SCC File No. **38734**

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

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA

Appellant

AND:

RICHARD LEE DESAUTEL

Respondent

AND:

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I. OVERVIEW

1. This appeal is not really about hunting rights. It is not about mobility rights. Like every other collision between Indigenous peoples and Canadian law, it is about the connection between the people and the land, and about the Crown's willingness to respect it.

2. Does a Sinixt man carry the bundle of his rights with him across an imaginary and recent line, never leaving Sinixt land? Were the rights and identity of the Sinixt people on the south side, including those Sinixt who were forced out of Canada, suddenly transformed and reduced after the Crown, 250 years ago, unilaterally drew that line?

3. In the end, this is about belonging, and the right to belong.

4. Belonging to one people, not a split, broken people arbitrarily divided by other peoples' lines. Belonging to the clay you are made of, in ways generations of immigrants may never know.

5. Reconciliation, a word with multiple, diffuse meanings, includes mutual respect for the right of nations to continue to exist and evolve as nations. It includes respect for the right of Indigenous nations, peoples of habitat, people who never left, to belong to all their land, and of individual citizens of those nations to belong - period.

6. The Peskotomuhkati, like the Sinixt, belong to land and water on both sides of the border. Unlike the Sinixt, their treaty relationship with the Crown as a single nation began in 1725, when the Crown asserted its sovereignty over all their land and all their people, and the United States of America and the border did not yet exist. From 1725 on, the treaties are about land and rights.

7. Can the Crown honourably say that a nation with whom it has treaty relations about land that is now in Canada is only partly "an Aboriginal people of Canada," and that the Crown will now fulfill the relationship with only part of the people? That is what it is telling the Peskotomuhkati.

8. Can the Crown honourably say that the rights of a people who have never made a treaty, and whose reconciliation with the Crown's assertion of sovereignty is thus much more

incomplete, have been abrogated by a unilateral prerogative act? That is what it is telling the Sinixt.

9. In Canadian law, the prerogative act of creating a border must respect and be compatible with Aboriginal and treaty rights, because the Crown's prerogative is limited and informed, ab initio, by the law of the land – which in Canada includes the laws of Indigenous nations. Those laws are not inconsistent with Canadian sovereignty: they are part of Canadian sovereignty. The making of the border must be seen through that principled lens.

10. In Canadian law, Crown obligations to another nation-state, including about borders, are not superior to Crown obligations to Indigenous nations. The latter are protected by the Constitution of Canada. They are part of the supreme law of Canada. The former are not. Respecting treaty relations means respecting the continued integrity and existence of Indigenous nations, especially where the treaties were made well before the creation of the border. That respect must also flow to Indigenous peoples with whom the Crown has not yet, and may never, conclude treaties.

11. Canada's history has been shaped by the many times the Crown relied on continuing treaty relations with Indigenous nations, many of whom ended up partly or completely outside Canada. Canada would not be here today if the Crown had not been able to call upon those alliances in its wars with France and the United States.

12. These legal arguments are about the nature of the relationship, in Canadian law, between Indigenous nations and the Crown. The most basic duty is respect for the right of a people to remain a people. For Indigenous peoples this means remaining a people of the land. Without that respect, all talk of reconciliation, in any form, is still a discourse of assimilation and denial.

Facts

13. The Peskotomuhkati (Passamaquoddy) Nation is the Indigenous people of the watershed of Passamaquoddy Bay and the Skutik (St. Croix) River. There are three Peskotomuhkati communities, two in the present State of Maine in the United States, and one in New

Brunswick.[1] The three communities are close, geographically, culturally, politically, and through shared families.[2] They are and choose to be one people, one nation. Peskotomuhkati territory lies in both Canada and the United States. The international boundary was finally decided by treaty in 1842.[3]

14. The treaty relationship between the Peskotomuhkati and the Crown began in 1725. It has been reaffirmed and renewed several times since, most recently in 2016.[4] It provides for peaceful coexistence of Peskotomuhkati society and its expansive use of the land with the Crown's subjects and their more sedentary way of life. Peskotomuhkati Aboriginal title is intact. The treaties were made before the creation of the U.S., when the Crown asserted colonial sovereignty over all the territory, including the part that is now in Maine.

15. The Peskotomuhkati Nation has engaged in comprehensive, treaty-based negotiations about Aboriginal and treaty rights, including issues of land, waters, hunting and fishing rights, with the Government of Canada since 2017 and the Government of New Brunswick since 2018.[5] The Council of the Peskotomuhkati Nation at Skutik, the community on the Canadian side of the river, has taken the lead for the Peskotomuhkati Nation in the negotiations.

16. Though Canada acknowledges that the Peskotomuhkati have treaty and Aboriginal rights, it has only recently moved toward recognizing some of the people as "Indians" and the community in Canada as a "band" pursuant to the *Indian Act*.[6]

17. As a result of the loss of key reserved lands and prosecutions for hunting and fishing, many Peskotomuhkati families were forced to move to Maine.[7] The Peskotomuhkati experience mirrors that of the Sinixt. Today, Peskotomuhkati language and culture are strongest in the two communities on the west (American) side of the river. The survival of the language and culture depends upon the people continuing to live as one nation.

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[1] Affidavit of Hugh Akagi, sworn February 3, 2020 at para 6 [Akagi Affidavit].
[2] *Ibid* at para 7.
[3] *Ibid* at para 11.
[4] *Ibid* at paras 9-10.
[5] *Ibid* at para 20.
[6] *Ibid* at paras 17-19.
[7] *Ibid* at para 14.

18. For three centuries, the treaty relationship has been the path to reconcile the Crown's assertion of sovereignty over the land and the continued existence of the Peskotomuhkati Nation, its laws and government. That reconciliation is threatened if the Crown treats only some of the people of its treaty partner as holders of fundamental rights and title. Canada and New Brunswick have stated in negotiations that in their view Peskotomuhkati people who do not reside in Canada are not part of "an Aboriginal people of Canada."

II. ISSUES

i. What is the meaning of the term an "Aboriginal people of Canada" in s. 35 of the *Constitution Act,* 1982 of Canada? What do "people" and "of Canada" mean?

ii. Is the prerogative, the authority by which the British Crown asserted its sovereignty over this land and its peoples, by which it made and is negotiating treaties, and by which it negotiated a boundary with the United States, limited by the law of the land, including Indigenous laws?

iii. Is the Crown's responsibility to the people of its Indigenous treaty partners affected by a later creation of that boundary, and is that responsibility different when the Indigenous people do not yet have a treaty with the Crown about their land?

III. ARGUMENT

A. Aboriginal Peoples of Canada…

19. Though the words of s. 35 suggest that there are three "Aboriginal peoples" in Canada (Indian, Inuit and Métis),[8] Canada's adhesion to the United Nations Declaration on the Rights of Indigenous Peoples confirms that "people" is a political rather than a racial term.[9] The term mirrors the use of "Nations or Tribes" in the Royal Proclamation of 1763, a constitutional document of Canada. There are many peoples, each with their own languages and laws.

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[8] *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, s 35(1).
[9] *United Nations Declaration on the Rights of Indigenous Peoples,* UN GA Res 295, UNGAOR, 61st Sess, Supp No 49, UN Doc A/RES/61/295, 46 ILM 1013 (2007).

20. "Of Canada" refers to the connection between the peoples and the land. The words are not possessive: Canada, the political entity, does not own peoples. Nor does "of Canada" mean the same as "Canadian": a long history of denial of citizenship eliminates that interpretation.

21. The Attorney General of Québec argues that, to be an "Aboriginal people of Canada," a people must be *faisant partie de la société Canadienne dans son ensemble*.[10] Canada has historically marginalized Indigenous peoples, denying them citizenship, civil rights, and land rights. They could not become part of Canadian society without "enfranchising" and abandoning their identity. The argument echoes a policy of assimilation that Canada has explicitly abandoned. Crown actions forced the Sinixt, like many Peskotomuhkati, to become refugees south of the border. They were deliberately excluded from Canada. Now Quebec asks the Court to use that exclusion to justify further denial of their rights. Quebec's position is inconsistent with its own insistence on its difference from the rest of Canada.

22. Canada made "Indians" citizens shortly before affirming the United Nations Universal Declaration of Human Rights. Article 15 of that Declaration states that no one shall be arbitrarily deprived of a nationality.[11] Denying Sinixt or Peskotomuhkati individuals the same vital land rights as other citizens of their nations is in effect denial of nationality.

23. Statutes affecting Indigenous peoples must be interpreted liberally and purposively and ambiguities resolved in their favour.[12] Section 35 is fundamental: its interpretation in a manner that respects, protects and preserves the peoples is elementary.

B. The Prerogative

24. The boundary between Canada and the United States was created by the 1783 Treaty of Paris. As a peace treaty, that Treaty was a prerogative act (unlike the later Jay Treaty in 1794, a treaty of friendship, commerce and navigation which required legislative ratification).[13]

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[10] Factum of the Attorney General of Quebec, dated June 4, 2020 at para 19.
[11] *Universal Declaration of Human Rights*, GA Res 217A (III), UNGAOR, 3rd Sess, Supp No 13, UN Doc A/810 (1948) 71.
[12] *Nowegejick v. The Queen*, [1983] 1 SCR 29 at 36, 1983 CanLII 18 (SCC).
[13] *Francis v. The Queen*, [1956] SCR 618 at 625, 1956 CanLII 79 (SCC) [*Francis*]: "Assuming, then, a broader authority under the prerogative in negotiating a peace treaty, neither the causes nor the purposes of the 1794 treaty bring it within that category…in the case of a treaty not a peace treaty, the prerogative does not extend".

25. The creation of the international boundary was an exercise of the Crown's prerogative authority. The Crown's assertion of sovereignty was similarly a prerogative act. Treaties between the Crown and Indigenous nations, including the treaty relationship between the Crown and the Peskotomuhkati Nation, are also exercises of the prerogative authority, as is the common law's incorporation of Aboriginal rights and title. Why should the 1783 Treaty of Paris take precedence over constitutionally protected rights, including other treaty rights? Surely reconciliation resolves this question, refuting the assumption that one kind of exercise of prerogative authority automatically overrides another.

26. From the perspective of most Canadians, the Crown's prerogative has been eroded to near-irrelevance. To Indigenous peoples, the prerogative is a crucial source of Crown authority, historic and present, to negotiate treaties, to reserve lands, or to create "bands."[14]

27. The Crown's prerogative authority is itself subject to limits, not only as gradually reduced by Parliament, but from its inception. In 2019, the Prime Minister of the United Kingdom asked the Queen to prorogue Parliament - a prerogative of the monarch. The Supreme Court of the United Kingdom declared the prorogation void. The Court decided it had authority to limit the prerogative, and that the prerogative had been limited from the beginning:

> …political controversy did not deter the courts from holding, in the *Case of Proclamations*, (1611) 12 Co Rep 74, that an attempt to alter the law of the land by the use of the Crown's prerogative powers was unlawful. The court concluded at p. 76 that "the King hath no prerogative but that which the law of the land allows him," indicating that the limits of prerogative powers were set by law and were determined by the courts.[15]

28. "The law of the land," which guides, shapes and limits Crown prerogative authority, includes the elements of British law – Anglo-Saxon, Welsh, Scottish – and equity. It is a meaningful but not yet deeply defined legal term.

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[14] *Ross River Dena First Nation Band v. Canada*, 2002 SCC 54 at para 54, and at paras 3 and 4: "…the power to create reserves was originally based on the royal prerogative. The power is thought to be part of the Crown's prerogative to administer and dispose of public property including Crown lands…There is no doubt that a royal prerogative can be abolished or limited by clear and express statutory provision"; *Howse v. Canada (Attorney General)*, 2015 FC 1063 at para 37; *Wells v. Canada (Attorney General)*, 2018 FC 483 at para 48.

[15] *R on the application of Miller v. The Prime Minister: Cherry and others v. Advocate General for Scotland*, [2019] UKSC 41 at para 32.

29. Indigenous legal systems are part of the law in Canada. They have been, both since the arrival of the Crown, and long before there was a Canada.[16]

30. More appropriately, they stand beside the common law, a separate but equally legitimate stream (as equity remains a distinct stream):

> The law in Canada has followed its own unique development reflecting the diverse historical nature of Canadian society. In addition to the common law and civil law, courts and governments, the latter through statutes and treaties, have recognized and utilized Indigenous law.[17]

31. As part of the law of the land,[18] they have guided, informed and limited the exercise of the Crown's prerogative authority from the time of the British Crown's assertion of sovereignty.[19] The limits imposed on Crown prerogative by pre-existing Indigenous legal systems, a different "law of the land" from place to place and nation to nation, compel the reconciliation required by Canada's constitution.

32. The Appellant has asserted that the use of the Crown's prerogative power to set a boundary by treaty with the United States can result in a people with Aboriginal rights and title to land in Canada not being an "Aboriginal people of Canada," despite their society and its laws being part of the law of the land that pre-existed the making of the boundary and the assertion of sovereignty by the Crown, and despite that people's treaties with the Crown.

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[16] *Delgamuukw v. British Columbia*, [1997] 3 SCR 1010 [*Delgamuukw*] at para 159: "The common law should develop to recognize aboriginal rights as they were recognized by either *de facto* practice or by aboriginal systems of governance." See also *Delgamuukw* at para 133: "…aboriginal rights existed and were recognized under the common law"; *R. v. Van der Peet*, [1996] 2 SCR 507 at para 28: "Aboriginal governments gave the constitution [of Canada] its deepest and most resilient roots in Canadian soil"; *Mitchell v. MNR*, 2001 SCC 33 at para 129 [*Mitchell*].

[17] *Henry v. Roseau River First Nation Government*, 2017 FC 1038 at para 8.

[18] "Indigenous legal traditions are among Canada's legal traditions. They form part of the law of the land": *Pastion v. Dene Tha' First Nation*, 2018 FC 648 at para 8.

[19] Another prerogative constitutional document of Canada, the *Royal Proclamation of 1763* distinguishes between "our loving Subjects" and "the Nations or Tribes of Indians with whom We are connected, and who live under Our Protection." That is, Indians were not, at that time, considered subjects: George R, Proclamation, 7 October 1763 (3 Geo III), reprinted in RSC 1985, App II, No 1. That distinction continued: see the *1794 Treaty of Friendship, Commerce and Navigation (the Jay Treaty)*, between Great Britain and the United States of America, signed 19 November 1794, at Article III.

33. If being an "Aboriginal people of Canada" and not being resident in Canada infringes upon Canadian sovereignty,[20] it is only inconsistent with the assertion of that sovereignty if it is not part of the law of the land. If it is part of that law, by being part of an Indigenous nation's law, then it is part of Canadian sovereignty, rather than inconsistent with it.[21]

34. In *Mitchell v. MNR*, this Court wondered whether it could recognize an Aboriginal right that was inconsistent with Canadian sovereignty.[22] But that asserted sovereignty is itself limited by the need for reconciliation between Indigenous laws and the Crown's laws, and the requirement of finding a path to their coexistence. Binnie, J. suggested that there is, in Canada, "shared sovereignty" between the Crown and Indigenous peoples.[23] This has integrity only if the Indigenous share is meaningful rather than merely assimilated.

35. The ongoing process of reconciliation, implemented through pragmatic negotiations, can address any security issues associated with an Aboriginal right to enter Canada, much as negotiations between Canada, the United States and Mexico continue to resolve issues of citizens of the three countries moving about in an integrated North American economy. Compromises of sovereignty are not necessarily incompatible with sovereignty. They are sometimes exercises of sovereignty.

36. While the creation of the boundary between Canada and the United States in 1783 was a prerogative act,[24] it had its limits. It could not declare by implication that an Indigenous people no longer had rights to its land in Canada where part of that people now found itself living in the (new) United States. That would be an expropriation without consent or compensation. It could not override the existence and (common law, now constitutionalized) rights of a people whose pre-existence and laws the Crown was seeking to reconcile with its asserted sovereignty. That is not honourable, and it is not reconciliation.

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[20] *Frank v. Canada (Attorney General)*, 2019 SCC 1. Canadian citizens have the right to vote regardless of their place of residence.
[21] See, for example, *Ro:ri:wi:io v. Canada (Attorney General)*, 2007 ONCA 100 at para 4: "We note that the appellant does not assert aboriginal title over the land. Such a claim would not challenge Canada's sovereignty because aboriginal title exists within Canadian sovereignty".
[22] *Mitchell*, *supra* note 16.
[23] *Ibid* at para 135.
[24] *Francis*, *supra* note 13.

37. British Columbia has asserted that the continued practice of Aboriginal rights by Sinixt people resident in what is now the U.S. should not be recognized in Canadian law because it is incompatible with Canadian sovereignty. But that sovereignty is limited *ab initio* by the law of the land. In Sinixt land, the root of that limit is the pre-existence of Sinixt society: their continued existence (continuity is a key Aboriginal right) as a distinctive society of that land is what makes them "an Aboriginal people of Canada."[25]

38. The *Immigration and Refugee Protection Act* provides that an Indian registered pursuant to the Indian Act has the same right to enter Canada as a Canadian citizen. Residence and Canadian or U.S. citizenship are irrelevant to Indian status, or to the right to enter or be in the country.[26]

C. Reconciling

39. "Reconciliation" has several different meanings. Some of them are being misused in this case. We are not talking about the kind of reconciliation required after the crimes and abuses of the residential school system,[27] nor about Indigenous peoples reconciling themselves *to* Crown sovereignty or control.[28] The term addresses the continuing contradiction of the Crown's unilateral assertion of sovereignty over land and the nations who were already here, who had, and have, their own laws, governments and societies. One path to that reconciling has been creating treaty relationships.[29] Another is an abiding right to consultation and accommodation.[30] Another is good faith negotiations.[31] Reconciling in this legal sense is a verb, not a noun, for it is not over.

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[25] *R. v. Côté*, [1996] 3 SCR 139 at para 56.
[26] *In the Matter of a Reference for Review of Registrar's Decision, James David Jock*, [1980] 2 CNLR 75. As to citizenship, it is irrelevant to a status Indian's right to enter and remain in Canada: *Immigration and Refugee Protection Act*, SC 2001 c. 27, s 19(1).
[27] *Canada (Attorney General) v. Fontaine*, 2017 SCC 47.
[28] "The modern law of Aboriginal rights was intended to reconcile interests of the local inhabitants…to a change in sovereignty" Binnie, J. in *Mitchell*, *supra* note 16 at para 144.
[29] *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73 at para 20: "Treaties serve to reconcile pre-existing Aboriginal sovereignty with assumed Crown sovereignty".
[30] *Mikisew Cree First Nation v. Canada*, 2005 SCC 69 at para. 57: "Treaty 8 therefore gives rise to Mikisew procedural rights (e.g. consultation) as well as substantive rights (e.g. hunting, fishing and trapping rights)."
[31] *Delgamuukw*, *supra* note 16 at para 207: "The best approach in these kinds of cases is a process of negotiation and reconciliation that properly considers the complex and competing interests at stake".

40. Unilateral Crown action is the antithesis of reconciliation.[32] For the Crown to suddenly and unilaterally declare that part of a people who have a bundle of rights, especially where the people have treaty relations with the Crown, are now no longer entitled to those rights, by reason of residence (for both Canadian and U.S. citizenship were withheld from Indians until the 20th century), is not honourable.

41. Maintaining that Indigenous peoples "resident in the United States" have no rights or relations in or with Canada is dishonourable in another sense. The Crown has often relied upon its Indigenous allies, protecting their rights in the 1794 Jay Treaty and 1815 Treaty of Ghent. It supported its Haudenosaunee allies in their dealings with the U.S. after 1783. It actively supported and supplied Indigenous resistance to the US in the Ohio country in the early 1790s, keeping its posts south of the boundary. In the War of 1812, the Crown's Indigenous allies on both sides of the boundary, including the Shawnee, Lakota and Anishinaabeg, protected Canada from falling to American invaders. The Crown supported its Sauk and Fox allies in the Black Hawk War of 1832. The Crown has also historically insisted that the U.S. honour its obligations to Indigenous peoples resident in Canada. It took international action for the Cayuga Nation in 1926.[33] It is too late, with its history of reliance on Indigenous help, for the Crown to assert that this boundary has been anything but porous.

IV. SUBMISSIONS ON COSTS

42. The Peskotomuhkati Nation does not seek costs and requests that none be awarded against it.

V. ORDER SOUGHT

43. The Peskotomuhkati Nation requests permission to present oral argument not exceeding five (5) minutes at the hearing of this appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 19th DAY OF JUNE, 2020.

Kayanesenh Paul Williams	Kahyoh'noh Karenna Williams
Counsel for the Intervener,	*Counsel for the Intervener,*
the Peskotomuhkati Nation	*the Peskotomuhkati Nation*

[32] *Mikisew Cree First Nation v. Canada*, 2018 SCC 40 at para 87.
[33] *Cayuga Indians Case*, Permanent Court of Arbitration (1926) No. 300.

VI. TABLE OF AUTHORITIES

STATUTES		**Paras.**
20.	*Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, 35(1)	19
21.	*Immigration and Refugee Protection Act*, SC 2001 c. 27, 19(1)	38

INTERNATIONAL		**Paras.**
22.	*Cayuga Indians Case, Permanent Court of Arbitration (1926) No. 300*	41
23.	*Royal Proclamation of 1763* (George R, Proclamation, 7 October 1763 (3 Geo III), reprinted in RSC 1985, App II, No 1)	19, 31
24.	*Treaty of Friendship, Commerce and Navigation* (the *Jay Treaty*), between Great Britain and the United States of America, signed 19 November 1794	31
25.	*United Nations Declaration on the Rights of Indigenous Peoples*, UN GA Res 295, UNGAOR, 61st Sess, Supp No 49, UN Doc A/RES/61/295, 46 ILM 1013 (2007)	19
26.	*Universal Declaration of Human Rights*, GA Res 217A (III), UNGAOR, 3rd Sess, Supp No 13, UN Doc A/810 (1948) 71	22

***Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11**

RIGHTS OF THE ABORIGINAL PEOPLES OF CANADA

Recognition of existing aboriginal and treaty rights

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

Definition of "aboriginal peoples of Canada"

(2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

Land claims agreements

(3) For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.

Aboriginal and treaty rights are guaranteed equally to both sexes

(**4)** Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

DROITS DES PEUPLES AUTOCHTONES DU CANADA

Confirmation des droits existants des peuples autochtones

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

Définition de « peuples autochtones du Canada »

(2) Dans la présente loi, « peuples autochtones du Canada » s'entend notamment des Indiens, des Inuit et des Métis du Canada.

Accords sur des revendications territoriales

(3) Il est entendu que sont compris parmi les droits issus de traités, dont il est fait mention au paragraphe (1), les droits existants issus d'accords sur des revendications territoriales ou ceux susceptibles d'être ainsi acquis.

Égalité de garantie des droits pour les deux sexes

(4) Indépendamment de toute autre disposition de la présente loi, les droits — ancestraux ou issus de traités — visés au paragraphe (1) sont garantis également aux personnes des deux sexes.

***Immigration and Refugee Protection Act,* SC 2001 c. 27, 19(1)**

Right of entry of citizens and Indians

19 (1) Every Canadian citizen within the meaning of the Citizenship Act and every person registered as an Indian under the Indian Act has the right to enter and remain in Canada in accordance with this Act, and an officer shall allow the person to enter Canada if satisfied following an examination on their entry that the person is a citizen or registered Indian.

Droit d'entrer : citoyen canadien et Indien

19 (1) Tout citoyen canadien, au sens de la Loi sur la citoyenneté, et toute personne inscrite comme Indien, en vertu de la Loi sur les Indiens, a le droit d'entrer au Canada et d'y séjourner conformément à la présente loi; l'agent le laisse entrer sur preuve, à la suite d'un contrôle fait à son arrivée, de sa qualité.