

**IN THE SUPREME COURT OF CANADA**  
(ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA)

BETWEEN:

**KTUNAXA NATION COUNCIL and KATHRYN TENEESE, ON THEIR OWN BEHALF  
AND ON BEHALF OF ALL CITIZENS OF THE KTUNAXA NATION**

Appellants  
(Appellants)

- and -

**MINISTER OF FORESTS, LANDS AND NATURAL RESOURCE OPERATIONS  
AND GLACIER RESORTS LTD.**

Respondents  
(Respondents)

**THE ATTORNEY GENERAL OF CANADA; THE ATTORNEY GENERAL FOR  
SASKATCHEWAN; THE CANADIAN MUSLIM LAWYERS ASSOCIATION, THE  
SOUTH ASIAN LEGAL CLINIC OF ONTARIO AND KOOTENAY PRESBYTERY  
(UNITED CHURCH OF CANADA); THE EVANGELICAL FELLOWSHIP OF  
CANADA AND CHRISTIAN LEGAL FELLOWSHIP; THE ALBERTA MUSLIM  
PUBLIC AFFAIRS COUNCIL; THE BRITISH COLUMBIA CIVIL LIBERTIES  
ASSOCIATION; THE COUNCIL OF THE PASSAMAQUODDY NATION AT  
SCHOODIC; THE CANADIAN CHAMBER OF COMMERCE; THE SHIBOGAMA  
FIRST NATIONS COUNCIL; THE CENTRAL COAST INDIGENOUS RESOURCE  
ALLIANCE; AMNESTY INTERNATIONAL CANADA; THE TE'MEXW TREATY  
ASSOCIATION; THE KATZIE FIRST NATION AND THE WEST MOBERLY FIRST  
NATIONS AND PROPHET RIVER FIRST NATION**

Interveners

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**FACTUM OF THE INTERVENER,  
THE ATTORNEY GENERAL OF CANADA**  
(Pursuant to rule 42 of the *Rules of the Supreme Court of Canada*)

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**Department of Justice Canada**  
Aboriginal Law Section  
900-840 Howe Street  
Vancouver, BC V6Z 2S9  
**Per: Mitchell R. Taylor, Q.C. and  
Sharlene Telles-Langdon**  
Phone: 604-666-2324  
Fax: 604-666-2710  
E-mail: [mitch.taylor@justice.gc.ca](mailto:mitch.taylor@justice.gc.ca)

**William F. Pentney, Q.C.**  
**Deputy Attorney General of Canada**  
Department of Justice Canada  
50 O'Connor Street Suite 500, Room 557  
Ottawa, Ontario, K1A 0H8  
**Per: Christopher Rupar**  
Phone: 613- 670-6290  
Fax: 613-954-1920  
E-mail: [christopher.rupar@justice.gc.ca](mailto:christopher.rupar@justice.gc.ca)

**Counsel for the Intervener,  
The Attorney General of Canada**

**Agent for the Intervener,  
The Attorney General of Canada**

**PETER GRANT & ASSOCIATES**

Barristers and Solicitors  
777 Hornby Street, Suite 900  
Vancouver, BC V6Z 1S4

**Per: Peter R. Grant,  
Jeff Huberman and  
Karena Williams**

Telephone: (604) 685-1229  
Facsimile: (604) 685-0244  
Email: [pgrant@grantnativelaw.com](mailto:pgrant@grantnativelaw.com)

**Counsel for the Appellants,  
Ktunaxa Nation Council, et al.**

**MINISTRY OF JUSTICE**

Legal Services Branch  
1001 Douglas Street  
Victoria, BC V8V 1X4

**Per: Jonathan Penner**  
Telephone: (250) 952-0122  
Facsimile: (250) 356-9154  
Email: [jonathan.penner@gov.bc.ca](mailto:jonathan.penner@gov.bc.ca)

**Counsel for the Respondent,  
Minister of Forests, Lands and Natural  
Resource Operations**

**OWEN BIRD LAW CORPORATION**

Barristers and Solicitors  
2900 - 595 Burrard Street  
Vancouver, BC V7X 1J5

**Per: Gregory J. Tucker, Q.C. and  
Pamela E. Sheppard**

Telephone 604-691-7553  
Facsimile 604-632-4479  
Email: [gtucker@owenbird.com](mailto:gtucker@owenbird.com)

**Counsel for the Respondent,  
Glacier Resorts Ltd.**

**SUPREME ADVOCACY LLP**

Barristers and Solicitors  
340 Gilmour Street, Suite 100  
Ottawa, ON K2P 0R3

**Per: Marie-France Major**  
Telephone: (613) 695-8855  
Facsimile: (613) 695-8580  
Email: [mfmajor@supremeadvocacy.ca](mailto:mfmajor@supremeadvocacy.ca)

**Ottawa Agent for Counsel for the  
Appellants, Ktunaxa Nation Council, et  
al.**

**BORDEN LADNER GERVAIS LLP**

Barristers and Solicitors  
100 Queen Street, Suite 1300  
Ottawa, ON K1P 1J9

**Per: Nadia Effendi**  
Telephone: (613) 787-3562  
Facsimile: (613) 230-8842  
Email: [neffendi@blg.com](mailto:neffendi@blg.com)

**Ottawa Agent for Counsel for the  
Respondent, Minister of Forests, Lands  
and Natural Resource Operations**

**GOWLING WLG (CANADA) LLP**

Barristers and Solicitors  
160 Elgin Street, Suite 2600  
Ottawa, ON K1P 1C3

**Per: Jeffrey W. Beedell**  
Telephone 613-786-0171  
Facsimile 613-788-3587  
Email: [jeff.beedell@gowlingwlg.com](mailto:jeff.beedell@gowlingwlg.com)

**Ottawa Agent for Counsel for the  
Respondent, Glacier Resorts Ltd.**

**DEPUTY MINISTER OF JUSTICE AND  
DEPUTY ATTORNEY GENERAL**

1874 Scarth Street, Suite 820  
Regina, SK S4P 4B3

**Per: R. James Fyfe and  
Sonia Eggerman**

Telephone: (306) 787-7886

Facsimile: (306) 787-9111

Email: [james.fyfe@gov.sk.ca](mailto:james.fyfe@gov.sk.ca)

**Counsel for the Intervener,  
Attorney General of Saskatchewan**

**STOCKWOODS LLP**

Barristers and Solicitors  
77 King Street West, Suite 4130  
Toronto-Dominion Centre  
Toronto, ON M5K 1H1

**Per: Nader R. Hasan and  
Justin Safayeni**

Telephone: (416) 593-1668

Facsimile: (416) 593-9345

Email: [naderh@stockwoods.ca](mailto:naderh@stockwoods.ca)

**Counsel for the Interveners, South Asian  
Legal Clinic of Ontario, Kootenay  
Presbytery (United Church of  
Canada) and Canadian Muslim Lawyers  
Association**

**CHRISTIAN LEGAL FELLOWSHIP**

470 Weber Street North, Suite 202  
Waterloo, ON N2L 6L2

**Per: Derek K. Ross**

Telephone: (519) 208-9200

Facsimile: (519) 208-3600

Email: [execdir@christianlegalfellowship.org](mailto:execdir@christianlegalfellowship.org)

**Counsel for the Interveners, Evangelical  
Fellowship of Canada and Christian Legal  
Fellowship**

**GOWLING WLG (CANADA) LLP**

Barristers and Solicitors  
160 Elgin Street, Suite 2600  
Ottawa, Ontario K1P 1C3

**Per: D. Lynne Watt**

Telephone: (613) 786-8695

Facsimile: (613) 788-3509

Email: [lynne.watt@gowlingwlg.com](mailto:lynne.watt@gowlingwlg.com)

**Ottawa Agent for Counsel for the  
Intervener, Attorney General for  
Saskatchewan**

**LAW OFFICE OF KHALID  
ELGAZZAR**

Barrister and Solicitor  
440 Laurier Avenue West, Suite 200  
Ottawa, ON K1R 7X6

**Per: Khalid M. Elgazzar**

Telephone: (613) 663-9991

Facsimile: (613) 663-5552

Email: [ke@elgazzar.ca](mailto:ke@elgazzar.ca)

**Ottawa Agent for Counsel for the  
Interveners, South Asian Legal Clinic of  
Ontario, Kootenay Presbytery (United  
Church of Canada) and Canadian  
Muslim Lawyers Association**

**VINCENT DAGENAIS GIBSON LLP**

Barristers and Solicitors  
260 Dalhousie Street, Suite 400  
Ottawa, ON K1N 7E4

**Per: Albertos Polizogopoulos**

Telephone: (613) 241-2701

Facsimile: (613) 241-2599

Email: [albertos@vdg.ca](mailto:albertos@vdg.ca)

**Ottawa Agent for Counsel for the  
Interveners, Evangelical Fellowship of  
Canada and Christian Legal Fellowship**

**NANDA & COMPANY**  
3400 Manulife Place  
10180-101 Street  
Edmonton, Alberta T5J 4K1  
**Per: Avnish Nanda**  
Telephone: (780) 801-5324  
Facsimile: (587) 318-1391  
Email: [avnish@nandalaw.ca](mailto:avnish@nandalaw.ca)

**Counsel for the Intervener, Alberta Muslim  
Public Affairs Council**

**GOLDBLATT PARTNERS LLP**  
Barristers and Solicitors  
20 Dundas Street West, Suite 1100  
Toronto, ON M5G 2G8  
**Per: Jessica Orkin and  
Adriel Weaver**  
Telephone: (416) 977-6070  
Facsimile: (416) 591-7333  
Email: [jorkin@goldblattpartners.com](mailto:jorkin@goldblattpartners.com)

**Counsel for the Intervener, British Columbia  
Civil Liberties Association**

**PAUL WILLIAMS**  
Barrister and Solicitor  
P.O. Box 91  
Grand River Territory  
Ohsweken, ON NOA 1M0  
**Per: Paul Williams**  
Telephone: (905) 765-4248  
Cell: (905) 516-1755  
Email: [orihwa@gmail.com](mailto:orihwa@gmail.com)

**Counsel for the Intervener, Passamaquoddy  
Nation at Schoodic**

**McGuinty Law Offices**  
1192 Rockingham Avenue  
Ottawa, ON K1H 8A7  
**Per: Dylan C. McGuinty**  
Telephone: (613) 526-3858  
Facsimile: (613) 526-3187  
Email: [dylanjr@mcguintylaw.ca](mailto:dylanjr@mcguintylaw.ca)

**Agent for the Intervener, Alberta  
Muslim Public Affairs Council**

**GOLDBLATT PARTNERS LLP**  
Barristers and Solicitors  
30 Metcalfe Street, Suite 500  
Ottawa, ON K1P 5L4  
**Per: Colleen Bauman**  
Telephone: (613) 235-5327  
Facsimile: (613) 235-3041  
Email: [cbauman@goldblattpartners.com](mailto:cbauman@goldblattpartners.com)

**Ottawa Agent for Counsel for the  
Intervener, British Columbia Civil  
Liberties Association**

**MCCARTHY TÉTRAULT LLP**

Barristers and Solicitors  
66 Wellington Street, Suite 5300  
Toronto, ON M5K 1E6

**Per: Neil Finkelstein and  
Brandon Kain**

Telephone: (416) 601-8200

Facsimile: (416) 868-0673

Email: [nfinkelstein@mccarthy.ca](mailto:nfinkelstein@mccarthy.ca)

**Counsel for the Intervener, The Canadian  
Chamber of Commerce**

**OLTHUIS KLEER TOWNSHEND LLP**

Barristers and Solicitors  
250 University Avenue, 8th Floor  
Toronto, ON M5H 3E5

**Per: Senwung Luk and  
Krista Nerland**

Telephone: (416) 981-9443

Facsimile: (416) 981-9350

Email: [sluk@oktlaw.com](mailto:sluk@oktlaw.com)

**Counsel for the Intervener,  
Shibogama First Nations Council**

**NG ARISS FONG**

Barristers and Solicitors  
Suite 210-900 Howe Street  
Vancouver, BC V6Z 2M4

**Per: Lisa C. Fong**

Telephone: (604) 331-1155

Facsimile: (604) 677-5410

Email: [lisa@ngariss.com](mailto:lisa@ngariss.com)

**Counsel for the Intervener,  
Central Coast Indigenous Resource Alliance**

**GOWLING WLG (CANADA) LLP**

Barristers and Solicitors  
160 Elgin Street, Suite 2600  
Ottawa, Ontario K1P 1C3

**Per: Jeffrey W. Beedell**

Telephone: (613) 786-0171

Facsimile: (613) 788-3587

Email: [jeff.beedell@gowlingwlg.com](mailto:jeff.beedell@gowlingwlg.com)

**Ottawa Agent for Counsel for the  
Intervener, The Canadian Chamber of  
Commerce**

**SUPREME ADVOCACY LLP**

Barristers and Solicitors  
340 Gilmour Street, Suite 100  
Ottawa, ON K2P OR3

**Per: Marie-France Major**

Telephone: (613) 695-8855

Facsimile: (613) 695-8580

Email: [mfmajor@supremeadvocacy.ca](mailto:mfmajor@supremeadvocacy.ca)

**Ottawa Agent for Counsel for the  
Intervener, Shibogama First Nations  
Council**

**SUPREME ADVOCACY LLP**

Barristers and Solicitors  
340 Gilmour Street, Suite 100  
Ottawa, ON K2P OR3

**Per: Marie-France Major**

Telephone: (613) 695-8855

Facsimile: (613) 695-8580

Email: [mfmajor@supremeadvocacy.ca](mailto:mfmajor@supremeadvocacy.ca)

**Ottawa Agent for Counsel for the  
Intervener, Central Coast Indigenous  
Resource Alliance**

**ECOJUSTICE CANADA**

1910 - 777 Bay Street  
PO Box 106  
Toronto, ON M4W 3X8

**Per: Margot Venton  
Kaitlyn Mitchell and  
Randy Christensen**

Telephone: (416) 368-7533  
Facsimile: (416) 363-2746  
Email: [mventon@ecojustice.ca](mailto:mventon@ecojustice.ca)

**Counsel for the Intervener,  
Amnesty International Canada**

**JFK LAW CORPORATION**

Barristers and Solicitors  
816 - 1175 Douglas Street  
Victoria, BC V8W 2E1

**Per: Robert Janes, Q.C. and  
Claire Truesdale**

Telephone: (250) 405-3460  
Facsimile: (250) 381-8567  
Email: [rjanes@jfklaw.ca](mailto:rjanes@jfklaw.ca)

**Counsel for the Intervener,  
Te'mexw Treaty Association**

**DONOVAN & COMPANY**

Barristers and Solicitors  
73 Water Street, 6th Floor  
Vancouver, BC V6B 1A1

**Per: John Burns and  
Amy Jo Scherman**

Telephone: (604) 688-4272  
Facsimile: (604) 688-4282  
Email: [john\\_burns@aboriginal-law.com](mailto:john_burns@aboriginal-law.com)

**Counsel for the Intervener, Katzie First  
Nation**

**POWER LAW LLP**

Barristers and Solicitors  
130 Albert Street, Suite 1103  
Ottawa, ON K1P 5G4

**Per: Jennifer Anne Klinck and  
Justin Dubois**

Telephone: (613) 702-5560  
Facsimile: (888) 404-2227  
Email: [jklinck@juristepower.ca](mailto:jklinck@juristepower.ca)

**Ottawa Agent for Counsel for the  
Intervener, Amnesty International  
Canada**

**SUPREME ADVOCACY LLP**

Barristers and Solicitors  
340 Gilmour Street, Suite 100  
Ottawa, ON K2P OR3

**Per: Marie-France Major**

Telephone: (613) 695-8855  
Facsimile: (613) 695-8580  
Email: [mfmajor@supremeadvocacy.ca](mailto:mfmajor@supremeadvocacy.ca)

**Ottawa Agent for Counsel for the  
Intervener, Te'mexw Treaty  
Association**

**DEVLIN GAILUS WESTAWAY**

Barristers and Solicitors  
2<sup>nd</sup> Floor, 736 Broughton Street  
Victoria, BC V8W 1E1

**Per: John W. Gailus**

Telephone: (250) 361-9469

Facsimile: (250) 361-9429

Email: [john@dgwlaw.ca](mailto:john@dgwlaw.ca)

**Counsel for the Interveners, West Moberly  
First Nations and Prophet River First Nation**

**WESTAWAY LAW GROUP**

Barristers and Solicitors  
55 Murray Street, Suite 230  
Ottawa, ON K1N 5M3

**Per: Cynthia A. Westaway and  
Darryl Korell**

Telephone: (613) 722-9091

Facsimile: (613) 722-9097

Email: [cynthia@westawaylaw.ca](mailto:cynthia@westawaylaw.ca)

**Ottawa Agent for counsel for the  
Interveners, West Moberly First  
Nations and Prophet River First Nation**

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## PART I – OVERVIEW AND STATEMENT OF FACTS

1. The freedom of religion guarantee provided to all Canadians by s. 2(a) of the *Charter* and the recognition and affirmation of existing Aboriginal rights provided by s. 35 of the *Constitution Act, 1982* are distinct, but equally important, constitutional protections. Each must be separately considered by decision-makers in light of their underlying purpose, informed by Indigenous perspectives.
2. Section 2(a) is sufficiently broad to allow for protection of diverse religious beliefs and practices, including Indigenous spiritual beliefs with a strong connection to land. The scope of s. 2(a) is not circumscribed by competing interests. Rather, where freedom of religion is engaged by an administrative decision, competing interests are properly considered by the decision-maker in the proportionality analysis. The important balancing that occurs at this stage reflects the reality that constitutional rights and freedoms are not absolute.
3. Section 35 recognizes and affirms existing Aboriginal rights.<sup>1</sup> These include practices, customs, or traditions with a spiritual or religious foundation. The Crown has a duty to consult and, where appropriate, accommodate when state activity may adversely impact asserted or established Aboriginal rights. This process furthers the reconciliation of competing interests by protecting Aboriginal rights prior to their final determination.<sup>2</sup>
4. Sections 2(a) and 35 should be interpreted as complementary constitutional protections, and in a way that promotes the overall coherence of Canada's constitutional framework and fundamental constitutional values. Together, these constitutional provisions contribute to reconciliation between Indigenous and non-Indigenous peoples and the protection of religious minorities.
5. The reasonableness standard of review should apply on the question of whether an administrative decision engages a *Charter* right or value.

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<sup>1</sup> *R v Van der Peet*, [1996] 2 SCR 507, paras 31, 46, 61-64 [*Van der Peet*]; *R v Sappier*; *R v Gray*, 2006 SCC 54, [2006] 2 SCR 686, paras 20, 22-23 [*Sappier*].

<sup>2</sup> *Haida Nation v British Columbia*, 2004 SCC 73, [2004] 3 SCR 511, paras 27, 35, 38-39 [*Haida*]; *Beckman v Little Salmon/Carmacks First Nation*, 2010 SCC 53, [2010] 3 SCR 103, paras 40-42 [*Little Salmon*].

6. The Attorney General of Canada (“Canada”) takes no position on the facts.

## **PART II – CANADA’S POSITION ON THE QUESTIONS IN ISSUE**

7. Canada accepts the statement of issues as framed by the parties and takes no position on the outcome of this appeal. Canada intervenes to provide its perspective on the analytical framework for reviewing the decision in so far as it involves the interpretation of ss. 2(a) and 35. Canada’s positions in relation to the questions in issue are:

- a) Protections for religious freedom under s. 2(a) and Aboriginal rights under s. 35 are distinct and each is separately relevant to assessing the Ktunaxa’s claims.
- b) A purposive and contextual interpretation of s. 2(a), which allows for protection against interference with religious beliefs and the vitality of religious communities, should be adopted so as to include Indigenous spiritual beliefs. Competing interests relevant to the statutory objectives are balanced in the proportionality analysis.
- c) Aboriginal rights with a spiritual or religious foundation are protected by s. 35.
- d) Sections 2(a) and 35 are distinct, but complementary, coherently working together to promote fundamental constitutional values.
- e) Deference should be accorded on the initial question of whether an administrative decision engages a *Charter* right or value by limiting its protections.

## **PART III – ARGUMENT**

### **A. Sections 2(a) and 35 provide distinct protections each requiring independent consideration by administrative decision makers**

8. The nature and scope of the protections that s. 2(a) guarantees are different from the protections afforded by s. 35 for Aboriginal rights. The threshold for protection under s. 2(a) is also distinct and separate from the test for determining an Aboriginal right under s. 35. Broadly, section 2(a) protects every person’s or community’s present day religious freedoms against non-trivial state interference unless the government can demonstrate a proportional balancing of

interests.<sup>3</sup> Section 35 recognizes and affirms a wide spectrum of existing Aboriginal rights, including cultural and spiritual practices, customs, and traditions integral to the distinctive Aboriginal society and having continuity with those that existed prior to contact with European society.<sup>4</sup>

9. The Ktunaxa are unquestionably entitled to the benefit of protections guaranteed by both of these provisions. Ministerial decision makers are bound to exercise their discretion in a way that respects *Charter* values and constitutional limits.<sup>5</sup> Each provision must be interpreted and considered by decision-makers in light of its underlying purpose, including as informed by Indigenous perspectives.<sup>6</sup> This approach is informed by fundamental Canadian constitutional principles and values of respect for diversity, the protection of religious minorities, reconciliation between Indigenous and non-Indigenous peoples in Canada, liberty, and equality.<sup>7</sup>

## **B. Section 2(a) allows for protection for Indigenous spiritual beliefs**

### **i. The scope of s. 2(a) encompasses Indigenous spiritual beliefs**

10. Canada supports a purposive and contextual interpretation of s. 2(a), which allows for consideration of a diversity of religious beliefs and practices, including Indigenous spirituality which may have a strong connection to land (and non-Indigenous religions which may also worship or revere sacred sites).

11. “The purpose of s. 2(a) is to prevent interference with profoundly personal beliefs that govern one’s perception of oneself, humankind, nature, and, in some cases, a higher or different order of being.”<sup>8</sup> This Court has adopted a large and liberal approach to the scope of s. 2(a). Religion has been described broadly, as typically involving: a particular and comprehensive system of faith and worship; a belief in a divine, superhuman or controlling power; and a personal

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<sup>3</sup> *Alberta v Hutterian Brethren of Wilson Colony*, 2009 SCC 37, [2009] 2 SCR 567, paras 31-32, 130, 181-182 [*Hutterian Brethren*]; *Loyola High School v Quebec (AG)*, 2015 SCC 12, [2015] 1 SCR 613, paras 35-39, 59, 92-95, 97 [*Loyola*].

<sup>4</sup> *Van der Peet*, paras 31, 46, 61-64.

<sup>5</sup> *Loyola*, para 34; *Little Salmon*, para 48.

<sup>6</sup> *Van der Peet*, paras 19-20, 49; *Syndicat Northcrest v Amselem*, 2004 SCC 47, [2004] 2 SCR 551, paras 41-43 [*Amselem*].

<sup>7</sup> *R v Big M Drug Mart Ltd*, [1985] 1 SCR 295, p 336-338 [*Big M*]; *Amselem*, paras 1, 40; *Loyola*, paras 36, 47; *Hutterian Brethren*, para 88; *Little Salmon*, para 10.

<sup>8</sup> *R v Edwards Books and Art Ltd*, [1986] 2 SCR 713, p 759 [*Edwards Books*]; *Hutterian Brethren*, para 32.

conviction or belief that fosters a connection with the divine or with the subject or object of that spiritual faith.<sup>9</sup> An infringement of s. 2(a) “will be made out where: (1) the claimant sincerely believes in a belief or practice that has a nexus with religion; and (2) the impugned measure interferes with the claimant’s ability to act in accordance with his or her religious beliefs in a manner that is more than trivial or insubstantial”.<sup>10</sup> Consideration of competing interests belongs in the proportionality analysis rather than being used to formulate internal limits to the scope of s. 2(a).

12. The Ktunaxa claim that the Qat’muk is sacred land and home of the Grizzly Bear Spirit, which is central to their spiritual beliefs, rituals, and ceremonies. They say that the proposed resort, a place of permanent human habitation, will cause the Grizzly Bear Spirit to leave Qat’muk, depriving them of guidance and rendering meaningless their rituals and ceremonies. Their freedom of religion claim is about more than Qat’muk being the place at which they celebrate and honour the Grizzly Bear Spirit – no specific sites for conducting religious rituals are identified and their claim is not based on Aboriginal title. Rather, their claim is based on the sacredness of Qat’muk as being essential to their spirituality.<sup>11</sup>

13. The Ktunaxa’s freedom of religion is at issue; their spiritual beliefs and practices are sincere and have a nexus with religion.<sup>12</sup> The question is whether an infringement can be made out in the context of this case. Thus far, s. 2(a) cases considered by this Court have involved state coercion or restraint of action or practice. However, this Court has reiterated that “[f]reedom in a broad sense embraces both the absence of coercion and constraint, and the right to manifest beliefs and practices.”<sup>13</sup> Establishing an infringement requires objective proof of a non-trivial interference with observance of the religious belief or practice.<sup>14</sup>

14. The chambers judge’s s. 2(a) analysis focused on the absence of state coercion or constraint on what the Ktunaxa physically can do or must omit doing. He rejected the proposition that the

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<sup>9</sup> *Amselem*, para 39.

<sup>10</sup> *Hutterian Brethren*, para 32.

<sup>11</sup> *Ktunaxa Nation v British Columbia (Minister of Forests Lands and Natural Resource Operations)*, 2014 BCSC 568, paras 102, 108, 110-111 [BCSC Reasons] [Appellants’ Record (“AR”) Tab 2].

<sup>12</sup> BCSC Reasons, para 275 [AR Tab 2].

<sup>13</sup> *Big M*, pp 336-337; *Edwards Books*, pp 757-758.

<sup>14</sup> *Hutterian Brethren*, para 32; *SL v Commission scolaire des Chênes*, 2012 SCC 7, [2012] 1 SCR 235, paras 2, 24.

scope of s. 2(a) may protect a spiritual relationship with sacred land to preserve the meaning of or fulfillment from otherwise unconstrained religious practices carried out elsewhere.<sup>15</sup> The Court of Appeal found that coercion or constraint is not required, but that the scope of s. 2(a) does not encompass the ability to require others “to act or refrain from acting and behave in a manner consistent with a belief that they do not share.”<sup>16</sup> The Court of Appeal thereby misconstrued the s. 2(a) analysis by considering third party interests that may be impacted if the Ktunaxa’s religious freedom were to be protected as a limit on the scope of s. 2(a), rather than determining whether the Ktunaxa had in fact made out a non-trivial state interference with their religious freedoms.

15. Contrary to the approach taken by the courts below, there is scope for s. 2(a) to protect Indigenous individuals’ and communities’ freedom to hold spiritual and cultural beliefs and engage in practices that involve a relationship with land they consider sacred, whether or not Aboriginal title has been established. Protecting Indigenous spiritual beliefs under s. 2(a) requires adapting the legal analysis to take into account Indigenous peoples’ special relationship with land.<sup>17</sup> The interference in this case differs from previous s. 2(a) claims as there is no direct or indirect coercion to act or not act in a particular manner. However, there is room within the jurisprudence to recognize a claim like the Ktunaxa’s that the state authorizing the development of land considered sacred will disrupt the core of their beliefs, their community’s spiritual vitality, and their ability to pass on their beliefs to their children.<sup>18</sup>

16. The inquiry is highly contextual and proof of all aspects of the s. 2(a) test will remain essential. In assessing the s. 2(a) claim the Ktunaxa’s perspective should be taken into account in a way that advances a deeper and respectful understanding of the diversity of religious beliefs of Canada’s Indigenous peoples. Taking the Indigenous perspective into account in this context will include valuing the evidence of Indigenous peoples, such as oral histories or “knowledge

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<sup>15</sup> BCSC Reasons, paras 277-278, 288, 297-299 [AR Tab 2].

<sup>16</sup> *Ktunaxa Nation v British Columbia (Minister of Forests Lands and Natural Resource Operations)*, 2015 BCCA 352, paras 63, 74 [BCCA Reasons] [AR Tab 4].

<sup>17</sup> Bryan Neihart, “*Awas Tingni v Nicaragua* Reconsidered: Grounding Indigenous Peoples’ Land Rights in Religious Freedom” (2013) 42 Denv J Int’l L & Pol’y 77 at 89, 92, 98-99; UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples: resolution/adopted by the General Assembly*, 2 October 2007, A/RES/61/295, Articles 12, 25 [UNDRIP].

<sup>18</sup> *Edwards Books*, p 759; *Loyola*, paras 64, 67.

keepers”.<sup>19</sup> This is consistent with the purpose and values underlying s. 2(a)’s protection, including protection for Indigenous spiritual beliefs.

17. The proposed interpretive approach to s. 2(a) is supported by Canada’s international human rights obligations. The *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights* each provide protections for freedom of religion.<sup>20</sup> The non-binding *United Nations Declaration on the Rights of Indigenous Peoples* (“*UNDRIP*”) also supports protecting Indigenous individuals’ and communities’ spiritual beliefs with a connection to land. It explicitly addresses Indigenous rights to “manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies”, including as they may be connected to traditional lands.<sup>21</sup>

#### ii. Competing interests considered in robust proportionality analysis

18. This Court has emphasized that competing interests should not limit the scope of religious freedoms. Rather, they are considered in the robust proportionality stage of the analysis under s. 1 of the *Charter* in the case of legislation, or in the weighing of *Charter* values against statutory objectives by administrative decision makers, as in this case.<sup>22</sup>

19. If s. 2(a) is found to be infringed, a wide range of competing interests reflected in the statutory objectives guiding the decision-maker, such as economic development and environmental considerations, are properly considered at this stage. Contrary to the Court of Appeal’s approach,<sup>23</sup> unlike a private property owner, the Crown is subject to the *Charter* when dealing with its land.

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<sup>19</sup> *Delgamuukw v British Columbia*, [1997] 3 SCR 1010, paras 98-101 [*Delgamuukw*].

<sup>20</sup> *Saskatchewan Federation of Labour v Saskatchewan*, 2015 SCC 4, [2015] 1 SCR 245, para 64; UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, UNTS, vol 999, p 171, Articles 1, 18, 26, 27; UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, UNTS, vol 993, p 3, Article 15; UN Committee on Economic, Social and Cultural Rights, *General Comment no. 21, Right of everyone to take part in cultural life (art. 15, para. 1(a), of the Covenant on Economic, Social and Cultural Rights)*, 21 December 2009, E/C 12/GC/21, paras 13, 36, 49(d), 55(c); see also UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, UNTS, vol 660, p 195, Article 5(vii).

<sup>21</sup> *UNDRIP*, Articles 12, 25.

<sup>22</sup> *Hutterian Brethren*, para 35; *Edwards Books*, p 768-769; *Doré v Barreau du Québec*, 2012 SCC 12, [2012] 1 SCR 395, para 55 [*Doré*]; *Loyala*, at paras 3-4, 35, 38-42.

<sup>23</sup> *BCCA Reasons*, paras 71, 73-74 [AR Tab 4].

20. A reasonable proportionality analysis should also include consideration of the severity of the impact of the infringement on the Ktunaxa as a collective and how the decision-maker has sought to minimize those impacts. Freedom of religion has both an individual and a collective dimension.<sup>24</sup> In *Hutterian Brethren*, this Court explained that the impact of the limitation on the collective is relevant in the proportionality analysis.<sup>25</sup> This approach is consistent with *UNDRIP*.<sup>26</sup>

### **C. Section 35 protects Aboriginal rights with a spiritual or religious foundation**

21. In addition to the *Charter* protections enjoyed by all Canadians, for Indigenous people, s. 35 protects a broad spectrum of Aboriginal rights with varying degrees of connection with land.<sup>27</sup> The rights guaranteed by the *Charter* do not abrogate or derogate from any Aboriginal or treaty right.<sup>28</sup> Activities which represent an element of a practice, custom or tradition integral to the distinctive culture of the group claiming the right and have continuity with activities that existed prior to contact with European society<sup>29</sup> will receive s. 35 protection as Aboriginal rights. The s. 35 framework is uniquely positioned to connect a wide range of integral cultural and spiritual practices with a spectrum of land use rights, including Aboriginal title where established.<sup>30</sup>

22. The decision to entrench in s. 35 the recognition and affirmation of existing Aboriginal and treaty rights reflects a decision to protect and preserve constitutional space for Indigenous people to be Indigenous.<sup>31</sup> In this way, s. 35 protects the distinctive cultures of Indigenous peoples within a mutually respectful long-term constitutional relationship between Indigenous and non-Indigenous Canadians.<sup>32</sup>

23. Further, in the context of asserted or established s. 35 rights, the honour of the Crown gives rise to a duty to consult and, where appropriate, accommodate Indigenous interests where the

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<sup>24</sup> *Loyola*, paras 59-60, 92-95, 97.

<sup>25</sup> *Hutterian Brethren*, at para 31.

<sup>26</sup> *UNDRIP*, Articles 1, 46(2).

<sup>27</sup> *Delgamuukw*, para 138; *Van der Peet*, para 192.

<sup>28</sup> *The Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11, s. 25.

<sup>29</sup> *Van der Peet*, paras 46, 60; *Sappier*, para 20.

<sup>30</sup> *Van der Peet*, para 192; *Delgamuukw*, para 138; *Tsilhqot'in Nation v British Columbia*, 2014 SCC 44, [2014] 2 SCR 257, paras 17, 78-80.

<sup>31</sup> *Little Salmon*, para 33.

<sup>32</sup> *Sappier*, para 22; *Little Salmon*, para 10.

Crown has knowledge of the potential or actual existence of a s. 35 right and contemplates conduct that might adversely affect it.<sup>33</sup>

24. In appropriate circumstances, the duty to consult and, where appropriate, accommodate could result in the Crown, acting honourably, imposing terms or not approving a project that would have adverse impacts on a religious or spiritual practice that has a connection to land.

**D. Sections 2(a) and 35 are complementary protections**

25. Sections 2(a) and 35 provide complementary protections in relation to government decisions which may impact them, subject to satisfying the relevant legal tests. Each section requires separate consideration in view of their specific purposes, criteria and protections. At the same time, how they work together within the larger constitutional framework to promote fundamental constitutional values must also be considered. Constitution provisions are to be applied in a coherent way. Where one leaves off, the other may apply to protect Aboriginal practices that were and are centrally significant to the maintenance of the distinctive culture of the Indigenous group.

26. The Court has adopted a large and liberal approach to s. 2(a). However, s. 2(a)'s protections against state interference cannot create legal title or interests in land, nor do they empower one individual or group to impose their religious beliefs on others. Section 2(a)'s protections can also be limited by the state where the impact on *Charter* values is proportionate to the statutory objectives being pursued, without the decision-maker having to discharge any constitutional duty to consult.

27. Section 35 is contingent on evidence of pre-contact activities integral to the group claiming the right, or contemplated Crown conduct that may adversely affect established or potential s. 35 rights. Section 35 is supported by the Crown's duty to consult with Indigenous people before taking action that may adversely impact asserted Aboriginal rights or title.<sup>34</sup> The duty to consult provides for a robust process for reconciliation of competing interests, including those Aboriginal rights with a spiritual or religious foundation. More generally, the s. 35 rights spectrum itself

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<sup>33</sup> *Haida*, paras 25, 35.

<sup>34</sup> *Haida*, paras 27, 35, 38-39.



contemplates a wide variety of Aboriginal rights with differing degrees of connection with land, including Aboriginal title itself.

28. When both are engaged, a single process may provide a decision maker with sufficient information to conduct both a ss. 2(a) and 35 analysis. In such circumstances, decision-makers must approach these constitutional provisions with sufficient analytical rigour so as to not to conflate ss. 2(a) and 35 and thereby alter the analysis which would normally be engaged if these protections were being invoked separately.

**E. Reasonableness standard of review should apply to the question of whether the *Charter* is engaged**

29. Contrary to the approach taken by the Court of Appeal,<sup>35</sup> this Court should clarify that the “preliminary issue”<sup>36</sup> of whether a decision engages the *Charter* should be assessed on a reasonableness standard.<sup>37</sup> There are invariably factual dimensions when assessing whether a *Charter* right intersects with the particular circumstances of an administrative decision.<sup>38</sup> *Charter* considerations do not transform the standard of review to correctness when a court examines whether a decision-maker proportionally balances *Charter* protections within the statutory and factual context of a decision.<sup>39</sup> It follows that the standard of review should remain similarly unaffected on the preliminary question of whether a decision engages a *Charter* value, since that question is no more or less constitutional than the question of proportionate balancing.

30. A reasonableness assessment of the engagement question includes assessing whether the decision accords with the legal principles underlying *Charter* rights. A decision based on a misunderstanding or misapprehension of the scope or content of a *Charter* right will be

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<sup>35</sup> *BCCA Reasons*, paras 48-49 [AR Tab 4].

<sup>36</sup> *Loyola*, para 39.

<sup>37</sup> *Trinity Western University v The Law Society of Upper Canada*, 2015 ONSC 4250, paras 33-51; *Trinity Western University v The Law Society of Upper Canada*, 2016 ONCA 518, para 68 [*Trinity*, ONCA]; *Lewis v Canada*, 2015 FC 1309, paras 17-26; *Fonds de solidarité des travailleurs du Québec (FTQ) c Commission d’enquête sur l’octroi et la gestion des contrats public dans l’Industrie de la construction*, 2014 QCCA 1811, paras 34-38.

<sup>38</sup> *Divito v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 47, [2013] 3 SCR 157, para 49.

<sup>39</sup> *Doré*, paras 52-58; *Trinity*, ONCA, para 68; *Lake v Canada (Minister of Justice)*, 2008 SCC 23, [2008] 1 SCR 761, paras 34, 38-39 [*Lake*].

unreasonable.<sup>40</sup> However, the vast majority of administrative decisions by which a *Charter* right may be engaged will not raise issues regarding the scope of the right writ large.

31. If a decision does engage a *Charter* right, the decision-maker's balancing of the rights and competing interests is also reviewed for reasonableness.<sup>41</sup> A court should look at the decision as a whole, including the s. 35 consultation and accommodation process where applicable, in assessing whether the proportionality analysis was reasonable. A decision-maker can reasonably balance *Charter* values and other objectives without specifically refer to the *Charter* value in their reasons.<sup>42</sup>

#### **PART IV – SUBMISSIONS CONCERNING COSTS**

32. Canada does not seek costs and requests that no costs be awarded against Canada.

#### **PART V - ORDER SOUGHT**

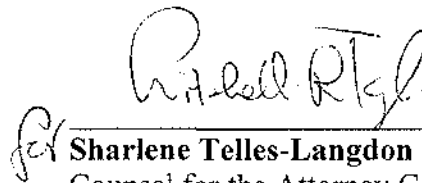
33. The appeal should be adjudicated in accordance with the above principles. Canada requests permission to present oral argument for a duration of 10 minutes.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED.**

Dated October 21, 2016.



**Mitchell R. Taylor, Q.C.**  
Counsel for the Attorney General of Canada



**Sharlene Telles-Langdon**  
Counsel for the Attorney General of Canada

<sup>40</sup> *Lake*, at para 41; *Németh v Canada (Justice)*, 2010 SCC 56, [2010] 3 SCR 281, para 10.

<sup>41</sup> *Doré*, paras 4-7; *Loyola*, paras 35-42.

<sup>42</sup> *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasure Board)*, 2011 SCC 62, [2011] 3 SCR 708, para 14; *Construction Labour Relations v Driver Iron Inc*, 2012 SCC 65, [2012] 3 SCR 405, para 3; *Canada v Igloo Viski Inc*, 2016 SCC 38, para 18.

## PART VI - TABLE OF AUTHORITIES

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9.	<i>Haida Nation v British Columbia (Minister of Forests)</i> , 2004 SCC 73, [2004] 3 SCR 511	3, 23, 27
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17.	<i>R v Sappier; R v Gray</i> , 2006 SCC 54, [2006] 2 SCR 686	3, 21, 22
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<b><u>Tab</u></b>	<b><u>Secondary Sources</u></b>	<b><u>Para(s)</u></b>
26.	Bryan Neihart, “ <i>Awas Tingni v Nicaragua</i> Reconsidered: Grounding Indigenous Peoples’ Land Rights in Religious Freedom” (2013) 42 <i>Denv J Int’l L &amp; Pol’y</i> 77	15
27.	UN Committee on Economic, Social and Cultural Rights (CESCR), <i>General Comment no. 21, Right of everyone to take part in cultural life (art. 15, para. 1(a), of the Covenant on Economic, Social and Cultural Rights)</i> , 21 December 2009, E/C 12/GC/21	17
28.	UN General Assembly, <i>International Convention on the Elimination of All Forms of Racial Discrimination</i> , 21 December 1965, United Nations, Treaty Series, vol 660, p 195	17
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31.	UN General Assembly, <i>United Nations Declaration on the Rights of Indigenous Peoples: resolution/adopted by the General Assembly</i> , 2 October 2007, A/RES/61/295	15, 17, 20

**PART VII – LEGISLATIVE PROVISIONS DIRECTLY IN ISSUE**

***Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11, s. 2(a)***

**2.** Everyone has the following fundamental freedoms:

**2.** Chacun a les libertés fondamentales suivantes :

(a) freedom of conscience and religion;

a) liberté de conscience et de religion;

***Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, ch. 11, s. 35(1)***

**35.** (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

**35.** (1) Les droits existants — ancestraux ou issus de traités — des peuples autochtones du Canada sont reconnus et confirmés.