ET À LA FAMILLE DES PREMIÈRES NATIONS DU CANADA

Respondents

AND BETWEEN:

ATTORNEY GENERAL OF CANADA

Appellant

-and-

ATTORNEY GENERAL OF QUÉBEC

Respondent

-and-

ATTORNEY GENERAL OF MANITOBA, ATTORNEY GENERAL OF BRITISH COLUMBIA, ATTORNEY GENERAL OF ALBERTA, ATTORNEY GENERAL OF NORTHWEST TERRITORIES, SOCIÉTÉ DE SOUTIEN À L'ENFANCE ET À LA FAMILLE DES PREMIÈRES NATIONS DU CANADA, ASENIWUCHE WINEWAK NATION OF CANADA, ASSEMBLY OF FIRST NATIONS, MAKIVIK CORPORATION, ASSEMBLY OF FIRST NATIONS QUÉBEC-LABRADOR, FIRST NATIONS OF QUÉBEC AND LABRADOR HEALTH AND SOCIAL SERIVCES COMMISSION

Interveners

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FACTUM OF THE INTERVENER,
FEDERATION OF SOVEREIGN INDIGENOUS NATIONS

(Pursuant to Rules 37 and 42 of the *Rules of the Supreme Court of Canada*, S.O.R./2002-156)

GRAND COUNCIL OF TREATY #3, INNU TAKUAIKAN UASHAT MAK MANI-UTENAM, FEDERATION OF SOVEREIGN INDIGENOUS NATIONS, PEGUIS CHILD AND FAMILY SERVICES, NATIVE WOMEN'S ASSOCIATION OF CANADA, COUNCIL OF YUKON FIRST NATIONS, INDIGENOUS BAR ASSOCIATION, CHIEFS OF ONTARIO, INUVIALUIT REGIONAL CORPORATION, INUIT TAPIRIIT KANATAMI, NUNATSIAVUT GOVERNMENT and NUNAVUT TUNNGAVIK INCORPORATED, NUNANUKAVUT COMMUNITY COUNCIL, LANDS ADVISORY BOARD, MÉTIS NATIONAL COUNCIL, MÉTIS NATION-SASKATCHEWAN, MÉTIS NATION OF ALBERTA, MÉTIS NATION BRITISH COLUMBIA, MÉTIS NATION OF ONTARIO and LES FEMMES MICHIF OTIPEMISIWAK, LISTUGUJ MI'GMAQ GOVERNMENT, CONGRESS OF ABORIGINAL PEOPLES, FIRST NATIONS FAMILY ADVOCATE OFFICE, ASSEMBLY OF MANITOBA CHIEFS, FIRST NATIONS OF THE MAA-NULTH TREATY SOCIETY, TRIBAL CHIEFS VENTURES INC., UNION OF BRITISH COLUMBIA INDIAN CHIEFS, FIRST NATIONS SUMMIT OF BRITISH COLUMBIA and BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS, DAVID ASPER CENTRE FOR CONSTITUTIONAL RIGHTS, REGROUPEMENT PETAPAN, CANADIAN CONSTITUTION FOUNDATION, CARRIER SEKANI FAMILY SERVICES SOCIETY, CHESLATTA CARRIER NATION, NADLEH WHUTEN, SAIK'UZ FIRST NATION and STELLAT'EN FIRST NATION, CONSEIL DES ATIKAMEKW D'OPITCIWAN, VANCOUVER ABORIGINAL CHILD AND FAMILY SERVICES SOCIETY and NISHNAWBE ASKI NATION

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PART I – OVERVIEW AND STATEMENT OF FACTS

A. Overview

> We know the only way to maintain healthy and thriving communities is by supporting our people to raise their children in accordance with their own history, culture, language customs and laws. … Our leaders wanted to ensure health and wellness for all children as long as the sun shines, the grass grows and the rivers flow.[1]

1. The Federation of Sovereign Indigenous Nations ("FSIN") submits that the *Act respecting First Nations, Inuit and Métis children, youth, and families*, SC 2019, c 24 ("the *Act*") is constitutional and that the vast majority of the findings of the Quebec Court of Appeal are correct.

2. In the present factum, the FSIN will argue that:

   a. the Quebec Court of Appeal was correct to conclude that the inherent right to self-government is a generic right protected by s. 35 of the *Constitution Act*, *1982*, and one that is held by all Indigenous peoples in Canada;

   b. this Court must reject the argument that Indigenous rights may only be recognized by court decision, treaty, or constitutional amendment;

   c. if this Court upholds the Quebec Court of Appeal's finding that s. 21 and subsection 22(3) of the *Act* are *ultra vires*, the structure established by that court for addressing potential conflict between Indigenous laws and provincial laws must be modified to protect Indigenous laws from unjust encroachment.

3. The purpose of these arguments is to underline the real-world consequences of the positions adopted by the parties, and to ensure that the outcome of this Appeal provides First Nations with a meaningful opportunity to address the needs of children and families in their communities.

B. Statement of Facts

4. The FSIN is a political organization that represents the 74 First Nations in Saskatchewan.

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[1] Statement of Second Vice-Chief David Pratt to the Standing Senate Committee on Aboriginal Relations (April 10, 2019), **Attorney General of Quebec Book of Evidence ("AGQBE"), vol. 2, p. 357**.

Its member First Nations include the Dakota, Dene, Nahkawe (Saulteaux), Nakota, Swampy Cree, Lakota, Plains Cree and Woodland Cree Nations in Saskatchewan.

5. In Saskatchewan, approximately 85-87% of children in care are Indigenous, almost all of First Nations ancestry.[2] This level of overrepresentation of Indigenous children in state care is one of the highest in the country. As First Vice Chief of the FSIN David Pratt told the Standing Senate Committee during its consideration of Bill C-92: "the status quo for us is not acceptable and can no longer continue to work for our children with Saskatchewan the way it's going. … the situation for Indigenous people in the child welfare system is a humanitarian crisis."[3]

6. FSIN and its member Nations worked for decades to find ways to reduce the number of First Nations children taken into care and to provide First Nations communities with the means to design and control their own child welfare systems. The FSIN provided detailed input to the government during the development of the *Act*[4] and, since the *Act*'s adoption, has been supporting its member Nations in preparing to use the tools provided by the *Act* to exercise their inherent jurisdiction over child and family services. The purpose of these revitalization efforts is to replace imposed child welfare regimes that have perpetuated colonialism and torn apart First Nations families with child protection practices that are based on the wisdom that First Nations communities themselves possess.[5] Applying this wisdom leads to much better outcomes for children and families.[6]

PART II – STATEMENT OF ISSUES

7. The FSIN will address the following issues:

   a. Did the Quebec Court of Appeal err in concluding that Indigenous groups in Canada possess an inherent right to self-government that is protected by s. 35 and that this right is generic?

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[2] Statistics Canada, *Aboriginal peoples: Fact Sheet for Saskatchewan*, (March 14, 2016), p. 4. See also, statement of David Pratt, *supra* note 1.
[3] Statement of David Pratt, *supra* note 1.
[4] *Ibid*.
[5] Celeste Cuthburtson, "Statutory Recognition of Indigenous Custom Adoption: Its Role in Strengthening Self-Governance Over Child Welfare", (2019) 28 Dal J Leg Stud 1, p. 58.
[6] Expert report of Christiane Guay, **Attorney General of Canada Book of Evidence ("AGCBE"), p. 3460-3461**.

b. Is there any merit to the Attorney General of Quebec's ("AGQ") argument that the *Act*'s recognition of the inherent right is unconstitutional?

c. Is the structure established by the Quebec Court of Appeal for addressing potential conflict between Indigenous laws and provincial laws consistent with existing jurisprudence?

8. The FSIN submits that the Quebec Court of Appeal was correct in concluding that Indigenous groups possess an inherent right to self-government protected by s. 35 and that this right is generic, that the *Act*'s recognition of the inherent right is constitutional, and that, if the Court of Appeal's approach is upheld, the structure it established for addressing potential conflict between Indigenous laws and provincial laws must be modified to be consistent with existing jurisprudence.

PART III – STATEMENT OF ARGUMENT

A. The Court of Appeal was correct to conclude that the inherent right of self-government is a generic right protected under s. 35

9. "The bringing up of a child can be likened to braiding a willow. It will grow as you braid it. So it is with a child – what he is taught and what is done with him as a child is how he will grow up, just like the braided willow. We must never forget that."[7]

10. The reason that the Dakota, Dene, Nahkawe (Saulteaux), Nakota, Swampy Cree, Lakota, Plains Cree and Woodland Cree Nations continue to exist in Saskatchewan is because these peoples, despite extraordinary assimilationist pressures, persisted in raising their children within their distinctive cultures. For much of the 20th century, the Canadian state dedicated itself, via the residential school system and other means, to impeding this transmission of culture so that First Nations peoples would cease to exist as separate peoples.[8] Despite these efforts, the First Nations peoples of Saskatchewan have, in raising their children, imbued them with the "culture, values and

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[7] Elder Rose Atimoyoo, quoted in *Making the Connection: Cree First Nations kehte-ayak thoughts on education*, Office of the Treaty Commissioner (June 2009), p. 1.

[8] Truth and Reconciliation Commission, *Honouring the Truth, Reconciling for the Future: Summary of the Final* Report, (2015), **AGCBE**, **p. 5078-5081.**

identity that form the basis of the distinctiveness"[9] of each of their respective nations. It is imperative to the survival of First Nations that their values, beliefs, family structures, and languages be protected for subsequent generations to flourish.

11. The Quebec Court of Appeal's confirmation that Indigenous peoples' inherent right of self-government is protected under s. 35 and that this right is generic in nature does not require extensive explication or justification – it is simply common sense. It is a reflection of what we all inherently understand: that it is impossible to disentangle what it means to be a "people" from how children are raised and cared for in a particular society; put another way, it is because they care for their children in First Nations ways that First Nations exist. Viewed from this perspective, it is circular for the AGQ to insist that, to have jurisdiction over children and family services, First Nations peoples must first prove that they had child-rearing practices that were, at the time of contact, "integral to the distinctive culture of the Aboriginal group claiming the right."[10] This is to effectively ask First Nations peoples to prove that they are peoples.

12. The FSIN submits that this is the world in reverse. Rather, the fact that First Nations peoples raise and protect their children in ways that are distinct to them, and that they have done so since before the time of contact, is a fact so "notorious and undisputed" that Canadian courts may validly take judicial notice of it.[11] This Court has previously directed that "courts must take judicial notice of such matters as the history of colonialism, displacement, and residential schools and how that history"[12] continues to affect Aboriginal people today. This Court has also "routinely and appropriately undertaken analysis under s. 15(1) [of the *Charter*] on the basis of judicial notice and logical reasoning."[13] For this reason, the AGQ's submission that the evidentiary record did not allow the Court of Appeal to confirm the existence of a generic self-government right[14] must be rejected.

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[9] *Renvoi à la Cour d'appel du Québec relatif à la Loi concernant les enfants, les jeunes et les familles des Premières Nations, des Inuits et des Métis*, 2022 QCCA 185, ("Judgment of the Court of Appeal"), para. 477.
[10] *R. v. Van der Peet*, [1996] 2 SCR 507, para. 46.
[11] *Law v. Canada (Minister of Employment and Immigration)*, [1999] 1 SCR 497, para. 77 ("*Law*").
[12] *R. v. Ipeelee*, [2012] 1 SCR 433, para. 60.
[13] *Law*, *supra* note 11, para. 78.
[14] Factum of the AGQ, para 89.

13. For its part, the Attorney General of Canada asks this Court to confirm that the right of self-government is limited to those areas that relate "to the internal affairs of an Indigenous community and that are necessary to ensure its cultural survival and growth as a distinct Indigenous community."[15] This is much too limited: non-Indigenous Canadians do not expect that their constitutional rights will be limited to only what is necessary for their cultural survival, and there is no justifiable reason for limiting the Indigenous right to self-government in this way.

14. This Court must confirm that Indigenous peoples' inherent right to self-government is a generic right that benefits all Indigenous peoples and that is protected by s. 35. Such a finding is legally correct and is required to replace unsuitable and misguided child protection regimes with practices that arise from the culture, language, and customs of First Nations peoples themselves.

B. The constitution of Canada does not make the provinces the gatekeepers of Aboriginal self-government

1. Provinces do not get a veto on Indigenous difference

15. The AGQ argues that the *Act*'s recognition that Indigenous groups possess an inherent right to self-government which includes jurisdiction over child and family services is beyond Parliament's powers because such a right can only be established by constitutional amendment, tripartite treaty, or judicial declaration.[16] This position, which is echoed by the Attorney General of Alberta,[17] puts the definition of Indigenous rights into the hands of non-Indigenous people. It turns the recognition of Indigenous rights from a question of what makes an Indigenous people a people to a question of what provincial governments are willing to tolerate as Indigenous rights.

16. The AGQ believes, and asks this Court to confirm, that the recognition of Indigenous self-government would constitute the introduction into Canadian law "of political institutions foreign to and incompatible with the Canadian system";[18] it also repeatedly denies that Indigenous groups could ever have what it calls "les pouvoirs étatiques."[19] While making these problematic

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[15] Factum of the AGC, para. 162 (our translation; emphasis added).
[16] Factum of the AGQ, para 34.
[17] Factum of the Attorney General of Alberta, para. 37, 47, 61.
[18] Factum of the AGQ, para 79 (our translation), citing *Ontario (Attorney General) v. OPSEU*, [1987] 2 SCR 2, para. 111.
[19] *Ibid*., para. 29, 101.

assertions, the AGQ asks this Court to both believe that it is committed to negotiating with Indigenous people and to give it an effective veto over how Indigenous groups will live and structure themselves. Attitudes of dismissal, condescension, and denial are what Indigenous peoples must deal with and overcome to live as themselves within Canada.

17. The AGQ speaks of the importance of negotiation, but it speaks from a position of power, because provincial jurisdiction is presumed but the jurisdiction of First Nations is not. In this world, Indigenous groups face an impossible choice: try and negotiate space for their people with a party that has all the power and resources, yet may not be willing to tolerate their ways of being, or spend years and millions of dollars in court to perhaps win recognition of a miniscule sliver of their rights.[20] In the meantime, the humanitarian crisis facing First Nations children in care persists unabated.

18. This Court must not adopt an approach to interpreting s. 35 that confirms Canada's constitution is a colonial tool, or that the assertion of Crown sovereignty in North America and the adoption of the *British North America Act* removed from Indigenous peoples the right to raise their children and shape their own destinies as peoples. Canada's constitution is much bigger than this.[21]

2. The constitutional conferences are of no assistance to the AGQ's position

19. The AGQ argues that the failure of the constitutional conferences and proposed amendments of the 80s and 90s demonstrates that no Indigenous right to self-government exists in the Canadian constitution.[22] This is not the case: the failure to adopt the various proposed amendments does not mean that the right to self-government is not recognized in the constitution; rather, it demonstrates that the federal and provincial governments do not have an explicit constitutional right to limit and control the exercise of self-government (setting aside limits that may be justified based on the *Sparrow* test).

20. Each of the constitutional amendments proposed between 1982 and the Charlottetown

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[20] Even a court judgment recognizing an Aboriginal right will be limited in scope due to the limiting nature of the "characterization" stage of the *Van der Peet* test.
[21] Judgment of the Court of Appeal, para. 464.
[22] Factum of the AGQ, para. 35-49.

Accord sought to control the exercise of this right, for example by requiring negotiation of an agreement delimiting the right, or by limiting its justiciability.[23] These proposed limits were driven by the fear that the recognition of an inherent right could undermine the territorial integrity of Canada.[24] However, without these amendments, neither the provincial nor the federal government have the presumptive right to put the brakes on Aboriginal self-government. It is the AGQ that now asks this Court to act as if these amendments were adopted, not the other way around.

3. *NIL/TU,O* is not authority for provincial gatekeeping

21. The AGQ relies on this Court's decision in *NIL/TU,O* as if it gave provinces wholesale license to intervene with Indigenous families.[25] This is extending *NIL/TU,O* far beyond its actual holding and these submissions should be rejected.

22. *NIL/TU,O* stands for the proposition that provincial labour law can apply to an agency providing child and family services to Indigenous communities. Nowhere in the judicial history of that case[26] is there any indication that the decision makers had an opportunity to consider evidence regarding the crisis of overrepresentation of Indigenous children in youth protection or the vast gulf between Indigenous approaches to child protection and the approaches enshrined in provincial laws. In contrast, the evidence in the case at bar unequivocally demonstrates the destructive effect of the application of provincial youth protection laws on Indigenous cultural survival. The proposition that Justice McLachlin's concurring opinion extends *NIL/TU,O* beyond the labour law context should be rejected.

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[23] Proposed 1984 Constitutional Accord, s. 35.2(b) and (c), **AGQBE, vol. 3, p. 1087**; *Projet d'accord de 1985 concernant les peuples autochtones du Canada*, s. 35.01, **AGQBE, vol. 3, p. 1128**; *Projet fédéral – Annexe – Modification de la Constitution du Canada* (1987), s. 35.01(2) and 35.02, **AGQBE, vol 4, p. 1133-1134**; Canada, *Bâtir ensemble l'avenir du Canada – Propositions*, **AGQBE, vol. 4, p. 1163**; *Charlottetown Accord*, s. 35.2 and 35.3, **AGQBE, vol. 5, p. 1531-1532.**

[24] Royal Commission on Aboriginal Peoples, *The Right of Aboriginal Self-Government and the Constitution: A Commentary*, **AGQBE, vol. 4, p. 1224**.

[25] Factum of the AGQ, para. 20, 56, 81.

[26] *NIL/TU,O Child and Family Services Society (Re)*, [2006] BCLRBD No. 72; *NIL/TU,O Child and Family Services Society (Re)*, [2006] BCLRBD No. 209; *NIL/TU,O Child and Family Services Society v. BCGEU*, 2007 BCSC 1080; *NIL/TU,O Child and Family Services Society v. BCGEU*, 2008 BCCA 333.

C. The Quebec Court of Appeal's approach to addressing conflict must be modified

23. If this Court concludes that the Quebec Court of Appeal was correct to find that s. 21 and subsection 22(3) of the *Act* are *ultra vires,* it must modify the approach described by the Court of Appeal for dealing with conflict between Indigenous laws and provincial laws. The approach adopted by the Court of Appeal is inconsistent with the existing jurisprudence because it applies an incorrect threshold question for determining when there is conflict. In doing so, it places First Nations' legal systems at significant risk of encroachment by provincial laws.

24. The Court of Appeal's approach is that, to show a *prima facie* infringement of its right of self-government, an Indigenous group must demonstrate that there is an "actual conflict" between its law and a law of government.[27] It is only at this point that the *Sparrow* justification principles would come into play to determine if the particular provision of the government law constitutes a justified infringement of the Aboriginal right.[28] The Court of Appeal further suggests that cases of "actual conflict" will be relatively rare.[29]

25. The threshold question identified by the Court of Appeal is inconsistent with this Court's previous jurisprudence on the *Sparrow* test. The threshold question should not be one of "actual conflict" but rather of infringement: not "is there an actual conflict between the provincial law and the Indigenous law?" but rather "does this provision of provincial law infringe upon the Aboriginal right to self-government over child and family services, as that right is expressed in this Indigenous law?"

26. This Court has already established a series of questions a court may examine to determine if there is *prima facie* infringement of an Aboriginal right: "First, is the limitation unreasonable? Second, does the regulation impose undue hardship? Third, does the regulation deny to the holders of the right their preferred means of exercising that right?"[30] These questions were meant to be considered as factors, not criteria, and to be adapted to the factual context specific to each case.[31]

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[27] Judgment of the Court of Appeal, para. 496.
[28] Judgment of the Court of Appeal, para. 495-505.
[29] Judgment of the Court of Appeal, para. 496.
[30] *R. v. Sparrow*, [1990] 1 S.C.R. 1075, p. 1112.
[31] *R. v. Gladstone*, [1996] 2 S.C.R. 723, para. 43; *R. v. Côté*, [1996] 3 S.C.R. 101, para. 74-75.

As stated by this Court, the takeaway is this: anything beyond "an insignificant interference" with the Aboriginal right in question will be considered a *prima facie* infringement of that right.[32]

27. The FSIN submits that, in the case of a divergence between an Indigenous law respecting child and family services and a provincial law, a *prima facie* infringement will be shown as soon as the Indigenous group demonstrates that applying the provincial law would have a more than insignificant effect on its child protection regime. As *Sparrow* tells us, once this demonstration is made, the burden of proving justification for the infringement shifts to the province.

28. The Court of Appeal altered the *Sparrow* framework when it found that, for there to be a *prima facie* infringement of an Indigenous group's right to self-government over child and family services, there must be an "actual" or "real conflict"[33] between that group's law and a provincial law. The concept of "actual conflict" is part of the "operational conflict" arm of the paramountcy analysis, which requires, for a provincial law to be rendered inoperative, that there be conflict so marked that "one enactment says 'yes' and the other says 'no', such that 'compliance with one is defiance of the other.'"[34] Under the Court of Appeal's approach, the burden of demonstrating this conflict would rest entirely with the Indigenous group seeking to have its law applied.

29. This issue of where the burden lies will be essential to determining whether the *Act*, and the Indigenous laws whose adoption and application it facilitates, can actually effect the systemic change that is its objective. If the "actual conflict" test is applied, Indigenous groups will only be able to show a *prima facie* infringement of their right to self-government if they can prove that it is impossible to apply both their law and the provincial law .This is a more onerous burden to meet, especially in a context where this Court has insisted that "paramountcy must be narrowly construed" and that ,"courts must take a 'restrained approach', and harmonious interpretations of

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[32] *R. v. Morris*, 2006 SCC 59, para. 53.

[33] "Actual conflict" in para. 496 and "real conflict" in para. 497. The original French text uses "conflit réel" in both paragraphs.

[34] *Quebec (Attorney General) v. Canadian Owners and Pilots Association*, 2010 SCC 39, para. 64, citing *Multiple Access Ltd. v. McCutcheon*, [1982] 2 SCR 161, p. 191.

federal and provincial legislation should be favoured over interpretations that result in incompatibility."[35]

30. If, however, this language of paramountcy is removed from the equation and the *Sparrow* framework correctly applied, Indigenous groups will only need to show that the provincial law interferes with their self-government right in a not insignificant way. This being done, the burden will shift to the province to attempt to demonstrate that its infringement of the Aboriginal right is justified. This is the more appropriate approach, because it:

a. further protects First Nations laws from the application of provincial laws, which is essential given that these provincial laws are in part responsible for the crisis of overrepresentation of First Nations children in care; and,

b. is consistent with this Court's existing jurisprudence on how to assess infringement of Aboriginal rights.

31. By establishing clearly in its judgment the threshold for demonstrating a *prima facie* infringement of the Indigenous right to self-government over child and family services, this Court will ensure that the Indigenous youth protection systems facilitated by the *Act* are not immediately undermined by the continued application of provincial laws that, while they may not be in "actual conflict" with the Indigenous law, prevent Indigenous values and culture from playing a central role in decisions regarding child welfare.

PART IV – SUMISSIONS ON COSTS

32. The FSIN does not seek costs in this matter and asks that no costs be awarded against it.

PART V – ORDER

33. Pursuant to subsection 42(3) of the *Rules of the Supreme Court of Canada*, the FSIN makes no statement with respect to the outcome of this appeal.

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[35] *Saskatchewan (Attorney General) v Lemare Lake Logging Ltd.*, 2015 SCC 53, para. 21. See also: *Orphan Well Association v Grant Thornton Ltd.*, 2019 SCC 5, para. 66.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 11th day of November 2022.

Per:

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Per:

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Counsel for the Intervener Federation of Sovereign Indigenous Nations

PART VII – AUTHORITIES

Caselaw

No.	Authority	Paragraph Reference
1.	*Law v. Canada (Minister of Employment and Immigration)*, [1999] 1 SCR 497	12
2.	*Multiple Access Ltd. v. McCutcheon,* [1982] 2 SCR 161	28
3.	*NIL/TU,O Child and Family Services Society (Re)*, [2006] BCLRBD No. 72	22
4.	*NIL/TU,O Child and Family Services Society (Re)*, [2006] BCLRBD No. 209	22
5.	*NIL/TU,O Child and Family Services Society v. BCGEU*, 2007 BCSC 1080	22
6.	*NIL/TU,O Child and Family Services Society v. BCGEU*, 2008 BCCA 333	22
7.	*Ontario (Attorney General) v. OPSEU*, [1987] 2 SCR 2	16
8.	*Orphan Well Association v Grant Thornton Ltd.,* 2019 SCC 5	29
9.	*Quebec (Attorney General) v. Canadian Owners and Pilots Association*, 2010 SCC 39	28
10.	*R. v. Côté*, [1996] 3 S.C.R. 101	26
11.	*R. v. Gladstone*, [1996] 2 S.C.R. 723	26
12.	*R. v. Ipeelee*, [2012] 1 SCR 433	12
13.	*R. v. Morris*, 2006 SCC 59	26
14.	*R. v. Sparrow*, [1990] 1 S.C.R. 1075	19, 24, 25, 26, 27, 28, 30
15.	*R. v. Van der Peet*, [1996] 2 SCR 507	11, 17
16.	*Renvoi à la Cour d'appel du Québec relatif à la Loi concernant les enfants, les jeunes et les familles des Premières Nations, des Inuits et des Métis*, 2022 QCCA 185	10, 18, 24

No.	Authority	Paragraph Reference
17.	*Saskatchewan (Attorney General) v Lemare Lake Logging Ltd.*, 2015 SCC 53	29

Secondary Sources

No.	Secondary Source	Paragraph Reference
1.	Celeste Cuthburtson, "Statutory Recognition of Indigenous Custom Adoption: Its Role in Strengthening Self-Governance Over Child Welfare", (2019) 28 Dal J Leg Stud 1	6
2.	Elder Rose Atimoyoo, quoted in *Making the Connection: Cree First Nations kehte-ayak thoughts on education*, Office of the Treaty Commissioner (June 2009)	9
3.	Statement of Second Vice-Chief David Pratt to the Standing Senate Committee on Aboriginal Relations (April 10, 2019)	Overview
4.	Statistics Canada, *Aboriginal peoples: Fact Sheet for Saskatchewan*, (March 14, 2016),	5

Statutes, Regulations, Rules, etc.

No.	Statute, Regulation, Rule, etc.	Section, Rule, Etc.
1.	*An Act respecting First Nations, Inuit and Métis children, youth, and families*, SC 2019, c 24	s. 21 s. 22(3)
	Loi concernant les Enfants, les jeunes et les familles des Premières Nations, des Inuits et des Métis, LC 2019, c 24	s. 21 s. 22(3)
2.	*The Constitution Act, 1982, Schedule B to the Canada Act* 1982 (UK), 1982, c 11	s. 35
	Loi constitutionnelle de 1982, Annexe B de la Loi de 1982 sur le Canada (R-U), 1982, c 11	s. 35