Court File No.: 37208

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

BETWEEN:

CANADIAN HUMAN RIGHTS COMMISSION

APPELLANT
(Appellant)

AND:

ATTORNEY GENERAL OF CANADA

RESPONDENT
(Respondent)

AND:

ATTORNEY GENERAL OF QUEBEC, TANIA ZULKOSKEY, INCOME SECURITY ADVOCACY CENTRE, SUDBURY COMMUNITY LEGAL CLINIC, CHINESE AND SOUTHEAST ASIAN LEGAL CLINIC, COMMUNITY LEGAL ASSISTANCE SOCIETY AND HIV & AIDS LEGAL CLINIC ONTARIO, CANADIAN MUSLIM LAWYERS ASSOCIATION, COUNCIL OF CANADIANS WITH DISABILITIES, WOMEN'S LEGAL EDUCATION AND ACTION FUND AND NATIVE WOMEN'S ASSOCIATION OF CANADA, AMNESTY INTERNATIONAL, FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA, JEREMY MATSON, AFRICAN CANADIAN LEGAL CLINIC, ABORIGINAL LEGAL SERVICES and PUBLIC SERVICE ALLIANCE OF CANADA

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PART I – OVERVIEW

1. There is no basis, in law or policy, to deny First Nations children, and their families, equal access to redress their experience of discrimination within the meaning of the *Canadian Human Rights Act* ("*CHRA*"), whether experienced due to legislative or executive actions. Excluding First Nations children from the full benefit of the *CHRA*, absent a clear legislative intention, is unsupportable and will have a detrimental impact on First Nations children.

2. Unlike other children, First Nations children are subject to the exercise of federal authority, pursuant to subsection 91(24) of the *Constitution Act, 1867*. The federal government has historically and in modern times exercised this authority through both legislative and executive actions; at times exercised without regard to their best interests and often times to their detriment. This history was aptly addressed by Abella J., speaking for a unanimous Court, in her opening words in *Daniels v. Canada (Indian Affairs and Northern Development)*:

> As the curtain opens wider and wider on the history of Canada's relationship with its Indigenous peoples, inequities are increasingly revealed and remedies urgently sought. Many revelations have resulted in good faith policy and legislative responses, but the list of disadvantages remains robust. This case represents another chapter in the pursuit of reconciliation and redress in that relationship.[1]

3. The urgent need for reconciliation is undisputed; there are three times the number of First Nations children in state care than there were at the height of the residential schools system in the 1940s.[2] Now, most provincial child welfare legislation attempts, in small ways, to redress these historical wrongs and current overrepresentation by building a legislative framework that respects the integrity of the First Nations family, involves the First Nations community, and ensures that a child's culture and heritage are considered.

4. While these overarching goals are central to efforts to rebuild the child protection system in the best interest of all First Nations children, very often these opportunities are only offered to First Nations children who have Indian status under the *Indian Act*.

5. In resolving the questions under appeal, this Court ought to take the First Nations complainant's perspective. From that perspective, the fact that a discriminatory practice flows

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[1] *Daniels v. Canada (Indian Affairs and Northern Development)*, 2016 SCC 12 at para. 1 [*Daniels*].
[2] *First Nations Child and Family Caring Society of Canada et al. v. Canada (Attorney General)*, 2016 CHRT 2 at para. 161 [*Caring Society*].

from legislative, as opposed to executive, action matters little. The impact of a federal government discriminatory practice on a First Nations complainant's "opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated"[3] is the same, regardless of its source in legislation or executive action. Absent a clear legislative intention to the contrary, the Canadian Human Rights Tribunal ("the Tribunal") is empowered to conduct inquiries relating to complaints regarding the federal government's discriminatory practices under the *CHRA*, no matter their source.

PART II – POSITION ON THE QUESTIONS IN ISSUE

6. The Caring Society takes no position with regard to the standard of review.

7. With regard to the second question, the Caring Society's position is that, absent an express contrary legislative intention, the quasi-constitutional *CHRA* applies to both legislative and executive actions that result in discrimination, as defined in the legislation in question given:

a. The unique nature of Indian status and the unique relationship between First Nations peoples and the federal government;

b. The legislative history regarding the repeal of section 67 of the *CHRA*; and

c. The presumption that reconciliation with Aboriginal peoples is Parliament's goal.

PART III – LAW AND ARGUMENT

8. The question at issue in this case is whether the conferral of Indian status by legislation is a "service" within the meaning of the *CHRA*, such that the Tribunal is able to adjudicate complaints regarding discrimination in the conditions for the conferral of Indian status.

9. There can be no doubt that Indian status may constitute a benefit in and of itself, as it amounts to the recognition of one's identity. The tangible and symbolic benefits of Indian status were analyzed at length by the Supreme Court of British Columbia in *McIvor v. Canada (Registrar, Indian and Northern Affairs*), where Ross J. noted that "the concept of Indian, has come to exist as a cultural identity alongside traditional concepts. The concept of Indian has become and continues to be imbued with significance in relation to identity that extends far

[3] *Canadian Human Rights Act*, R.S.C. 1985, c. H-6, s. 2.

beyond entitlement to particular programs."[4] According to the evidence before the trial judge in *McIvor*, "being registered as an Indian reinforced a sense of identity, cultural heritage and belonging associated with Indian status."[5] Given this reality, it is entirely reasonable to hold that Indian status constitutes a "service" within the meaning of section 5 of the *CHRA*. There is nothing in the wording of the *CHRA* that compels a different outcome.

10. Consistent with article 33 of the United Nations *Declaration on the Rights of Indigenous Peoples*, the Caring Society submits that First Nations citizenship should be defined by First Nations Peoples and communities, and that Canada has no role to play in that process. However, until this objective is realized, Canada must not discriminate in the conferral of Indian status.

A. The unique nature of Indian status and the unique relationship between First Nations Peoples and the federal government weigh in favour of including the conditions for the conferral of Indian status within the meaning of "service" under the CHRA

11. At its root, Indian status is a colonial concept. The first federal legislation regarding Indian status dates back to 1869.[6] As the Court of Appeal for British Columbia held in *McIvor v. Canada (Registrar of Indian and Northern Affairs)*, this legislation "did not reflect the aboriginal traditions of all First Nations. To some extent, it may be the product of the Victorian mores of Europe as transplanted to Canada."[7]

12. Historically, the federal government used Indian status to enforce various forms of segregation of the First Nations population, and to identify those individuals who were deemed to be ready for integration in "mainstream" Canadian society. The longstanding place of Indian status in the 'project of civilization' is also evident from the title of the first pre-Confederation

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[4] *McIvor v. Canada (Registrar of Indian and Northern Affairs)*, 2007 BCSC 827 at para. 133, aff'd 2009 BCCA 153 [*McIvor BCSC*]. See also *Gehl v. Canada (Attorney General)*, 2017 ONCA 319 at para. 41, per Sharpe J.A. (Lauwers and Miller JJ.A. concurring in the result): "Registration entails access to significant material benefits, including some tax exemptions, extended health coverage and financial assistance with post-secondary education. There are very significant intangible benefits. Registration represents the right to belong to and be recognized as a member of a community, and to participate in its life and governance."

[5] *McIvor BCSC* at para 136.

[6] *McIvor v Canada (Registrar of Indian and Northern Affairs)*, 2009 BCCA 153 at para 16 [*McIvor BCCA*]. See also: Sébastien Grammond, *Identity Captured by Law* (Montreal & Kingston: McGill & Queen's University Press, 2009) at pp. 90-92. The colonial nature of the federal government's having "entered the field" under subsection 91(24) of the *Constitution Act, 1867* is evident from the 1869 statute's title: *An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act 31st Victoria, Chapter 42*, S.C. 1869, c. 6 (32-33 Vict.), amending *An Act for the organisation of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands*, S.C. 1868, c. 42 (31 Vict.).

[7] *McIvor BCCA* at para 17.

legislation providing for the involuntary loss of status by First Nations women and children: *An Act to encourage the gradual Civilization of the Indian Tribes in the Province, and to amend the Laws respecting Indians*.[8]

13. In modern times, the federal government uses Indian status to restrict the population of First Nations persons who are eligible for federal government services. As was recently noted by the Court of Appeal of Quebec in *Canada (Attorney General) v. Descheneaux*, Indian status governs access to federal programs specifically designed for status Indians, such as Health Canada's Non-Insured Health Benefits Program and Indigenous and Northern Affairs Canada's ("INAC") Post-Secondary Student Support Program.[9] INAC also provides essential services such as income assistance[10] and child welfare services[11] to status Indians living on-reserve.

14. It bears noting that certain provincial services are also influenced or based on Indian status. For example, child welfare legislation in Ontario, British Columbia, Alberta Saskatchewan, Manitoba, Yukon, Nova Scotia and Prince Edward Island determine eligibility for specific protections, benefits and services for First Nations children with direct reference to Indian status, as conferred by federal legislation.[12]

15. However, defining the scope of Indian status is not the only way in which Canada influences the services available to First Nations persons; it may also control the geographic

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[8] S. Prov. C. 1857, 20 Vict., c. 26. See also: *Corbière v. Canada (Minister of Indian and Northern Affairs*, [1999] 2 S.C.R. 203 at para. 86, per L'Heureux-Dubé J; Sébastien Grammond, *Identity Captured by Law* (Montreal & Kingston: McGill & Queen's University Press, 2009) at pp 74-76.

[9] *Canada (Attorney General) v. Descheneaux*, 2017 QCCA 1238 at paras 62-63.

[10] *Simon v. Canada (Attorney General)*, 2013 FC 1117 at paras 4-14, rev'd 2015 FCA 18, leave to appeal ref'd [2015] 3 S.C.R. xi.

[11] *Caring Society* at paras 3-5.

[12] *Child and Family Services Act*, R.S.O. 1990, c. C.11, s. 3(1) "Indian", s. 141.2, and Part X. As the Ontario Court of Justice recently held in a case challenging the definition of an "Indian or native child" under the *Child and Family Services Act* under subsection 15(1) of the *Canadian Charter of Rights and Freedoms*, "[d]etermining whether a child is "Indian" or "Native" is therefore a matter of profound significance in Ontario's child protection statute. If a Indigenous child is not so found, what would otherwise be the child's right to the multiple protections under the *Act* is reduced to a privilege to be exercised at the discretion of a society.": *Native Child and Family Services of Toronto v. C.R.*, 2017 ONCJ 440 at para. 32.See also *Child, Family and Community Service Act*, RSBC 1996, c.46 s.1(1) "aboriginal child", "Indian band", s.38(c); *Child, Youth and Family Enhancement Act*, RSA 2000, c. C-12, s.1(1)(a), (g) and (m), s.57.01, s.107(1); *The Child and Family Service Act*, SS 1989-90, c.C-7.2, s.2(1)(a.1) and (s), s.23(1), s.37(10); *The Child and Family Services Act*, CCSM 1985, c.C-80, s.30(1)(e), s.77(2)(c.2); *Child and Family Services Act*, SY 2008, c.1, s.1 "member of a First Nation"; *Child and Family Services Act*, SNS 1990, c.5, s.3(1)(a), (b) and (oa); *Child Protection Act*, RSPEI 1988, c.C-5.1, s.1(a)(i) and (e), s.13(7).

boundaries relating to where it will provide services, and exercise significant control over the range and level of services (as the Tribunal found it does for child welfare services).[13]

16. While there are some examples of Canada opting to provide services to First Nations by way of legislation,[14] in many cases, these programs and services are governed and administered by way of executive action.[15] For example:

a. the Non-Insured Health Benefits Program "is neither an Act of Parliament, nor a regulation thereunder."[16] Instead, it was created in accordance with the federal executive branch's "general powers under the *Department of Health Act*, S.C. 1996, s. 8, and the *Canada Health Act*, R.S.C. 1985, C-6, and in accord with the Indian Health Policy adopted by Cabinet in 1979 and the 1997 Reviewed Mandate in that respect";[17]

b. INAC's income assistance program is not the subject of specific federal legislation. Instead, Canada has provided for it by way of directives from the Treasury Board, based on which INAC develops policies regarding delivery of services and programs;[18] and

c. there is no federal child welfare legislation that is applicable on-reserve. Instead, "the federal government took a programming and funding approach to the issue",[19] operating under provincial laws due to the application of s. 88 of the *Indian Act*.[20]

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[13] *Caring Society* at paras 111-113.
[14] See for example: *Safe Drinking Water for First Nations Act*, S.C. 2013, c. 21. Section 4 of the *Act* empowers the Governor in Council to make regulations regarding drinking water on-reserve on the recommendation of the Minister of Indian Affairs and Northern Development and/or the Minister of Health. No such regulations have yet been promulgated.
[15] *Simon v. Canada (Attorney General)*, 2015 FCA 18 at para 9 (regarding essential services on-reserve); *Shiner v. Canada (Attorney General)*, 2017 FC 515 at para 11 (regarding the Non-Insured Health Benefits Program); *Caring Society* at para 83 (regarding child welfare services).
[16] *Shiner v. Canada (Attorney General)*, 2017 FC 515 at para. 11.
[17] *1018025 Alberta Ltd. v. Canada (Minister of Health)*, 2004 FC 1107 at para. ii.
[18] *Simon v. Canada (Attorney General)*, 2015 FCA 18 at para 9.
[19] *Caring Society* at para 83.
[20] *Indian Act*, R.S.C. 1985, c. I-5, s. 88: "Subject to the terms of any treaty and any other Act of Parliament, all laws of general application from time to time in force in any province are applicable to and in respect of Indians in the province, except to the extent that those laws are inconsistent with this Act or the *First Nations Fiscal Management Act*, or with any order, rule, regulation or law of a band made under those Acts, and except to the extent that those provincial laws make provision for any matter for which provision is made by or under those Acts."

17. When determining whether government action (whether legislative or executive) is subject to the *CHRA*, the focus should remain on the impact of the denial of a benefit on those who the *CHRA* was designed to protect. This is in keeping with the modern approach to statutory interpretation, which requires this Court to take a purposive approach. Indeed, as Moldaver J., writing for the majority, recently held in *R. v. Alex*: "[t]his Court as repeatedly observed that plain meaning alone is not determinative and a statutory interpretation analysis is incomplete without considering the context, purpose and relevant legal norms."[21] The *CHRA*'s context and purpose require this Court to take the complainant's perspective into account when assessing the discriminatory aspect of government action.

18. The purpose of human rights legislation is to protect complainants from certain discriminatory acts, whether perpetrated by public or private actors. As Sopinka J. held in his majority reasons in *Zurich Insurance Co. v. Ontario (Human Rights Commission)*:

> Human rights legislation is amongst the most pre-eminent category of legislation. It has been described as having a "special stature, not quite constitutional but certainly more than the ordinary…" (*Ontario Human Rights Commission v. Simpson-Sears Ltd.*, [1985] 2 S.C.R. 536, at p. 547). <u>One of the reasons such legislation has been so described is that it is often the final refuge of the disadvantaged and the disenfranchised. As the last protection of the most vulnerable members of society, exceptions to such legislation should be narrowly construed</u> […].[22]

19. The impact of a discriminatory practice on the most vulnerable members of society is the same, regardless of its source in legislation, regulation, a Cabinet policy, a Treasury Board directive, or a departmental program manual. If the legislative acts were presumptively excluded from scrutiny under the *CHRA*, this would permit the federal government to exempt its numerous programs and services that operate without a statutory basis from human rights review, through the simple device of enacting legislation. This would be a particularly significant result, given that several such programs have been the subject of complaints before the Canadian Human Rights Commission or the Tribunal, some of which are ongoing.[23]

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[21] *R. v. Alex*, 2017 SCC 37 at para. 31.
[22] *Zurich Insurance Co. v. Ontario (Human Rights Commission)*, [1992] 2 S.C.R. 321 at p. 339 [emphasis added].
[23] See for reference the case management decisions in *Mississaugas of the New Credit First Nation v. Canada (Attorney General)*, 2013 CHRT 32 at para 2 (regarding special education services) and *Grand Chief Stan Louttit et al. v. Canada (Attorney General)*, 2017 CHRT 18 at para 2 (regarding policing on-reserve).

20. Moreover, if it were held that the *CHRA* does not apply to legislative actions, this conclusion would apply with equal force to the law-making power of First Nations governments (whether in the form of band by-laws under the *Indian Act*,[24] land codes under the *First Nations Land Management Act*,[25] or First Nations laws enacted pursuant to self-government legislation[26]). This is an absurd result, incompatible with Parliament's intention in repealing section 67 of the *CHRA*. Indeed, sections 1.2, 3, and 4 of the repealing legislation expressly contemplated *CHRA* complaints being brought against First Nations governments.[27] More specifically, withholding legislative actions from review under the *CHRA* would exempt from review the band membership codes adopted by a multitude of First Nations across Canada.

21. Allowing the federal government and First Nations governments to shield otherwise discriminatory acts from scrutiny under the *CHRA* by adopting legislative instruments would leave First Nations individuals in the same position in which they found themselves prior to the repeal of section 67 of the *CHRA*: with lesser human rights protections. In order to avoid this result, the focus ought to remain squarely on the character of the government service (whether provided through executive or legislative action) as it relates to the complainant.

B. The legislative history regarding the repeal of section 67 of the CHRA supports the CHRA's application to legislative acts

22. *An Act to amend the Canadian Human Rights Act*, S.C. 2008, c. 30 was the culmination of a lengthy series of efforts on the part of Parliament to repeal section 67 of the *CHRA*.[28] The repealing legislation contained detailed provisions as to the consequences of the repeal, and delayed the coming into force of the repeal with respect to certain categories of decisions. This shows that Parliament carefully considered the consequences of repealing section 67 on the

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[24] *Indian Act*, R.S.C. 1985, c. I-5, s. 81.
[25] *First Nations Land Management Act*, S.C. 1999, c. 24.
[26] See for instance: *Sechelt Indian Band Self-Government Act*, S.C. 1986, c. 27, s. 14; *Yukon First Nations Self Government Act*, S.C. 1994, c. 35, s. 11.
[27] *An Act to amend the Canadian Human Rights Act*, S.C. 2008, c. 30, ss. 1.2, 3, and 4.
[28] Four prior bills (three government bills and one private Senator's bill) were introduced aiming to repeal section 67 of the *CHRA*, see: Bill C-108, *An Act to amend the Canadian Human Rights Act and other acts in consequence thereof*, 3rd Sess, 34th Parl, 1992 (died on the Order Paper after first reading following dissolution, see Canada, Library of Parliament, *Legislative Summary: Bill C-21: An Act to amend the Canadian Human Rights Act* at p 7); Bill C-7, *First Nations Governance Act*, 2nd Sess, 37th Parl, 2003, s. 42 (died at second reading, following prorogation); Bill S-45, *An Act to amend the Canadian Human Rights Act*, 1st Sess, 38th Parl, 2005 (died at second reading, while the bill's subject matter was referred to Committee, following prorogation); Bill C-44, *An Act to amend the Canadian Human Rights Act*, 1st Sess, 39th Parl (died at Committee stage in the House following prorogation).

CHRA's application with respect to First Nations. There is nothing in the repealing legislation that would suggest that Parliament intended that the *Indian Act*'s provisions would remain immune to scrutiny. Indeed, such a result would run counter to Parliament's intention to make the *CHRA*'s protections fully applicable to First Nations.

23. As was clear from the speeches at second and third reading regarding Bill C-21 (which enacted the repeal of section 67 of the *CHRA*), the prior attempts to repeal section 67 of the *CHRA* in 2002/2003, 2005, and 2007 were the foundation of Parliament's actions in 2008.[29] The sponsor of one of these earlier attempts, Senator Kinsella (then Leader of the Opposition, later Speaker of the Senate), speaking at second reading, noted:

> This section is at least an accident of history. It was included in order to address concerns that, if the human rights framework were made accessible to Aboriginals, it would have the ancillary effect of altering the Indian Act. That was the argument at the time. There was significant pressure to avoid that situation.[30]

24. Speaking to second reading in the House of Commons of Bill C-44 (which was re-introduced as Bill C-21 following prorogation, and proceeded directly to Committee consideration),[31] the then-Parliamentary Secretary to the Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians made the following comments, which clearly contemplated the *CHRA*'s future application to the *Indian Act*:

> [Section 67] simply and effectively denies some Canadians access to remedies granted in the act. Section 67 shields the Indian Act and any decisions made or actions taken under the Act from application of the Canadian Human Rights Act. In effect, section 67 puts into question our claim to be a fair and egalitarian society.[32]

25. Speaking to Bill C-44 before the House of Commons' Standing Committee on Aboriginal Affairs and Northern Development, the then-Minister, the late Jim Prentice, specified that the repeal of section 67 of the *Indian Act* would enable First Nations citizens to challenge

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[29] *Debates of the Senate*, 39th Parl, 2nd Sess, No 67 (10 June 2008) at 1468 (Hon Consiglio Di Nino); *Debates of the Senate*, 39th Parl, 2nd Sess, No 69 (12 June 2008) at 1514 (Hon Mobina Jaffer).
[30] *Debates of the Senate*, 38th Parl, 1st Sess, No 94 (1 November 2005) at 2042 (Hon Noël Kinsella).
[31] *House of Commons Debates*, 39th Parl, 2nd Sess, No 15 (13 November 2007) at 776-777 (Speaker's Ruling).
[32] *House of Commons Debates*, 39th Parl, 1st Sess, No 105 (7 February 2007) at 6521-6522 (Rod Bruinooge) [emphasis added].

government actions regarding access to programs, access to services, quality of services, and membership.[33]

26. The sponsor's speech in the Senate at third reading was equally clear that the terms of the *Indian Act* were to be subject to scrutiny under the *CHRA* going forward.[34]

27. The desire to increase the *CHRA*'s scope with respect to First Nations Canadians is in keeping with this Court's previous rulings that "the *Canadian Human Rights Act* is a quasi-constitutional document and we should affirm that any exemption from its provisions must be clearly stated."[35] Accordingly, this Court should be reluctant to re-open the legal loophole that Parliament intended to close when it repealed section 67 of the *CHRA*.

28. Indeed, to follow this Court's logic in *Canada (House of Commons) v. Vaid*, there is no indication in the *CHRA*'s language that its protections were not intended to extend to services provided for by way of legislation. There is no reason to think that Parliament "intended" to impose human rights obligations on every federal service-provider except itself.[36]

C. The CHRA should be interpreted in accordance with the presumption that reconciliation is Parliament's goal

29. In interpreting the *CHRA*, this Court should consider, in addition to the *CHRA*'s purpose as the last refuge of the disenfranchised and disadvantaged, the context of the repeal of section 67 of the *CHRA* as part of reconciliation between Canada and Aboriginal peoples. As this Court held in *Daniels*:

> The *Report of the Royal Commission on Aboriginal Peoples*, released in 1996, stressed the importance of rebuilding the Crown's relationship with Aboriginal peoples in Canada […]. The importance of this reconstruction was also recognized in the final report of the Truth and Reconciliation Commission of Canada [citations omitted].
>
> The constitutional changes, the apologies for historic wrongs, a growing appreciation that Aboriginal and non-Aboriginal people are partners in Confederation, the *Report of the Royal Commission on Aboriginal Peoples*, and the *Final Report of the Truth and*

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[33] Canada, Parliament, House of Commons, Standing Committee on Aboriginal Affairs and Northern Development, *Minutes of Proceedings and Evidence*, 39th Parl, 1st Sess, No 42 (22 March 2007) at 10.
[34] *Debates of the Senate*, 39th Parl, 2nd Sess, No 71 (17 June 2008) at 1599 (Hon Consiglio Di Nino) [emphasis added].
[35] *Canada (House of Commons) v. Vaid*, 2005 SCC 30 at para 81 [emphasis added].
[36] *Canada (House of Commons) v. Vaid*, 2005 SCC 30 at para. 81.

> *Reconciliation Commission of Canada*, all indicate that reconciliation with *all* of Canada's Aboriginal peoples is Parliament's goal [emphasis Abella J.'s].[37]

30. *An Act to amend the Canadian Human Rights Act*, S.C. 2008, c. 30 received Royal Assent on June 18, 2008,[38] one week after the then-Prime Minister's apology to former students of Indian Residential Schools. The bill's sponsor in the Senate also noted the important link between the bill's subject-matter and the project of reconciliation: "[l]ast week's remarkable events provided further impetus to approve the proposed legislation. [...] The repeal of section 67 also paves the way for a stronger and more respectful relationship between Canada and the residents of First Nation communities."[39]

31. Accordingly, when interpreting the consequences of the repeal of section 67 of the *CHRA*, Parliament's goal with regard to reconciliation must form part of the context considered.

PART IV – SUBMISSIONS ON COSTS

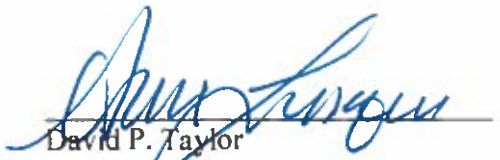
32. The Caring Society does not seek costs and asks that no costs be ordered against it.

PART V – ORDER SOUGHT

33. In accordance with Rule 42(3) of the *Rules of the Supreme Court of Canada*, the Caring Society takes no position regarding the disposition of this appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

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



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[37] *Daniels* at paras 36-37.
[38] *Debates of the Senate*, 39th Parl, 2nd Sess, No 72 (18 June 2008) at 1626 (Royal Assent).
[39] *Debates of the Senate*, 39th Parl, 2nd Sess, No 71 (17 June 2008) at 1599 (Hon Consiglio Di Nino).

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