Court File No: 37208

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)

B E T W E E N:

CANADIAN HUMAN RIGHTS COMMISSION

APPELLANT
(Appellant)

- and -

ATTORNEY GENERAL OF CANADA

RESPONDENT
(Respondent)

- and -

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FACTUM OF THE INTERVENER, PUBLIC SERVICE ALLIANCE OF CANADA

(pursuant to Rules 47 and 55-59 of the *Rules of the Supreme Court of Canada)*

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PARTS I and II – OVERVIEW AND POSITION ON THE ISSUES

1. The present appeals involve a claim that restrictions on registration under the *Indian Act* discriminate against certain individuals contrary to the *Canadian Human Rights Act* [the "*CHRA*" or "*Act*"]. The Canadian Human Rights Tribunal concluded that the complaints were beyond its jurisdiction. In particular, it held that the complaints challenged the provisions of the *Indian Act*, and that legislation does not constitute a "service" pursuant to section 5 of the *CHRA*.

2. The intervener, Public Service Alliance of Canada ["PSAC"], maintains that the determination of whether a government program or activity constitutes a service does not turn on whether the restrictions at issue stem from legislation as opposed to a government practice. Rather, the Tribunal must examine whether the program as a whole involves the provision of a service to the public. Where it does, the program – and any restrictions mandated by legislation – are subject to scrutiny under the *Act*. The contrary approach, which cuts this analysis short where legislation directs a discriminatory outcome, runs counter to this Court's well-established jurisprudence regarding the primacy of human rights legislation, as well as the Tribunal's historical approach to this issue and that taken by decision-makers across Canada. As this Court has previously explained, the Tribunal's ability to address instances where legislation violates human rights fits with Parliament's intent and Canada's broader constitutional framework.

PART III – STATEMENT OF ARGUMENT

A. Determining whether a government program constitutes a "service" does not turn on whether the alleged discrimination is mandated by legislation

3. The Tribunal frames its conclusion that it lacks jurisdiction over these complaints in two related ways: first, that human rights legislation cannot be used to directly challenge mandatory provisions in other legislation;[1] and second, that human rights legislation *can* render provisions in other legislation inoperable, but that the *CHRA* does not allow complaints to challenge the wording of other laws absent an underlying discriminatory practice.[2] The Tribunal's conclusion in both instances rests on the flawed premise that, since *legislation* is not a service, it lacks jurisdiction to examine restrictions in government services that are mandated by legislation. This

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[1] *Canadian Human Rights Commission v Attorney General of Canada*, 2016 FCA 200 ["Appeal Decision"] at para 98; *Matson et al. v Indian and Northern Affairs Canada*, 2013 CHRT 13 ["Matson Tribunal"] at para 54; *Andrews et al. v Indian and Northern Affairs Canada*, 2013 CHRT 21 ["Andrews Tribunal"] at paras 56-57

[2] Matson Tribunal at para 126; Andrews Tribunal at para 77

results in the Tribunal never considering whether the impugned government program or activity, in this case registration under the *Indian Act*, constitutes a service to the public.[3] This approach fundamentally distorts the framework and purpose of the *CHRA*.

Discrimination mandated by legislation can be reviewed under human rights legislation

4. The Tribunal's conclusion that human rights legislation cannot be used to challenge mandatory legislative provisions stems from the Federal Court of Appeal's ruling in *Murphy*, which the Tribunal in the present cases treated as binding.[4] In rejecting the argument that the assessment of income tax owing was a service to the public, the Tribunal in *Murphy* stated:

> In my view, however, whether or not the calculation pursuant to the QRLSP provisions or even assessment of income tax constitutes a service is immaterial to the real question with respect to s. 5. Even if these activities do constitute a service, they are not what is at issue in this case. Rather, it is the terms of the *ITA* and its regulations that are at issue.[5]

5. The Federal Court of Appeal in *Murphy* adopted this conclusion, repeating that, "even if the Minister's assessing actions could be viewed as services, the Minister had no choice but to assess all those in receipt of Qualifying Retroactive Lump-Sum Payments (QRLSP's) in the same manner, regardless of their personal characteristics".[6]

6. The approach in *Murphy* is critically flawed. First, *Murphy* fails to apply the established analytical framework for determining whether a claim falls within the Tribunal's jurisdiction. As the Tribunal itself recognized, the first step in a complaint of this nature requires the Tribunal to determine whether the government program or activity in question constitutes a service pursuant to section 5 of the *Act*.[7] This involves an assessment of the government program or activity as a whole to determine whether it is being "held out" or "offered" as a benefit to the public.[8] Under

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[3] Andrews Tribunal at para 57
[4] Matson Tribunal at para 61; Andrews Tribunal at para 54; *Public Service Alliance of Canada v Canada Revenue Agency*, 2012 FCA 7 ["*Murphy FCA*"] at para 2; See also: *Forward and Forward v Citizenship and Immigration Canada*, 2008 CHRT 5 at paras 36-37; Although the Federal Court of Appeal in Murphy concluded that the decision was reasonable, it explained that it also believed it was correct. To be binding on the Tribunal in future cases, however, the Court would need to conclude that this is the only reasonable conclusion.
[5] *Public Service Alliance of Canada v Canada (Revenue Agency)*, [2010] CHRD 9 ["*Murphy Tribunal*"] at para 50, see also para 54
[6] *Murphy FCA*, *supra* at para 4
[7] Matson Tribunal at para 46; Andrews Tribunal at paras 47-48
[8] *Gould v Yukon Order of Pioneers*, [1996] 1 SCR 571 at para 68; *Canada (A.G.) v Watkin*, 2008 FCA 170 at para 31

the analysis in *Murphy*, however, no regard is had to whether the alleged discriminatory restriction forms part of a service to the public. Indeed, the analysis abruptly ends once a threshold determination is made that the statute imposes the differential treatment. This obsession with the source of the alleged discrimination, rather than the context in which it takes place, results in a deficient analysis that fails to consider the discriminatory effect experienced by individuals. In contrast, the Tribunal accepts that, in the employment context, it has jurisdiction to address a complaint of discrimination where the discrimination is mandated by statute, although it provides no explanation for the difference in approach.[9]

7. Second, the deference in *Murphy* to the provisions of the *Income Tax Act* cannot be reconciled with the supremacy of human rights law. Courts and administrative tribunals universally accept that human rights law is fundamental in nature, and takes precedence over other legislative enactments.[10] Chief Justice Dickson plainly set out the implications of this approach in his dissenting reasons in *Bhinder*, where he stated:

> The Tribunal determined that federal legislation and regulations were to be construed and applied in such a way as to be consistent with the *Canadian Human Rights Act*. Thus, if the policy of an employer is discriminatory under the *Act*, it will not be rendered non-discriminatory simply by reason of there being a statutory requirement mandating that policy. In effect, the Tribunal held that federal legislation is inoperative to the extent it conflicts with the *Canadian Human Rights Act*.[11]

8. Although this Court has repeatedly addressing the relationship between human rights and other legislation, nothing in its jurisprudence calls this conclusion into question. To the contrary, the rulings by this Court and the Ontario Court of Appeal in *Tranchemontagne* confirm that restrictions in legislation are not insulated from human rights review.[12] *Tranchemontagne* involved the question of whether the Social Benefits Tribunal ["SBT"] had jurisdiction to apply the *Human Rights Code* in determining eligibility for disability support. At its core, the case was a challenge to subsection 5(2) of the *Ontario Disability Support Program Act*, which on its face

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[9] Matson Tribunal at paras 71, 85; Appeal Decision at paras 34, 37

[10] *Battlefords and District Co-operative Ltd. v Gibbs*, [1996] 3 SCR 566 at para 18; *Insurance Corporation of British Columbia v Heerspink*, [1982] 2 SCR 145 at 157-158;*Winnipeg School Division No. 1 v Craton*, [1985] 2 SCR 150 at para 8

[11] *Bhinder v Canadian National Railway Company*, [1985] 2 SCR 561 at 574-575 [emphasis added]; The Majority in *Bhinder* did not address this issue.

[12] *Tranchemontagne v Ontario (Director, Disability Support Program)*, 2006 SCC 14 ["*Tranchemontagne SCC*"] at paras 6, 7; See also *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Communauté urbaine de Montréal*, 2004 SCC 30 for an application of these principles in the employment law context

disqualified individuals who were addicted to alcohol or drugs from benefits.[13] The Majority of this Court concluded that the SBT was authorized to consider whether the restrictions in the *ODSPA* violated the *Code*, and that nothing in the legislation sought to rebut that presumption.[14]

9. The Tribunal in *Matson* tried to distinguish *Tranchemontagne* by claiming that this Court's statements "do not indicate that a complaint challenging legislation, and nothing else, is possible under human rights legislation".[15] With respect, it is unclear what else this Court could be saying, given that the alleged discrimination arose solely on the basis of restrictions in the *ODSPA*. Indeed, following this Court's ruling, the SBT concluded that subsection 5(2) violates the claimants' rights to "equal treatment with respect to services without discrimination because of … disability", a ruling affirmed by the Ontario Court of Appeal.[16]

10. The Tribunal in *Matson* also sought to distinguish *Tranchemontagne* by pointing to Justice Abella's statement in dissent that "[t]he issue is not *whether* a party can challenge a provision of the *ODSPA* as being inconsistent with the Code; it is where the challenge can be made and, specifically, whether it can be made before the Director or the SBT".[17] The Tribunal, however, misconstrues this statement. Far from suggesting that a program is not a service where discrimination flows from a statutory provision, Justice Abella confirmed through this statement and others that her conclusion that the SBT lacked the jurisdiction to consider whether the *ODSPA* violated the *Code* did not detract from the ability of the human rights tribunal to do so.[18]

11. Third, the reasoning in *Murphy* suggests that it would be improper to hold the respondent accountable for discriminatory treatment where it has no choice but to apply the legislation in question.[19] This analysis, however, ignores the fact that human rights legislation does not aim to

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[13] *Tranchemontagne SCC*, *supra* at paras 6, 7
[14] *Ibid* at paras 40-41
[15] Matson Tribunal at para 90
[16] *Ontario (Disability Support Program) v Tranchemontagne*, 2010 ONCA 593 ["*Tranchemontagne OCA*"] at para 4
[17] Matson Tribunal at para 91 [emphasis in original]
[18] *Tranchemontagne SCC*, *supra* at paras 56-57, 71-73, per Justice Abella. At para 72, Justice Abella states: "Clearly, the values and rights expressed in the Code are fundamental. This, however, is different from a derivative conclusion that as a result of s. 47(2), all administrative bodies in Ontario are *ad hoc* Human Rights Commissions capable of applying the Code. Section 47(2) does not confer jurisdiction; it announces the primacy of the Code. It represents a legislative direction that when a body *with the authority to do so* is asked to apply the Code, the provisions of the Code will prevail over another inconsistent statutory provision."
[19] *Murphy FCA*, *supra* at para 4

punish wrongdoing, but to eradicate discrimination.[20] The inability to find the respondent morally culpable in no way detracts from the role of the *CHRA* in addressing the discriminatory effect of the government program or activity.

12. Fourth, the restrictive approach in *Murphy* departs from that historically taken by the Tribunal and the Federal Court of Appeal. For instance, in *Druken*, statutory restrictions against granting employment insurance benefits for individuals employed by their spouse were found to form part of a discriminatory service. The Attorney General of Canada challenged this conclusion on judicial review but abandoned this argument before the Federal Court of Appeal, which endorsed the Tribunal's analysis.[21] The conclusion in *Druken* was subsequently confirmed and applied by numerous decisions, which authorized the Tribunal to scrutinize all aspects of those programs for discrimination, including any restrictions mandated by legislation.[22]

13. Similarly, provincial jurisprudence from across the country, as outlined at paragraph 56 of the Commission's factum, broadly establishes that legislative restrictions on government programs and services are subject to human rights review.[23] The Tribunal in *Matson* acknowledged this case law, but, without further elaboration, claimed that "the findings are dependent on the circumstances of those cases". Similarly, the Tribunal in *Andrews* stated that, "[w]hile some have found […] that legislation is a service and can therefore be challenged under human rights law, for reasons stated above, I have come to a different conclusion."[24] With respect, the justifications provided are wholly insufficient to support departing from this case law, particularly given the importance this Court has placed on interpreting human rights legislation consistently across the country.[25]

14. For instance, contrary to the claims of the Tribunal in the present appeals, the above jurisprudence cannot be reconciled with the approach in *Murphy* on the basis that these decisions

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[20] *CN v Canada (Canadian Human Rights Commission*), [1987] 1 SCR 1114 ["*Action Travail des Femmes*"] at 1133; *Gould*, *supra* at para 134
[21] *Canada (Attorney General) v Druken*, [1989] 2 FCR 24 ["*Druken FCA*"] at para 3.
[22] *Gonzalez v Canada*, [1997] 3 FC 646; *McAllister-Windsor v Canada*, [2001] CHRD 4; *Canada (Attorney General) v McKenna*, [1999] 1 FC 401
[23] Factum of the Appellant at para 56
[24] Matson Tribunal at para 126; Andrews Tribunal at para 94
[25] *New Brunswick (Human Rights Commission) v Potash Corporation of Saskatchewan Inc*, 2008 SCC 45 at para 68

also required a "discriminatory practice" to anchor their jurisdiction.[26] Each of these cases accepted that restrictions on government services could constitute a discriminatory practice, even if mandated by legislation.[27] The discriminatory practice was not a component of the finding of discrimination under the *CHRA* – it was the conclusion itself.

15. The Tribunal's attempts to distinguish these cases also highlights the underlying error in its analysis: it claims that these cases had concluded that the legislation itself was a service; in fact, they held that the government program or activity in question was the service, *not* the legislation.[28] In framing these previous decisions in this manner, the Tribunal sidesteps the need to engage with whether registration under the *Indian Act* offers a benefit to the public, fixating instead on the source of the discrimination.

The term "service" must be broadly interpreted

16. In determining whether a particular government program constitutes a service to the public, decision-makers must apply a broad and liberal interpretation that advances the objectives of human rights legislation. Early jurisprudence from the Tribunal and the Federal Court on this issue held that all government actions in the performance of a statutory function constitute a service within the meaning of section 5.[29] Despite the established jurisprudence on this issue, the Federal Court of Appeal in *Watkin* applied a correctness standard of review to overturn this line of cases.[30] The "post-Watkin" principles redefined the term "service" and were explicitly relied on in *Murphy* to justify departing from the Tribunal's earlier case law.[31] This history highlights the broad interpretation of the term "service" that had been given by the expert decision-maker prior to interference by a reviewing court.

17. The analysis of whether a program constitutes a service must focus on the relationship

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[26] Andrews Tribunal at paras 61, 77-79; Matson Tribunal at para 107
[27] *Gonzalez*, *supra* at paras 28, 32-34; *McAllister-Windsor*, *supra* at paras 30, 52; *Tranchemontagne ONCA*, *supra* at paras 4, 5; see also case law cited in Appellant Factum at para 56
[28] Matson Tribunal at para 94, 102, 105-112; see generally decisions at FN 27
[29] *Bailey et al v Minister of National Revenue* (1980) 1 CHRR D/1933 at 212-214; see also *LeDeuff v The Canadian Employment and Immigration Commission* [1986] CHRD 6 at 5-6, aff'd by Review Tribunal [1987] CHRD 11; *Anvari v Canada*, [1988] CHRD 18 at 6-7, aff'd by Review Tribunal [1991] CHRD 2 at 7-8; *Menghani v Canada* (1992), 17 CHRR D/236 at 10-13; *Singh (Re)*, [1989] 1 FC 430 at para 18
[30] *Watkin*, *supra* at para 23
[31] Andrews Tribunal at paras 48-51, 53, 55; *Murphy Tribunal*, *supra* at para 42

established between the government and the public by virtue of the program or activity.[32] In this sense, section 5 mirrors the other categories of jurisdiction under the *CHRA* by providing the Tribunal with jurisdiction over a particular type of relationship, namely that of service-provider and service-user. While service relationships will most clearly arise where a program offers or holds out benefits to an individual beneficiary, not all services will be of benefit to the individual human rights complainant.

18. For instance, it has long been accepted that policing constitutes a "service" for the purposes of human rights legislation due to the duties owed by police to the general public.[33] The fact that an individual complainant may raise concerns with these services when he or she is not their direct beneficiary – such as where an investigation or arrest is alleged to be discriminatory – does not change the nature of the relationship between the police and the broader public. As such, regardless of whether all government activities pursuant to statute are services, the analysis of this issue must consider the broader social context, an approach in line with this Court's analysis in *Gould*, federal cases prior to *Watkin*, and provincial jurisprudence.

B. Rendering a statute inoperative because it conflicts with human rights law does not restrict Parliament's intent or interfere with Canada's constitutional framework

19. Both the Tribunal and the Federal Court of Appeal in the present appeals suggest that it would be improper to allow complainants to use human rights law to challenge restrictions in other legislation. The Tribunal in *Matson*, for instance, relied on this Court's comments in *Hutterian Brethren* regarding the differences between determining "undue hardship" under human rights legislation and applying section 1 of the *Charter* to "suggest that the scheme and analytical framework of the *Act* is not an appropriate method with which to analyze the alleged discriminatory aspects of section 6 of the *Indian Act*".[34] The Federal Court of Appeal went further, stating: "there is no reason to find that the Tribunal should be an alternate forum to the

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[32] *Gould*, *supra* at para 68; *Cooper v Pinkofskys*, 2008 HRTO 390 at paras 9-10; see also *Saskatchewan (Human Rights Commission) v Saskatchewan (Department of Social Services)* (1988), 9 CHRR 5181 at 22-23; *Oliver v Hamilton (City)*, [1995] OHRBID 56 at paras 33-34; *Hudler v London (City)*, [1997] OHRBID 23 at paras 56-57; *Braithwaite v Attorney General of Ontario*, 2005 HRTO 31 at paras 19-22, aff'd on this point: (2007), 88 OR (3d) 455 at paras 38-40

[33] *LeDeuff*, *supra* at 4-5; *Hum v Canada (Royal Canadian Mounted Police)*, [1986] CHRD 10 (CHRT); *Fraser v Victoria (City) Police*, [1988] BCCHRD 17 (BC) at paras 36-38; *Rai v Ontario (Environment)*, 2012 HRTO 1744 at paras 15-18; see also *Attorney General of Canada v Davis*, 2013 FC 40 at paras 36-44, where the Federal Court distinguished *Watkin* by considering the broader service relationship established between the Canada Border Service Agency and individuals seeking entry into Canada.

[34] Matson Tribunal at 154

courts for adjudicating issues regarding the alleged discriminatory nature of legislation when a challenge may be made to a court under section 15 of the *Charter*".[35] With respect, this analysis misapprehends the role of human rights legislation in Canada's constitutional framework.

20. This Court in *Tranchemontagne* distilled the difference between invalidating a provision pursuant to section 52 of the *Constitution Act* and rendering a provision inoperable based on human rights legislation. The Court explained:

> A provision declared invalid pursuant to s. 52 of the *Constitution Act, 1982* was never validly enacted to begin with. It never existed as valid law because the legislature enacting it never had the authority to pass it. But when a provision is inapplicable pursuant to s. 47 of the *Code*, there is no statement being made as to its validity. The legislature had the power to enact the conflicting provision; it just so happens that the legislature also enacted another law that takes precedence.[36]

21. This conclusion regarding Parliament's intent reflects the analysis set out by the Federal Court of Appeal in *Druken*, which stated:

> The rule appears to be that when human rights legislation and other legislation cannot stand together, a subsequent inconsistent enactment, unless clearly stated to create an exception to it, is not to be construed as repealing the subsisting human rights legislation. On the other hand, when the human rights legislation is the subsequent enactment, it does repeal by implication the other inconsistent legislation.[37]

22. Put another way, unlike a *Charter* challenge that seeks to invalidate Parliament's objective, rendering legislation inapplicable pursuant to human rights legislation gives voice to Parliament's overarching intent to eliminate discrimination, whether caused by legislation or otherwise.

23. This understanding of the role of human rights legislation has a number of implications for the present appeals. First, it confirms the appropriateness of using human rights legislation to render discriminatory provisions in other legislation inoperable. Contrary to the conclusion reached by the Tribunal and the Federal Court of Appeal in the present appeals, the possibility of challenging the validity of legislation pursuant to the *Charter* does not remove the ability to address its impact under human rights law. *Tranchemontagne* confirms that human rights

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[35] Appeal Decision at para 103

[36] *Tranchemontagne SCC*, *supra* at para 35; see also *Lévis v Franternité des Policiers de Lévis*, 2007 SCC 14 at para 57; Ruth Sullivan, *Sullivan on the Construction of Statutes*, 5th ed. (Markham: LexisNexis, 2008) ["Sullivan"] at 351; *Andrews v Law Society of British Columbia*, [1989] 1 SCR 143 at pp 175-176, where McIntyre J stated: "The discrimination in s. 15(1) [of the *Charter*] is limited to discrimination caused by the application or operation of law, whereas the Human Rights Acts apply also to private activities". [emphasis added]

[37] *Druken FCA*, *supra* at para 6; Sullivan, *supra* at 340

legislation and the *Charter* operate alongside each other in addressing often overlapping social concerns; their roles are not mutually exclusive.

24. Second, *Tranchemontagne* demonstrates that this Court's *obiter* statements in *Hutterian Brethren* were not intended to limit the jurisdiction of human rights legislation. In *Hutterian Brethren*, this Court explained that, "when the *validity* of a law of general application is at stake" under the *Charter*, the appropriate framework for justifying the legislation is that of section 1 of the *Charter*, not the reasonable accommodation analysis applicable in human rights law.[38] This conclusion is consistent with the Court's earlier pronouncements in *Tranchemontagne* and does not affect the appropriate framework for addressing a situation where the validity of a law of general application is *not* at stake, as is the case under human rights legislation.

25. For this reason, a human rights complaint does not involve an assessment of Parliament's objectives under section 1 of the *Charter*. Rather than justify the differential treatment, the Government need only demonstrate Parliament's express intent to disregard the *CHRA*, after which the Tribunal cannot question whether the discrimination was supported by a pressing and substantial objective, or whether the restriction was proportionate to that objective.[39] Parliament can also respond to a declaration of inoperability by clarifying its intent to have the discriminatory legislation operate notwithstanding the *CHRA*, with no need to otherwise justify this treatment.

26. At a more fundamental level, however, the concerns expressed by the Tribunal and the Federal Court of Appeal highlight a broader discomfort with the primacy of human rights law. As illustrated in *Tranchemontagne* – and as the Tribunal has recognized in the context of employment legislation[40] – the primacy of human rights law necessarily implies that legislation enacted by Parliament can be rendered inoperable without a section 1 analysis. There is no basis to treat legislation imposing discriminatory restrictions on services differently under the *CHRA*.

27. Third, this approach also fits with the fact that legislation may have unintended discriminatory consequences that are not apparent on its face. For instance, *McAllister-Windsor* involved provisions in the employment insurance legislation that were neutral on their face but had a discriminatory impact on pregnant women. Similarly, *Bhinder* involved apparently neutral health and safety standards that adversely affected Sikh employees. In light of the primacy of

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[38] *Alberta v Hutterian Brethren of Wilson Colony*, 2009 SCC 37 at para 71 [emphasis added]
[39] *Lévis*, *supra* at paras 58, 62; Sullivan, *supra* at 334, 337; *Heerspink*, *supra* at 158; *Craton*, *supra* at p 156
[40] Matson Tribunal at para 71, 85; Appeal Decision at paras 34, 37

human rights legislation and its objective of eradicating discrimination, it cannot be presumed that Parliament would want such discrimination, once identified, to be maintained.[41]

28. The present appeals illustrate this point. Following the ruling in *McIvor*,[42] which declared that paragraphs 6(1)(a) and 6(1)(c) of the *Indian Act* violated section 15 of the *Charter,* Parliament responded by enacting the *Gender Equity in Indian Registration Act*. This legislation specifically targeted the violations identified in *McIvor*, given the need to address those violations before the end of the suspension of invalidity and procedural objections with amendments to the legislation that were proposed to address the issues in this case. The Parliamentary record, however, demonstrates that Parliament understood the need to subsequently address these issues, disclosing no intention to justify or maintain the ongoing differential treatment.[43]

29. Finally, PSAC notes that questions regarding any restrictions on the Tribunal's remedial authority should be left to the Tribunal to determine in the context of particular cases before it. Section 53 of the *CHRA* provides the Tribunal with the broad authority to require the respondent to prevent further discrimination. As the Commission notes at paragraph 102 of its factum, the Tribunal has historically tailored its remedial approach to fit the circumstances of each case, particularly where the applicability of other legislation is at issue. This issue should be left to the expert decision-maker to be assessed in the context of a full record and argument on this point.

PARTS IV and V – SUBMISSIONS ON COSTS AND ORDER REQUESTED

30. PSAC requests that no order of costs be made for or against it.

Dated at Ottawa, this 5th day of October, 2017.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

RAVEN, CAMERON, BALLANTYNE & YAZBECK LLP/s.r.l.

Per: _____
Andrew Raven/Andrew Astritis/Morgan Rowe

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[41] *Action Travail des Femmes, supra* at 1133; *Gould, supra* at para 134
[42] *McIvor v Canada*, 2009 BCCA 153
[43] Bill C-3, An Act to promote gender equity in Indian registration by responding to the Court of Appeal for British Columbia decision in McIvor v. Canada (Registrar of Indian and Northern Affairs", 2nd reading, *House of Commons Debates,* 40th Parl, 3rd Sess, No 18 (26 March 2010) at 981-983 (John Duncan); 40th Parl, 3rd Sess, No 44 (11 May 2010) at 2650-2651; 40th Parl, 3rd Sess, No 48 (25 May 2010) at 2877-2900; 3rd reading, *House of Commons Debates,* 40th Parl, 3rd Sess, No 101 (22 November 2010) at 6252-6254 (Hon Josée Verner).

PART VI – TABLE OF AUTHORITIES

Para where cited

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