Court File Nos. 38663/38781

IN THE SUPREME COURT OF CANADA
(On Appeal from the Saskatchewan Court of Appeal)

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APPELLANT

-and-

ATTORNEY GENERAL OF CANADA

RESPONDENT

-and-

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INTERVENERS

AND BETWEEN:

IN THE SUPREME COURT OF CANADA
(On Appeal from the Ontario Court of Appeal)

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TABLE OF CONTENTS

PART I – OVERVIEW

1. Climate change is a global and national emergency that has disproportionate impacts on vulnerable groups, including women and girls.[1] Parliament enacted the *Greenhouse Gas Pollution Pricing Act*[2] (the "*Act*") to ensure national GHG emissions are reduced in accordance with Canada's international commitments and to protect all Canadians from the risk of potential provincial inaction. Denying Parliament the constitutional authority to establish minimum national standards to reduce GHG emissions would put all Canadians at risk of experiencing the adverse consequences of inaction by a province in which they do not reside. Such an outcome would undermine the substantive equality rights of women and girls, particularly those who are Indigenous, racialized, and/or living in poverty.[3]

2. The present appeals challenge Parliament's authority to adopt the *Act*. The joint interveners, the National Association of Women and the Law ("NAWL") and Friends of the Earth Canada ("FOE"), agree with the Saskatchewan and Ontario Courts of Appeal that the *Act* is justified under the Peace, Order, and Good Government ("POGG") clause in s. 91 of the *Constitution Act, 1867*.[4] Upholding the *Act* is consistent not only with the modern tide of flexible federalism, but also advances substantive equality for women and girls.

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[1] See Record of the Attorney General of Canada, Vol 1, Ex B at 138, Ex D at 220, Ex E at 249; Government of Canada, "Women and Climate Change" (10 April 2019); United Nations, *Differentiated impacts of climate change on women and men; the integration of gender considerations in climate policies, plans and actions; and progress in enhancing gender balance in national climate delegations*, Framework Convention on Climate Change, 50th session, FCCC/SBI/2019/INF.8 (2019); Lewis Williams et al, *Women and Climate Change Impacts and Action in Canada: Feminist, Indigenous, and Intersectional Perspectives*, Canadian Research Institute for the Advancement of Women (February 2018); Marjorie Griffin Cohen, "Introduction: Why gender matters when dealing with climate change" in Marjorie Griffin Cohen, ed, *Climate Change and Gender in Rich Countries: Work, Public Policy and Action* (London: Routledge, 2017), 3 [Griffin Cohen, "Introduction"]; Nathalie Chalifour, "How a Gendered Understanding of Climate Change Can Help Shape Canadian Climate Policy" in Marjorie Griffin Cohen, *ibid*, 233 [Chalifour, "Gendered Understanding"]; Paula Ethans, "The Climate Crisis Will Kill Women First" (15 November 2019); Amber J Fletcher & Erin Knuttila, "Gendering Change: Canadian Farm Women Respond to Drought" in Harry Diaz, James Warren & Margot Hulbert, eds, *Vulnerability and Adaptation to Drought: The Canadian Prairies and South America* (Calgary: University of Calgary Press, 2016), 159; Taylor Wormington, "The Disproportionate Impact of the Climate Crisis on Women and Girls in Canada" (24 January 2020).

[2] *Greenhouse Gas Pollution Pricing Act*, SC 2018, c 12, s 186.

[3] In these submissions, NAWL-FOE will use the term "substantive equality" to refer to substantive equality for women and girls in all of their diversity, particularly those facing intersecting and compounding forms of discrimination.

[4] *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, s 91, reprinted in RSC 1985, Appendix II, No 5.

PART II – POSITION ON THE ISSUES

3. The Constitution should be construed as a cohesive whole and interpreted in a way that respects federalism *and* the guarantee of substantive equality enshrined in the *Canadian Charter of Rights and Freedoms*.[5] NAWL-FOE make the following two submissions in support of an equality-affirming approach to federalism and POGG in these appeals:

A. This Court must adopt a broad, flexible interpretation of the division of powers that recognizes that "a subject matter can have both federal and provincial aspects"[6] and enables a multi-faceted governmental response to climate change. Allowing harmonious and collaborative government actions to meaningfully address GHG emissions is in keeping with substantive equality because it will result in better outcomes for those disproportionately impacted by climate change, including women and girls.

B. The POGG test[7] ought to account for the evolving circumstances and new realities facing Canadian society, including climate change.[8] Where an issue, like climate change, is both a national concern and an emergency, both POGG doctrines can and ought to be drawn upon to determine the constitutionality of legislation. In particular, the POGG test should balance the impact of upholding the *Act* on provincial jurisdiction against the nature and magnitude of the extra-provincial harms involved, including their potential irreversibility, the urgent need to act, and the effects on the most vulnerable, including women and girls.

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[5] *Canadian Charter of Rights and Freedoms*, s 15(1), Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 [*Charter*]. See *R v Oakes*, [1986] 1 SCR 103 at 136, 26 DLR (4th) 200 [*Oakes*]; *New Brunswick (Minister of Health and Community Services) v G(J)*, [1999] 3 SCR 46 at para 112, 177 DLR (4th) 124, L'Heureux-Dubé J, concurring [*G(J)*]; Claire L'Heureux-Dubé, "It Takes A Vision: The Constitutionalization of Equality in Canada" (2002) 14:2 Yale JL & Feminism 363 at 371 [L'Heureux-Dubé, "It Takes A Vision"].

[6] *Reference re Pan-Canadian Securities Regulation*, 2018 SCC 48 at para 114 [*Pan-Canadian Securities Regulation Reference*].

[7] See e.g. *R v Crown Zellerbach Canada Ltd*, [1988] 1 SCR 401 at 431–32, 49 DLR (4th) 161 [*Crown Zellerbach*].

[8] *R v Comeau*, 2018 SCC 15 at para 52 (constitutional texts should be "interpreted in a matter that is sensitive to evolving circumstances" and new realities) [*Comeau*].

PART III – ARGUMENT

4. The division of powers must be interpreted in accordance with the values of the Constitution as a whole, including commitments to substantive equality guaranteed by s. 15 of the *Canadian Charter of Rights and Freedoms.*[9] This Court affirmed in the *Secession Reference* that "individual elements of the Constitution are linked to the others, and must be interpreted by reference to the structure of the Constitution as a whole."[10] As Dickson C.J. underscored in *R v Oakes*, "social justice and equality" are values and principles essential to a free and democratic society that must guide the Court's interpretation of the Constitution.[11]

5. The harms of climate change will not be felt evenly but will fall more heavily on those who already face social and economic inequality and marginalization. For example, women are at a disadvantage in absorbing the additional costs associated with recovering from or preparing for the impacts of climate change, given that they have, on average, lower incomes than men and are more likely to live in poverty. Indigenous women have even lower average incomes and higher rates of poverty within the female population. Women are more likely than men to be responsible for child-care and the care of aging relatives, groups which are especially at risk from the effects of climate change.[12] The Canadian government has recognized its responsibilities to consider gender when responding to climate change globally and nationally.[13]

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[9] *Charter*, *supra* note 5, s 15. See *Oakes*, *supra* note 5 at 136; *G(J)*, *supra* note 5 at para 112; L'Heureux-Dubé, "It Takes A Vision", *supra* note 5. See also Kerri Froc, "Is Federalism a Feminist Issue? The Gender of Division of Powers Jurisprudence" (2018) JPPL (Special Issue) 197; Patricia Hughes, "Recognizing Substantive Equality as a Foundational Constitutional Principle" (1999) 22:2 Dal LJ 5.

[10] *Reference re Secession of Quebec*, [1998] 2 SCR 217 at para 50, 161 DLR (4th) 385. See also *Re: Objection by Quebec to a Resolution to amend the Constitution*, [1982] 2 SCR 793 at 801, 140 DLR (3d) 385, where this Court stated that "the *Constitution Act, 1982* directly affects federal-provincial relationships."

[11] *Oakes*, *supra* note 5 at 136. See also *R v Big M Drug Mart Ltd*, [1985] 1 SCR 295 at 336, 18 DLR (4th) 321; *Andrews v Law Society of British Columbia*, [1989] 1 SCR 143 at 185, 56 DLR (4th) 1.

[12] See Record of the Attorney General of Canada, Vol 1, Ex B at 138, Ex D at 220, Ex E at 249; Government of Canada, "Women and Climate Change", *supra* note 1; United Nations, *supra* note 1; Williams et al, *supra* note 1; Griffin Cohen, "Introduction", *supra* note 1; Chalifour, "Gendered Understanding", *supra* note 1; Ethans, *supra* note 1; Fletcher & Knuttila, *supra* note 1; Wormington, *supra* note 1.

[13] See e.g. *Canadian Gender Budgeting Act*, SC 2018, c 27, s 314; *Impact Assessment Act*, SC 2019, c 28, s 1, ss 22(1)(i), 22(1)(s) ("climate change" and "gender" are both listed among the factors to be considered for impact assessment); Status of Women Canada, "What is GBA+?" (4 December 2018); Prime Minister Justin Trudeau, "Minister of Environment and Climate Change Mandate Letter" (13 December 2019) (in this mandate letter, the Prime Minister indicates that all decisions must be made through an application of Gender-based Analysis Plus (GBA+)). For a detailed review of Canada's international human rights obligations to fight climate change, see the submissions Factum of the Intervener, Amnesty International, dated January 27, 2020.

Taking action to reduce national levels of GHG emissions, as the *Act* aims to do, is essential to support gender equality in Canada.

6. Given the gendered implications of climate change, the division of powers must be interpreted in a manner that enables Parliament and provincial Legislatures to concurrently use the full extent of the legislative powers assigned to them in the Constitution to reduce GHG emissions. To do otherwise risks rendering equality rights formalistic and hollow.

A. The *Act* is an exercise in cooperative federalism supportive of substantive equality and environmental protection for vulnerable groups.

7. Provinces and Parliament *both* have jurisdiction to enact laws aimed at lowering GHG emissions under their respective spheres of authority, in line with a flexible approach to federalism. Indeed, this Court has adopted a "flexible view of federalism that accommodates overlapping jurisdiction and encourages intergovernmental cooperation."[14] It has emphasized that, "[w]here possible, courts should favour a harmonious reading of statutes enacted by the federal and provincial governments which allows for them to operate concurrently."[15] In other words, legislative powers must be interpreted in a way that allows the two jurisdictions to "complement each other by co-operative action."[16]

8. Courts are equipped with a range of constitutional principles that help reconcile the inevitable overlap that results from concurrent government efforts to legislate effectively to address the complex and rapidly changing challenges facing Canadian society. For example, this Court recently noted that "the double aspect doctrine recognizes that the same fact situations can be regulated from different perspectives, one of which may relate to a provincial power and the other to a federal power" and that "there would seem little reason, when considering [constitutional] validity, to kill one and let the other live."[17] Doctrines such as the 'pith and substance' analysis, 'double aspect,'[18] and 'paramountcy,'[19] allow for collaboration and for the

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[14] *Reference re Securities Act*, 2011 SCC 66 at para 57 [*Securities Act Reference*].
[15] *Pan-Canadian Securities Regulation Reference*, *supra* note 6 at para 17. See also *Rogers Communications Inc v Châteauguay (City)*, 2016 SCC 23 at para 38.
[16] *Murphy v CPR*, [1958] SCR 626 at 642–43, 15 DLR (2d) 145, Rand J, cited in *Comeau*, *supra* note 8 at para 96.
[17] *Desgagnés Transport Inc v Wärtsilä Canada Inc*, 2019 SCC 58 at para 84 [*Desgagnés*], citing *Multiple Access Ltd v McCutcheon*, [1982] 2 SCR 161 at 182, 138 DLR (3d) 1 [*Multiple Access*].
[18] See *Pan-Canadian Securities Regulation Reference*, *supra* note 6 at para 114; *Securities Act Reference*, *supra* note 14 at para 66; *Law Society of British Columbia v Mangat*, 2001 SCC 67 at paras 23, 49; *Canadian Western*

harmonious operation of laws required for our country to address such issues of great social, economic, and environmental importance.[20] The same doctrines operate to resolve the inevitable conflicts that arise, in a principled and consistent manner.

9. This Court's flexible approach to federalism recognizes Parliament's jurisdiction under POGG to ensure that Canada's overall level of GHG emissions are reduced, in accordance with national goals and Canada's international commitments. It also recognizes that provinces retain their authority to reduce GHG emissions by regulating intra-provincial sources. Intergovernmental cooperation on GHG emissions reductions can and must be encouraged.

10. Despite this Court's jurisprudence on federalism, the Appellants argue that recognizing Parliament's jurisdiction to mandate minimum national standards to reduce GHG emissions *necessarily diminishes* provincial powers in this area.[21] This is in part due to their contention that the *Act* is, in pith and substance, aimed broadly at "GHG emissions" (an argument rejected by the majority of both Courts of Appeal).[22] It is also based on a characterization of POGG as being subject to the kind of 'watertight compartment' approach, where jurisdiction is plenary in the sense that it entails full and complete occupation of the subject matter.[23] These arguments are not supported by this Court's approach to federalism[24] and must be rejected.

11. First, the formalistic, zero-sum view of the division of powers whereby overlap is not tolerated was long ago rejected by this Court in favour of a modern, more flexible view of federalism, as argued in paragraph 7 of this Factum.[25] Provinces continue to retain the jurisdiction to regulate GHG emissions reductions in a variety of ways through the exercise of a

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Bank v Alberta, 2007 SCC 22 at paras 26, 28–30, 36, 42 [*Canadian Western Bank*]; *Munro v National Capital Commission*, [1966] SCR 663, 57 DLR (2d) 753.

[19] See *Orphan Well Association v Grant Thornton Ltd*, 2019 SCC 5 at para 66; *Multiple Access*, *supra* note 17 at 191.

[20] See *Canadian Western Back*, *supra* note 18 at paras 77–78.

[21] See Factum of the Appellant, Attorney General of Saskatchewan, dated October 16, 2019 at paras 49–53, 92, 104. [SKAG Factum]; Factum of the Appellant, Attorney General of Ontario, dated October 16, 2019 at paras 41, 46, 62–67 [ONAG Factum].

[22] *Reference re Greenhouse Gas Pollution Pricing Act*, 2019 ONCA 544 at paras 70–77 [Ontario Reference]; *Reference re Greenhouse Gas Pollution Pricing Act*, 2019 SKCA 40 at paras 126–44 [Saskatchewan Reference].

[23] See SKAG Factum, *supra* note 21 at paras 49–53.

[24] See *Securities Act Reference*, *supra* note 14 at paras 56–57. See also *Canadian Western Bank*, *supra* note 18 at paras 34–37.

[25] See *Securities Act Reference*, *supra* note 14 at paras 56–57.

wide range of provincial powers.[26] Provinces are simply precluded from exceeding the national minimum standard of price stringency for GHG emissions established by Parliament to meet Canada's international commitment.

12. Second, Saskatchewan's argument about exclusivity suggests that upholding the *Act* under POGG will create an unassailable core of federal power over GHG emissions, akin to some new form of interjurisdictional immunity. NAWL-FOE submit that jurisdiction under POGG is no more exclusive than it is for other legislative powers under s. 91: once a "matter" is recognized as being of national concern, the relevant doctrines (e.g. pith and substance, double aspect, and/or paramountcy) apply as they would for other federal powers.[27] Nor would the doctrine of interjurisdictional immunity apply to render provincial GHG laws inoperative. This Court has limited the application of interjurisdictional immunity to situations already covered by precedent,[28] which necessary excludes GHG emissions.

13. The interpretive lens of cooperative federalism also reinforces substantive equality, as it allows for the collaborative government actions required to meaningfully address problems as complex and urgent as GHG emissions and climate change.[29] This will contribute to better outcomes for those disproportionately impacted by climate change, including women and girls. Substantive equality is best advanced when federalism allows all governments to take the co-operative actions needed to respect, promote and fulfil the rights of women and girls.

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[26] See Ontario Reference, *supra* note 22 at para 132 (provinces can still legislate fuel charges, set emissions limits, and participate in output based pricing systems that are sufficiently stringent). See also Nathalie J Chalifour, "Making Federalism Work for Climate Change: Canada's Division of Powers over Carbon Taxes" (2008) 22 NJCL 119 (arguing that provincial carbon pricing systems are valid provincial regulatory charges under s 92(9) of the *Constitution Act, 1867*).

[27] See Nathalie J Chalifour, "Jurisdictional Wrangling over Climate Policy in the Canadian Federation: Key Issues in the Provincial Constitutional Challenges to Parliament's *Greenhouse Gas Pollution Pricing Act*" (2019) 50:2 Ottawa L Rev 197 at 228–36 (this section traces the evolution of the language generating confusion over POGG potentially conferring exclusive, plenary powers that are different from other powers). See also *Ontario Hydro v Ontario (Labour Relations Board)*, [1993] 3 SCR 327 at 339–40, 107 DLR (4th) 457 (here, the Court recognized federal jurisdiction over atomic energy under POGG but clarified that such jurisdiction was not plenary).

[28] See *Desgagnés*, *supra* note 17 at para 93.

[29] See Ontario Reference, *supra* note 22 at paras 135–38; Saskatchewan Reference, *supra* note 22 at paras 61–68.

B. Recognizing that the *Act* is constitutionally justified under POGG supports substantive equality.

i. The *Act* meets the criteria for the emergency doctrine of POGG.

14. The climate crisis is widely understood domestically and internationally as an emergency[30] requiring "rapid, far-reaching and unprecedented changes in all aspects of society."[31] The quickly closing window of time left to make the GHG emissions reductions needed to avoid crossing the 1.5 degrees Celsius threshold, quantified as ten years by the IPCC,[32] further reinforces the urgency of the situation in Canada and globally. In light of this, the *Act* satisfies the temporal limits of emergency jurisdiction because reducing GHG emissions to safe levels is a time-bound undertaking (once the economy is decarbonized, the *mitigation* emergency is over). Given the particularly adverse impact of climate change for women and girls, and other vulnerable groups, NAWL-FOE strongly support the equality-affirming interpretation of the emergency branch of POGG put forward by the interveners David Suzuki Foundation and Canadian Labour Congress.[33]

15. NAWL-FOE further submit that this Court should clarify that recognizing jurisdiction under the emergency branch of POGG, for the period needed to address the current climate crisis, would not constrain provincial jurisdiction. Provinces are empowered to concurrently address the intra-provincial dimensions of the climate emergency so long as doing so does not directly conflict with, or frustrate the purpose of, federal climate measures.[34] Put simply, double aspect must also be applied to laws upheld as an emergency, just as it would for matters of national concern.

ii. The *Act* meets the criteria for the national concern doctrine of POGG.

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[30] Saskatchewan Reference, *supra* note 22 at para 202.
[31] Affidavit of John Moffet, affirmed January 29, 2019, Record of the Attorney General of Canada, Vol 1, Tab 1. See also IPCC, "Summary for Policymakers" in Myles R Allen et al, eds, *Global Warming of 1.5°C: An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty* (Geneva: World Meteorological Organization, 2018).
[32] IPCC, *ibid*.
[33] See Factum of the Intervener, David Suzuki Foundation, dated January 27, 2020; Factum of the Intervener, Canadian Labour Congress, dated January 27, 2020.
[34] *Multiple Access*, *supra* note 17 at 191.

16. NAWL-FOE agree with Canada, for the reasons argued in its factum,[35] and with the findings of the majority of the Court of Appeal for Ontario[36] that the *Act* meets the *Crown Zellerbach* national concern test. Given that no single province can control the emission levels of another province, only Parliament is constitutionally capable of mandating nation-wide standards of GHG emissions reductions.[37] Denying Parliament the constitutional authority to establish minimum national standards to reduce GHG emissions would put all Canadians at risk of experiencing the adverse consequences of inaction by a province in which they do not reside. Such an outcome would be especially harmful to women and girls as well as all other groups most vulnerable to climate change.

B. Modernizing POGG doctrine to support substantive equality

17. Although the *Act* can be upheld as a matter of national concern or an emergency under existing doctrine, NAWL-FOE submit that the *Crown Zellerbach* test ought to be adapted. An adaptation would better reflect the evolution of this Court's POGG jurisprudence over the last three decades, and better respond to the serious challenges posed by climate change for Canadian society as a whole and its most vulnerable members in particular. The adaptation would introduce flexibility to the analysis that would allow the Court to account for the urgent need to act and the magnitude of extra-provincial harms.

18. Traditionally, national concern and emergency doctrines have been understood as separate justifications for federal jurisdiction under POGG. The national concern doctrine of POGG has applied to matters that transcend provincial jurisdiction (i.e. they "concern the Dominion as a whole" or have extra-provincial impacts).[38] When relying on this doctrine, courts have endeavoured to respect the principle of federalism by requiring the matter to be clearly and narrowly circumscribed ("single, distinct and indivisible") and to have a scale of impact reconcilable with the distribution of powers in the federation.[39] In contrast, under the emergency branch, courts have been less concerned with the risks of intruding into provincial jurisdiction.

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[35] See Factum of the Respondent, Attorney General of Canada, dated 3 December, 2019 at paras 65–129.
[36] See Ontario Reference, *supra* note 22 at paras 83–140.
[37] See *Crown Zellerbach*, *supra* note 7 at 432–34; Ontario Reference, *supra* note 22 at paras 117–20; Saskatchewan Reference, *supra* note 23 at paras 153–58.
[38] *Re: Anti-Inflation Act*, [1976] 2 SCR 373 at 396, 416, 68 DLR (3d) 452 [*Anti-Inflation*].
[39] *Crown Zellerbach*, *supra* note 7 at 431–33.

Instead, courts have deferred to Parliament's judgment in determining that there is a rational basis for the emergency powers and required only that the legislation be of a temporary nature.[40] The jurisprudence has treated the two doctrines as distinct,[41] and the relationship between the *duration* and *scope* of jurisdiction under each doctrine as inversely related: emergency powers are sweeping but temporary, whereas national concern powers are constrained but permanent.[42] But sometimes matters do not fit so categorically into either branch.

20. In light of this, NAWL-FOE submit that where an issue, like climate change, is a national concern and an emergency, both doctrines can and ought to be drawn upon to determine the constitutionality of federal legislation. In such circumstances, court should consider the both *scope* and *duration* of jurisdiction independently, rather than requiring these factors to be traded off each other in a zero-sum exercise. In this case, this would allow the Court to weigh the appropriate temporal limit of jurisdiction for the *Act* in light of the gravity of this emergency, not only balanced against the breadth of jurisdiction. Similarly, it would allow the Court to determine the appropriate *scope* of the matter based on what is needed to address the national emergency, rather than trying to find the most narrow articulation of the matter given the presumption that jurisdiction will be permanent.

21. Put differently, POGG ought to be interpreted in a more a flexible, purposive manner, where the emergency and national concern branches are part of a greater whole, rather than distinct and incompatible categories. Such an analysis would allow courts to weigh the potential impact on provincial jurisdiction against the importance of upholding the *Act*, taking into account the magnitude of the extra-provincial impacts, the limited time available to achieve the requisite level of GHG reductions, and the gendered risks posed by catastrophic climate change. This more flexible approach would ensure a modern and gender-inclusive approach to POGG, since it

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[40] See *Anti-Inflation*, *supra* note 37 at 378, Beetz & de Grandpré JJ, dissenting ("[i]n practice the emergency doctrine operates as a partial and temporary alternation of the distribution of powers. … The power of Parliament to make laws in a great crisis knows no limits other than those dictated by the nature of the crisis. But one of the limits is the temporary nature of the crisis").

[41] See *Crown Zellerbach*, *supra* note 7 at 431, Le Dain J ("[t]he national concern doctrine is separate and distinct from the national emergency doctrine"). See also Saskatchewan Reference, *supra* note 22 at paras 112–63, 200–02; Ontario Reference, *supra* note 22 at paras 83–140.

[42] See *Anti-Inflation*, *supra* note 37 at 461; *Crown Zellerbach*, *supra* note 7 at 431. See also Saskatchewan Reference, *supra* note 22 at para 200; Ontario Reference, *supra* note 22 at paras 181, 203.

would avoid the risk of the *Act* being declared *ultra vires* because it is a long- lasting emergency that does not easily fit within either branch.

22. Under this modernized approach to POGG, the Court would still give full effect to the double aspect doctrine to recognize the potential for concurrent operation of legislation directed to the same objective, and would apply the paramountcy doctrine in the strictest sense (that is, the most restrained) to maximize the constitutional space for legislation by both levels. In other words, the flexible approach to federalism that allows both levels of government to enact laws aimed at lowering GHG emissions would apply, whether the *Act* is upheld under the national concern or emergency doctrines understood separately, or in an interconnected way.

23. In closing, NAWL-FOE urge this Court to apply a flexible, purposive interpretation of POGG that upholds the *Act*. This would not deprive the provinces of constitutional jurisdiction or ability to enact laws related to GHG emissions that do not conflict with the *Act*. This outcome would also allow for the multi-faceted response to climate change that is needed to support substantive equality of women and girls.

PART IV– COSTS

24. NAWL-FOE do not seek costs and ask that no costs be awarded against them.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 27th of January 2020.

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