SCC File No: 39915

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

BETWEEN:

COMMISSION SCHOLAIRE FRANCOPHONE DES TERRITORIES DU NORD-OUEST and A.B.

Appellants
(Respondents)

-and-

MINISTER OF EDUCATION, CULTURE AND EMPLOYMENT OF THE NORTHWEST TERRITORIES

Respondent
(Appellant)

BETWEEN:

COMMISSION SCOLAIRE FRANCOPHONE DES TERRITORIES DU NORD-OUEST, A.B., F.A., T.B., E.S. and J.J.

Appellants
(Respondents)

-and-

MINISTER OF EDUCATION, CULTURE AND EMPLOYMENT OF THE NORTHWEST TERRITORIES

(Respondent)
(Appellant)

-and-

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PART I – OVERVIEW AND STATEMENT OF FACTS

1. On s. 19 of the *Charter*, the AG Yukon submits the constitutional question ought not to be answered in light of the principle of judicial restraint. If the Court decides to answer it, the AG Yukon submits that territorial courts are not "established by Parliament" within the meaning of s. 19 of the *Charter*. They are established by the laws of the territorial legislatures. The proposition that the territories merely exercise power delegated from Parliament relies on a superficial assessment that is unmoored from the unique historical and legal position of the territories within Canada's constitutional architecture. It is also dismissive of the territories' fully-fledged legislative assemblies, elected by and accountable to territorial voters, and responsive to the unique circumstances and histories of the territories. In any event, as a matter of constitutional interpretation, it is plain that the framers did not intend for s. 19 to apply to territorial courts.

2. On the administrative law issue, the AG Yukon submits that the *Doré* analysis has no place in a judicial review where the *Charter* is not engaged, and it is not engaged here. The contrary conclusion erodes the separation of powers between the courts and: (i) the executive, by expanding in an unprincipled manner the scope of judicial review; and (ii) the legislatures, by indirectly applying the *Charter* to matters it was not intended to address.

3. The AG Yukon takes no position on the facts underlying this appeal.

PART II – RESPONSE TO QUESTIONS IN ISSUE

4. The AG Yukon takes no position on the questions raised in this appeal.

PART III – ARGUMENT

A. Section 19 of the *Charter*: territorial courts are not "established by Parliament"

5. **Judicial restraint:** The Court should not answer the constitutional question. As the appellants acknowledge, the text of s. 9(1) of the NWT's *Official Languages Act* "reprend exactement les termes du para 19(1)" of the *Charter*.[1] The appellants say this justifies the Court delving into the constitutional question. To the contrary, this invites judicial restraint. Courts

[1] Appellants' amended factum at para. 71.

should decline to answer constitutional questions that are not essential to resolving a dispute. The principle is based on the accreted judicial wisdom that "unnecessary constitutional pronouncements may prejudice future cases, with unforeseen implications", and on concerns regarding mootness and the need to conserve judicial resources.[2] Here, the issue "can be decided on less esoteric bases"[3] than determining the application of s. 19(1) of the *Charter*: namely, by assessing s. 9(1) of the *Official Languages Act* under the ordinary principles of statutory interpretation, taking into account its quasi-constitutional character.[4] The NWTCA adopted such restraint in a prior case regarding the interpretation of the NWT's *Official Languages Act*.[5]

6. This Court should do the same here. As the NWTCA observed in *Fédération Franco-Ténoise*, this case is "not about whether [the government has] an obligation…At issue is the extent of their obligation and whether it was breached…[I]t does not matter whether one analyzes those issues in the context of the *OLA* or the *Charter*, the result is the same."[6] Accordingly, it is appropriate to decide the case on non-constitutional grounds. Determining that the NWT is effectively a Parliamentary delegate for *Charter* purposes – the result of finding that its courts are "established by Parliament" under s. 19(1) of the *Charter* even though those courts operate under territorial law – could have unforeseen consequences for the territorial statute book, and the overall federal-territorial relationship. This dispute can be resolved through interpreting the *Official Languages Act*. This Court should therefore exercise restraint and frame its decision in a way that does not "intrude gratuitously on the powers of the other branches", in the words of Prof. Hogg.[7]

7. **Territorial courts are established under the laws of the legislative assemblies of the territories:** If the Court entertains the constitutional question, it should be answered in the

[2] *Rain Coast Water Corp. v. British Columbia*, 2019 BCCA 201 at para. 176.
[3] *R. v. Lloyd*, 2014 BCCA 224 at para. 42 (rev'd on other grounds, 2016 SCC 13), quoting Hogg.
[4] *Northwest Territories (Attorney General) v. Fédération Franco-Ténoise*, 2008 NWTCA 6 at paras. 59-60, interpreting NWT's *Official Languages Act*.
[5] *Northwest Territories (Attorney General) v. Fédération Franco-Ténoise*, 2008 NWTCA 6 at paras. 39, 325-329.
[6] *Northwest Territories (Attorney General) v. Fédération Franco-Ténoise*, 2008 NWTCA 6 at paras. 327-328.
[7] *R. v. Lloyd*, 2014 BCCA 224 at para. 42 (rev'd on other grounds, 2016 SCC 13), quoting Hogg.

negative. Territorial courts are not "established by Parliament" for s. 19 purposes. They are established by laws of territorial legislatures, exercising their powers within their jurisdiction.[8]

8. As observed by both the FCA and the NWT Supreme Court, territorial legislative assemblies do "not ac[t] as agents or delegates of the federal Parliament when legislating within their sphere of powers. In this sense they have a sovereign-like legislative character".[9] The contrary argument is, in the FCA's words, "without foundation."[10] The territories principally derive their legislative authority from the *Yukon Act*, S.C. 2002, c. 7, the *Northwest Territories Act*, S.C. 2014, c. 2, s. 2, and the *Nunavut Act*, S.C. 1993, c. 28. Although territorial legislative authority is not afforded the same constitutional protections as provinces (which is the crux of the appellants' position), each assembly "acts for and on behalf of itself" and not as a delegate of Parliament.[11] The powers conferred to the territories under each of these enactments are similar in nature and scope to those conferred on provincial legislatures under the *Constitution Act, 1867*.[12]

9. The independence of territorial legislatures was explored in the Yukon context in *R. v. St Jean*, where the court confirmed that the Yukon government "is not accountable to [a federal minister] or to Parliament, but only to the electorate";[13] the federal government exercises no oversight or approval, or approval role over territorial legislation;[14] the legislative powers of Yukon "are virtually identical to those of provincial legislatures";[15] and, though a territorial law can be disallowed by the federal Governor in Council within one year of its passage under s. 25(2) of the *Yukon Act*, the federal government can disallow provincial laws under s. 56 of the *Constitution Act, 1867* and, indeed, His Majesty the King can disallow federal laws under s. 90 of the *Constitution Act, 1867*.[16] This Court has observed that the federal disallowance power over provincial law "fell into disuse" in the resolution of division of powers matters in the modern

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[8] *Judicature Act,* R.S.N.W.T. 1988, c. J-1, s. 15; *Court of Appeal Act,* R.S.Y. 2002, c. 47, s. 1.
[9] *Morin v. Crawford,* 1999 CanLII 6802 (N.W.T. S.C.) at para. 53.
[10] *Commissioner of the Northwest Territories v. Canada*, 2001 FCA 220 at para. 37.
[11] *Commissioner of the Northwest Territories v. Canada*, 2001 FCA 220 at para. 37.
[12] *Yukon Act,* S.C. 2002, c. 7, ss. 18-20; *Northwest Territories Act*, S.C. 2014, c. 2, ss. 18-19; *Nunavut Act,* S.C. 1993, c. 28, s. 23.
[13] *R. v. St. Jean*, 1986 CanLII 6576 (Y.K. S.C.) at 124.
[14] *R. v. St. Jean*, 1986 CanLII 6576 (Y.K. S.C.) at 125.
[15] *R. v. St. Jean*, 1986 CanLII 6576 (Y.K. S.C.) at 127.
[16] *R. v. St. Jean*, 1986 CanLII 6576 (Y.K. S.C.) at 127.

federal system.[17] Similarly, the *Yukon Act* disallowance power was last used in 1982.[18] Judicial pronouncement on the parallel disallowance power in the *Northwest Territories Act* observes that in "practical effect", it is no different than the "obsolete" federal disallowance power.[19]

10. Further, the *Yukon Act* and the *Northwest Territories Act* impose "manner and form" limitations on the federal government, requiring it to consult with the territorial government before introducing a bill in the House of Commons that would amend or repeal the enactment.[20] These requirements protect independent territorial legislative jurisdiction by preventing Parliament from acting unilaterally to affect a territory's legislative authority. This Court confirmed that because the "manner and form" requirement in a prior version of the *Northwest Territories Act* has "a constitutional nature", it may bind Parliament in a way that ordinary legislation cannot.[21] It follows that the same is true of the identical manner and form requirements of s. 56(1) of the *Yukon Act*.

11. In other words, these enactments are territorial constitutions. They provide for independent legislatures, set out areas of legislative jurisdiction, and have constitutionally recognized manner and form requirements safeguarding that legislative jurisdiction.

12. As one scholar has noted, in the Yukon context, the territory has experienced "profound political revolution" and "as a result of devolution over the years…it now has representative and responsible public government with essentially province-like powers."[22] The appellants' position harkens back to the earliest days of territorial history where, for example, Yukon was administered by federal appointees taking direction from federal ministers. That model began changing as early

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[17] *The Queen v. Beauregard*, [1986] 2 S.C.R. 56 at para. 27.
[18] Pamela Muir, "The Constitutional Status of Yukon—A Normative Analysis," *The Northern Review* 50 (2020): 7–45 at 13.
[19] *Morin v. Crawford*, 1999 CanLII 6802 (N.W.T. S.C.) at para. 52.
[20] *Yukon Act*, S.C. 2002, c. 7, s. 56(1); *Northwest Territories Act,* S.C. 2014, c. 2, s. 61(1). Nunavut stands on a distinct constitutional footing. The jurisdiction of Nunavut's Legislative Assembly "shall not be altered" without it consent pursuant to s. 2.13.1 of the *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada*, which is a "land claims agreement" under s. 35 of the *Constitution Act, 1982*.
[21] *Reference Re Canada Assistance Plan (B.C.),* [1991] 2 S.C.R. 525 at 563.
[22] Pamela Muir, "The Constitutional Status of Yukon—A Normative Analysis," *The Northern Review* 50 (2020): 7–45 at 9.

as the first decade of the 1900s "[i]n response to local demands for representation", and through the 20th century, elected officials started to take on greater legislative authority. By the late 1970s, "most of the characteristics of provincial-style government had been instituted", culminating in the modern Westminster style of responsible government territorial citizens enjoy today.[23]

13. The framers can be taken to have been aware of this backdrop. The *Charter* "was not enacted in a vacuum", and determining its meaning requires reference to "its proper linguistic, philosophical, and historical contexts."[24] The history of the establishment of the appellate courts of both NWT and Yukon also reflects the shift from initial federal administration to independent territorial rule – over a decade before the *Charter* was enacted. This context militates in favour of finding that those courts are not "established by Parliament". While the NWTCA was originally established in 1960 via an act of Parliament (an amendment to the *Northwest Territories Act*),[25] since 1970 it is a court established by act of the NWT legislature: s. 15 of the NWT *Judicature Ordinance*[26], the precursor to s. 15 of the NWT *Judicature Act*.[27] Parliament at that time repealed the provisions of the federal enactment that had established the NWTCA in 1971.[28] The YKCA has a parallel legislative history: establishment by Parliament in 1960,[29] followed by establishment in Yukon territorial law in 1971[30] and subsequent repeal of the federal law that same year.[31]

14. Section 19 of the *Charter* was therefore enacted against a historical and legislative backdrop of a decades-long trend of greater autonomy and independence for the territories, both generally,

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[23] Pamela Muir, "The Constitutional Status of Yukon—A Normative Analysis," *The Northern Review* 50 (2020): 7–45 at 11-12.
[24] *Quebec (Attorney General) v. 9147-0732 Québec Inc.*, 2020 SCC 32 at para. 68 (*per* Brown and Rowe JJ., for the majority).
[25] *An Act to amend the Northwest Territories Act*, R.S., c. 331, s. 6.
[26] Ordinances of the Northwest Territories, 1970 (Third Session), *Chapter 5: Judicature Ordinance - An ordinance respecting the superior courts and the administration of justice*, s. 15.
[27] *Judicature Act,* R.S.N.W.T. 1988, c. J-1, s. 15.
[28] *Proclamation re. An Act to amend the Yukon Act, the Northwest Territories Act and the Territorial Lands Act 1969-70, c. 69*, S.O.R./71-120, Can. Gaz. Pt. II, Vol. 105, No. 7 at 571.
[29] *An Act to amend the Yukon Act*, S.C. 1960, c. 24, s. 9.
[30] Ordinances of the Yukon Territory, 1971 (First Sess.), *Chapter 4: Court of Appeal Ordinance - An Ordinance to Constitute a Court of Appeal for the Yukon Territory*, s. 3; now *Court of Appeal Act,* R.S.Y. 2002, c. 47, s. 1.
[31] *Proclamation repealing certain provisions and declaring c. 48 1st. Supplemental RSC 1970, in force July 15, 1971*, S.O.R./71-371, Can. Gaz. Pt. II, Vol. 105, No. 15 at 1277-1278 (pp. 73-74).

and in the specific context of the administration of the territorial appellate courts, which had been "established by" territorial law for over a decade before the *Charter* was settled. This interpretive point is persuasive even if the Court declines to make a definitive finding on the constitutional status of the territories.[32] This is especially so when coupled with the AG NWT's submissions on the *Charter* provisions regarding its application in the territories.[33] For all these reasons, territorial courts are not "established by Parliament" for the purposes of s. 19 of the *Charter*.

15. **The "use" of English or French in court proceedings:** The right to "use" French or English in court proceedings – whether pursuant to s. 9 of the *NWT OLA* or s. 19 of the *Charter* – does not entail a right to be understood without the use of interpretation. In this regard, Justice Beetz's caution in *Société des Acadiens* about reading such obligations into s. 19 of the *Charter* has great force in the territorial context: it "could not be met except by a bilingual judiciary. Such a requirement would have far reaching consequences and would constitute a surprisingly roundabout and implicit way of amending the judicature provisions of the Constitution of Canada."[34]

16. Territorial courts partly rely on deputy judges drawn from multiple jurisdictions to sit on their courts. However, it is desirable to minimize the reliance on judges who do not live in, and have never practiced law in, the territory. Thus, all three territorial appellate courts are composed of justices drawn from certain provincial appellate courts, *and* from the judges of the territorial Supreme Court, with a view to ensuring juridical locality to the extent possible.[35] Each appellate court's statute directs that appellate judges can only be drawn from specific provinces. This serves as a rough proxy for locality: they thereby develop greater knowledge of the unique histories and circumstances of the territories on whose courts of appeal they sit. The importance of judicial locality has wide acceptance in a range of contexts. For example, this Court has justified a

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[32] The FCA applied analogous reasoning in *Commissioner of the Northwest Territories v. Canada*, 2001 FCA 220, where it determined territorial decision-makers are not a "federal board, commission or other tribunal" for *Federal Courts Act* purposes, without determining a broader issue raised of whether there is a "Crown" in right of a territory: see paras. 44-48.

[33] Respondent's amended factum at paras. 114-121.

[34] *Société des Acadiens v. Association of Parents*, [1986] 1 S.C.R. 549 at 580.

[35] *Court of Appeal Act,* R.S.Y. 2002, c. 47, s. 3; *Judicature Act,* R.S.N.W.T. 1988, c. J-1, s. 16; *Consolidation of Judicature Act (Nunavut)*, S.N.W.T. 1998, c.34, s.1, s. 17.

deferential standard of review for criminal sentences partly on the basis that "the sentencing judge is usually familiar with the circumstances in the district where he or she sits and therefore with the particular needs of the community where the crime was committed."[36] It is also reflected in this Court's bias jurisprudence, where it acknowledged that a judge "administers the law on behalf of the community and therefore unnecessary isolation from the community does not promote wise or just judgments."[37] It is also enshrined in the requirement under s. 6 of the *Supreme Court Act* that three of this Court's judges be drawn from the Quebec bar, and in the convention of the Court's geographic representation.[38] Lived and legal professional experience in the jurisdiction matters.

17. A requirement that judges must be bilingual would undermine this objective. Territorial courts would be required to rely all the more heavily on fully bilingual deputy judges drawn from other jurisdictions, who by definition will not be as familiar with the unique history and circumstances of the territory. Further, as a practical matter, requiring that territorial appellate judges be bilingual would present significant challenges, given that the provincial appeal courts from which each of the territorial appellate justices are drawn (B.C., Alberta, and Saskatchewan) have no commensurate requirement. This militates against concluding that either s. 19 of the *Charter* or territorial official languages statutes create a right to bilingual appellate judges.

B. There can be no *Doré* review where the *Charter* is not engaged

18. The appellants argue that when the NWT decides whether to admit into French-language schools the children of those who do not hold rights under s. 23 of the *Charter* (and who do not otherwise qualify under the NWT's "Directive" for admitting the children of non-rights holders),[39] the NWT must consider the "values" of s. 23 and the consequences of that decision on currently-enrolled students who are the children of s. 23 rights-holders. This position is based on a brief passage from *Loyola*, in which this Court conducted *Doré* review, but found it was "not necessary to decide" on the first step of the *Doré* test (whether a school itself held religious freedom rights)

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[36] *R. v. Lacasse*, 2015 SCC 64 at para. 48; *R. v. M. (C.A.),* [1996] 1 S.C.R. 500 at para. 91.
[37] *Yukon Francophone School Board, Education Area #23 v. Yukon (Attorney General),* 2015 SCC 25 at para. 60, quoting from the *Ethical Principles for Judges*.
[38] *Reference re Supreme Court Act, ss. 5 and 6,* 2014 SCC 21 at para. 49; See also the Supreme Court of Canada's "Frequently Asked Questions (FAQ): 12. How are judges chosen for the Supreme Court of Canada?".
[39] Appellants' amended factum at para. 4.

because: the school's Catholic students did; their freedom of religion would be directly impacted by the decision, and the school was, in effect, acting on their behalf; and so it was appropriate to move to proportionality review under step two of *Doré*.[40] The appellants seize on *Loyola* to attempt to require an administrative decision to be proportionately balanced against *Charter* protections for persons (children of s. 23 rights holders): (i) who were not a party to the decision-making process; and (ii) unlike the *Loyola*/*TWU* context, whose *Charter* rights would not be impacted.

19. In the AG Yukon's submission, the appellants' position that *Doré* is applicable in a context like this should be rejected. This is so for two reasons.

20. First, the appellants' position erodes the separation of powers between the courts and the executive by expanding, in an unprincipled manner, the scope of judicial review. Their submissions make the first step of the *Doré* test meaningless by proposing a vision of *Charter* values so broad that effectively every administrative decision would be subject to proportionality review under the second step, even where the decision is far removed from persons that a particular *Charter* protection concerns. Yet, under the appellants' theory, in addition to addressing the legal rights of those in front of it, a tribunal would be required to proportionately balance against its statutory mandate the asserted *Charter* rights and/or values of a third party. Considering such collateral matters would tax already-overburdened tribunals and impose a legalistic, abstract obligation, far from the exigencies of the matter in front of them.

21. Second, the appellants' position erodes the separation of powers between the courts and legislatures by indirectly applying the *Charter* to matters it was not intended to address. The *Doré* proportionality analysis is supposed to "wor[k] the same justificatory muscles as the *Oakes* test", mapped to the context of reviewing an administrative decision "where the constitutionality of the statutory mandate itself is not at issue".[41] To respect the political compact of the *Charter*, both *Doré* and *Oakes* must first be focused on a rigorous assessment of whether the *Charter* applies at

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[40] *Loyola High School v. Quebec (Attorney General),* 2015 SCC 12 at para. 34 (*per* Abella J., for the majority); see also *Law Society of British Columbia v. Trinity Western University*, 2018 SCC 32 at paras. 61 (*per* Abella, Moldaver, Karakatsanis, Wagner, and Gascon JJ.) and 315 (*per* Côté and Brown JJ., dissenting).

[41] *Doré v. Barreau du Québec*, 2012 SCC 12 at para. 5; *Law Society of British Columbia v. Trinity Western University*, 2018 SCC 32 at para. 82 (*per* Abella, Moldaver, Karakatsanis, Wagner, and Gascon JJ.).

all. On this point, there has been sustained academic and judicial criticism of the very concept of *Charter* values as being ill-defined, amorphous, unduly subjective, unpredictable, and not anchored to the actual text of the *Charter*.[42] Concurrently, this Court has reaffirmed as a general principle that text remains the starting point to *Charter* interpretation.[43] Whatever the ambit of *Charter* values, they cannot be relevant where no *Charter* protections of a party are engaged. Rather than beginning with *Charter*'s text to justify their position, the appellants raise *Charter* values to "'supplement' purported 'deficiencies' or perceived lacunae in the *Charter* text."[44]

22. Though this position raises serious conceptual and democratic concerns regarding any *Charter* right, they are acute in the s. 23 context. Unlike universal rights such as s. 7, s. 23 "sets out very specific categories of students who are entitled to education,"[45] and includes a "numbers warrant" requirement, below which "governments cannot be required to set up educational facilities for a very small number of students."[46] The courts consistently rebuff arguments to expand the ambit of s. 23 beyond its textual limits.[47] The "where numbers warrant" requirement under s. 23, and the associated "sliding scale" approach, simply cannot be reconciled with the alleged *Charter* value advocated by the appellants: a governmental obligation to artificially inflate school populations by admitting non-rights holders to justify school establishment or expansion.

23. That approach turns s. 23 on its head. Rather than determining whether: (i) "the number of children of citizens who have such a right is sufficient to warrant the provision out of public funds

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[42] *Gehl v. Canada (Attorney General),* 2017 ONCA 319 at paras. 78-83 (*per* Lauwers and Miller JJ.A. for the majority); *E.T. v. Hamilton-Wentworth District School Board,* 2017 ONCA 893 at para. 104 (*per* Lauwers and Miller JJ.A. for the majority); *Law Society of British Columbia v. Trinity Western University,* 2018 SCC 32 at paras. 171-172 and commentary cited therein (*per* Rowe J., concurring); see also paras. 308-311 (*per* Côté and Brown JJ., dissenting).
[43] *Toronto (City) v. Ontario (Attorney General),* 2021 SCC 34 at para. 14; *Quebec (Attorney General) v. 9147-0732 Québec Inc.,* 2020 SCC 32 at para. 8.
[44] Mark Mancini, "The Metastasis of Charter Vibes" (2022) *Double Aspect Law Blog*. See also Benjamin Oliphant, "Taking Purposes Seriously: The Purposive Scope and Textual Bounds of Interpretation Under the Canadian Charter of Rights and Freedoms" (2015), 65:3 U.T.L.J. 239 at 280.
[45] *Commission scolaire francophone du Yukon no. 23 v. Yukon (Procureure générale),* 2014 YKCA 4 at para. 221, (var'd, but not on this point, 2015 SCC 25).
[46] *Conseil scolaire francophone de la Colombie-Britannique v. British Columbia,* 2020 SCC 13 at para. 25, *per* the majority.
[47] See, e.g. *Northwest Territories (Attorney General) v Association des parents ayants droit de Yellowknife,* 2015 NWTCA 2 at paras. 43-45.

of minority language instruction"; and (ii) "the number of those children...[w]arrants… minority language educational facilities provided out of public funds" (as s. 23 expressly provides), government would instead be obliged to ensure the admission of a sufficient number of children, whether rights-holders or not, to justify the establishment of minority language educational programs. No such *Charter* right exists, and it is inappropriate to infer a *Charter* value that is contrary to the actual bargain struck in the *Charter*'s text.

24. This Court has been clear that provinces and territories may legislate beyond the "constitutional minimum" set out in s. 23, just as the NWT has done here by providing for the admission of non-rights holders.[48] Yukon has a similar policy which provides, in close collaboration with the Commission scolaire francophone du Yukon, for the admission of a significant number of non-rights-holders, in a manner that the territorial government has determined is reasonable, appropriate, and balanced against resulting costs.[49] In both the NWT and Yukon, the significant delegation of admissions to francophone school boards, and the agreement to allow for the admission of large (but not unlimited) numbers of non-rights holder children, should not be deterred by the unduly-broad expansion of judicial review proposed here.

25. Paraphrasing this Court's recent observations in *Sharma*, this is a policy matter – not a constitutional imperative.[50] The appellants' approach would severely circumscribe the government's discretion under these policies, with unforeseeable resulting costs. This risks deterring governments from establishing such programs in the first place. To the contrary, these programs should be recognized and celebrated for what they are: positive initiatives arising from deep collaboration with minority language school boards.

PART IV– COSTS

26. The AG Yukon does not seek costs and asks that no costs be awarded against her.

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[48] *Yukon Francophone School Board, Education Area #23 v. Yukon (Attorney General),* 2015 SCC 25 at para. 70.
[49] Admission to French First Language Schools Policy, Government of Yukon, August 18, 2016.
[50] *R. v. Sharma*, 2022 SCC 39 at para. 82, *per* the majority.

ALL OF WHICH IS RESPECTFULLY SUBMITTED November 30, 2022.

Keith Brown

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