SCC File No.: 39430

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

BETWEEN:

ATTORNEY GENERAL OF BRITISH COLUMBIA

Appellant
(Respondent)

- and -

COUNCIL OF CANADIANS WITH DISABILITIES

Respondent
(Appellant)

- and -

ATTORNEY GENERAL OF CANADA; ATTORNEY GENERAL OF ALBERTA; ATTORNEY GENERAL OF SASKATCHEWAN; ATTORNEY GENERAL OF ONTARIO; BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION; WEST COAST LEGAL EDUCATION AND ACTION FUND; ECOJUSTICE CANADA SOCIETY; WEST COAST PRISON JUSTICE SOCIETY; EMPOWERMENT COUNCIL, SYSTEMIC ADVOCATES IN ADDICTIONS AND MENTAL HEALTH; CANADIAN CIVIL LIBERTIES ASSOCIATION; ADVOCACY CENTRE FOR TENANTS ONTARIO, ARCH DISABILITY LAW CENTRE, CANADIAN ENVIRONMENTAL LAW ASSOCIATION, CHINESE AND SOUTHEAST ASIAN LEGAL CLINIC, HIV & AIDS LEGAL CLINIC ONTARIO, AND SOUTH ASIAN LEGAL CLINIC ONTARIO; DAVID ASPER CENTRE FOR CONSTITUTIONAL RIGHTS; TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA; NATIONAL COUNCIL OF CANADIAN MUSLIMS; MENTAL HEALTH LEGAL COMMITTEE; CANADIAN ASSOCIATION OF REFUGEE LAWYERS; CENTRE FOR FREE EXPRESSION; FEDERATION OF ASIAN CANADIAN LAWYERS AND CANADIAN MUSLIM LAWYERS ASSOCIATION; JOHN HOWARD SOCIETY OF CANADA AND QUEEN'S PRISON LAW CLINIC; ANIMAL JUSTICE; CANADIAN MENTAL HEALTH ASSOCIATION (NATIONAL), CANADA WITHOUT POVERTY, ABORIGINAL COUNCIL OF WINNIPEG INC. AND END HOMELESSNESS WINNIPEG INC.; CANADIAN CONSTITUTION FOUNDATION

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(Pursuant to Rule 42 of the *Rules of the Supreme Court of Canada*, S.O.R./2002-156)

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PART I – OVERVIEW

1. At the heart of this case is an important question: should this court re-evaluate the test in *Downtown Eastside* for public interest standing?[1] This is an incredibly complex question with significant implications around the way we think of the *Charter,* of the private law paradigm, and the barriers faced by marginalized communities most in need of *Charter* protection.

2. We submit to the Court that its evaluation of the public interest standing test must include a specific framework that acknowledges that public interest standing is particularly appropriate when potential *Charter* claimants from marginalized communities would be at a significant risk of harm arising from a potential claim.

3. Although plaintiff-specific facts provide a strong factual foundation for *Charter* cases, we submit that the standing analysis must be informed by the lived realities and experiences of marginalized groups. Where those who are impacted by state action or legislation are at a heightened risk of experiencing harsh backlash such as hate, violence, threats, or persecution, courts should give significant weight to such a consideration in assessing public interest standing. Such an approach is consistent with the flexible, general, and purposive approach mandated by this Court in *Downtown Eastside*. This approach would advance the rights of marginalized and vulnerable groups and would facilitate access to justice.

4. Recognizing that coherence and uniformity are central to the rule of law,[2] the National Council of Canadian Muslims ("**NCCM**") proposes an approach that mitigates unpredictability in the law regarding public interest standing. As a national organization with various Canadian Muslim organizations and ordinary Canadians as its stakeholders and members, NCCM has a particular interest in ensuring that the law is stable and clear with respect to the issue of when public interest litigants will be granted standing, particularly in the context of complex constitutional and systemic challenges that impact marginalized and vulnerable members of society.

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[1] *Canada (Attorney General) v. Downtown Eastside Sex Workers United Against Violence Society*, 2012 SCC 45 (CanLII), [2012] 2 SCR 524 ["*Downtown Eastside*"].
[2] *R v Ferguson*, 2008 SCC 6 at para 68.

5. NCCM submits two arguments for the Court as it examines the test for public interest standing. First, public interest organizations are crucial to advancing access to justice and to bringing forward complex constitutional and systemic challenges, particularly on behalf of marginalized and vulnerable groups or individuals who are at a greater risk of facing backlash, such as hate, violence, threats, and persecution. Second, a flexible and generous approach to the standing analysis is one that actively promotes access to justice and advances *Charter* values. This approach requires consideration of the following:

a. In assessing whether the matter raises a serious justiciable issue, at the first stage of the test, courts should take a pragmatic and flexible approach and consider whether they have sufficient material before them for a proper understanding at a preliminary stage of the nature of the interest asserted without the need of evidence or full argument on the merits; and

b. In determining whether the claim is a reasonable and effective means to bring the issue before the court, at the third stage of the test, courts should apply greater weight to certain factors related to the needs and lived realities and experiences of marginalized groups, particularly as that relates to the risk of violence, harm, or public castigation, as will be discussed below.

PART II – STATEMENT OF ISSUES

6. NCCM makes submissions only on the approach to public interest standing and the weight that should be afforded to certain factors, principles, or goals underlying standing. NCCM does not take a position on the outcome of this appeal.

PART III – STATEMENT OF ARGUMENT

7. The *Charter* calls for equal consideration of all Canadians, which in turn requires the protection of minorities. As such, the Charter's promise to enhance democratic engagement and substantive equality requires an approach to public interest standing that enables those most in need of *Charter* protection to have their matters heard in a meaningful way.

i. Public interest litigants are crucial to advancing access to justice and systemic claims

8. Public interest litigants are crucial to realizing the *Charter's* democratic potential because they illustrate, and have the requisite understanding of, the systemic impacts of the law on the most vulnerable and disadvantaged groups and can enable the resolution of public interest issues important to the whole community. Public interest litigants may provide a stronger factual context for a systemic issue by furnishing statistical evidence or highlighting common experiences and broad social trends, including an understanding of lived realities and experiences of marginalized groups. As such, they are uniquely situated to assist courts in appreciating the "broader effects" and public impact of its potential findings.

9. Canadian Muslims, especially Canadian Muslim women, face disproportionate risks of experiencing violence, hate, systemic racism, discrimination, harassment, stigma, prejudice, and persecution.[3] Numerous recent cases before our courts have served to highlight the hostility that is often directed towards Muslims in Canadian society.[4] In *Paramount*, Justice Ferguson drew on the broader social context to conclude the following:

> [90] It is important for us to assess the behaviour of the Johnston defendants in its wider context. It is not an isolated example; instead, it reflects an overall rise of hate speech in Canada. According to Statistics Canada, the number of hate crimes reported to the police in 2017, the last year for which data was collected, reached an all-time high. And they were largely driven by incidents targeting Muslim, Jewish and black people. Buried in these statistics are the stories of actual people. We know some of their names, and they are included in this judgment.[5]

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[3] See for example *Bissonnette c R,* 2020 QCCA 1585, where the offender shot and killed six worshippers and injured several others at the Quebec City Mosque; *Elmasry and Habib v Roger's Publishing and MacQueen (No. 4)*, 2008 BCHRT 378 at para. 142, the British Columbia Human Rights Tribunal accepted expert evidence that the black burkha, which also covers a woman's head and face, is often used as a common image to depict Muslims as foreign; *R v Feltmate*, 2012 NSSC 319, the victim was assaulted at a mall for no reason other than wearing a head scarf and the colour of her skin.

[4] *R v Feltmate,* 2012 NSSC 319; *R v Medeiros*, 2014 ONSC 6550; *R c Rioux*, 2016 QCCQ 6762.

[5] *Paramount v Kevin J. Johnston*, 2019 ONSC 2910 at para 90.

10. We submit that Canadian Muslims, including those brave enough to step forward into a courtroom as plaintiffs, have faced significant risk of harm and personal danger. For example, in *Paramount v Kevin J. Johnston*, Justice Ferguson deliberated on a case where a prominent Canadian businessperson and Muslim leader, Mohamad Fakih, was followed into a mall with his children after filing a claim against an individual who had participated in defamatory conduct against him, including calling the plaintiff a "terrorist". Justice Ferguson specifically noted:

> [23] On April 10, 2018, Mr. Fakih was at Erin Mills Town Centre mall with his three children (then aged 4, 11 and 13). In front of Mr. Fakih's children, Mr. Johnston called Mr. Fakih a coward and other names and accused Mr. Fakih of supporting terrorism and funding terror organizations "so they can cut babies in half". Mr. Fakih asked Mr. Johnston to respect that he was there with his three children, but Mr. Johnston continued and even captured Mr. Fakih's children in photos and recordings of the interaction. Moreover, when Mr. Fakih and his children tried to escape by leaving the mall, Mr. Johnston followed them into the parking lot.
>
> …
>
> [25] Mr. Fakih reported the incident to the police as he was afraid for his and in particular, his children's safety. For days after the incident, Mr. Fakih's children asked him why Mr. Johnston was calling him a coward and a terrorist and Mr. Fakih's four-year-old son would wake up in the middle of the night asking about "the scary man" that hates his dad. Mr. Fakih explained to his children that while they should never run away from bullies, he trusts the legal system to deliver justice.[6]

11. Despite a court injunction, the defendant continued to harass and defame the Plaintiff, branding the Plaintiff a "child killer" and "terrorist". As Justice Myers noted during the sentencing of the defendant after he continued his continued acts of contempt:

> [119] […] The National Counsel of Canadian Muslims asks me to consider the marginalized and vulnerable racialized people who are impacted by Mr. Johnston's attacks on Mr. Fakih. Mr. Fakih is a man of some prominence in society. If the court is powerless to stop unrelenting, unlawful, racist attacks against a man like Mr. Fakih, how are the powerless to feel welcome or safe in Canada?[7]

12. As such, many Canadian Muslims may fear reprisals or risk to safety and security if they bring their claims before courts or may "simply give up on justice".[8] For those who do bring forward their claims, the experience can be traumatizing, as litigants have faced backlash in news

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[6] *Ibid* at paras 23-25.
[7] *Paramount Fine Foods v Johnston*, 2021 ONSC 6558 at para 119.
[8] *Hryniak v Mauldin*, 2014 SCC 7 at paras 24-25

outlets or online social media, harassment or threats from white supremacists, and castigation by public-figures.[9] The challenges of enforcing their legal rights are especially highlighted in the context of Muslim women seeking protection or redress from the justice system for the curtailment of religious freedoms or alleged violent and sexual crimes.[10] As such, marginalized and disadvantaged members of society, including Canadian Muslims, often depend on public interest organizations, like NCCM, to provide a meaningful avenue through which they can safely have their voices heard in the court, enforce their rights, bring systemic changes, and seek recourse.

13. The names of Muslim claimants before the Supreme Court of Canada – Maher Arar, Omar Khadr, Javed Latif – are now studied in every law school. *Charter* litigation in these cases was important and was precedent setting; but came at great personal cost for the aforementioned claimants, whose names were splashed in newspapers and on white supremacist manifestos alike.[11] Indeed, these cases have also been precedent setting for Canadian Muslims who have learned to become afraid of getting "Arar'd".[12] This fear of publicly coming forward with cases, due to the prejudice of some Canadians against Muslims, has left "left its mark on Muslim (and Arab) communities in Canada".[13]

14. The point of our constitution – to protect against the tyranny of a majority, and to protect the ability to challenge potentially unconstitutional policies or statutory regimes – requires a contextual, flexible, and generous reading of the public interest standing test that paves a broader role for public interest litigants to enhance access to justice and advance *Charter* rights. Such an approach is particularly crucial given that it can also set the tone for public interest interventions before courts, which itself raises challenges for public interest litigants who are seeking to intervene on issues of public importance.[14]

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[9] In *Paramount v Kevin J Johnston*, 2019 ONSC 2910; *Paramount Fine Foods v Johnston*, 2021 ONSC 6558; *Soliman v. Bordman*, 2021 ONSC 7023; *Awan v. Levant*, 2014 ONSC 6890;
[10] See for example, *R v NS*, 2012 SCC 72 ["*NS*"]; *El-Alloul v Attorney General of Quebec*, 2018 QCCA 1611 ["*El-Alloul*"].
[11] Reem Bahdi, Narrating Dignity: Islamophobia, Racial Profiling, and National Security Before the Supreme Court of Canada, 2018 55-2 OHLJ 557 at 570. [BOA, Tab 1]
[12] *Ibid.*
[13] *Ibid.*
[14] *Canada (Citizenship and Immigration) v Canadian Council for Refugees,* 2021 FCA 13; *Canada (Attorney General) v Kattenburg*, 2020 FCA 164; *Canada (Citizenship and Immigration) v Ishaq*, 2015 FCA 151.

15. Accordingly, courts should promote principled, contextualized assessments of standing that allow for the exercise of judicial discretion in a manner that contributes meaningfully to access to justice for equity-seeking, socioeconomically marginalized groups. Courts must turn their minds to the lived realities and experiences of marginalized and vulnerable groups impacted, which would improve its understanding of the various historical, social, and economic barriers that marginalized individuals and groups experience and would inform the court's analysis on standing.[15]

ii. A flexible and generous approach to public interest standing that actively promotes access to justice and advances *Charter* values

16. Access to *Charter* justice enables the adjudication of important social or public interest issues that impact the whole community and can produce remedies and solutions that resolve or address issues systemically.

17. Access to justice as a constitutional principle has an interpretative value that can shape or inform our approach to the law,[16] and is of paramount importance in determining the proper approach for standing. This Court has affirmed that access to a court is critical to ensuring state accountability and is essential to the rule of law.[17]

18. This Court has recognized that individual and systemic constitutional challenges differ significantly in scope and "the problems arising from that difference may be resolved by taking a more relaxed view of standing in the right case".[18] Such a flexible or "relaxed" view of standing is warranted where systemic issues are raised to advance access to justice and the development of *Charter* rights. Accordingly, the judicial system must broaden the tools or avenues at the disposal

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[15] *Downtown Eastside,* 2012 SCC 45 at para 71; *Chaoulli*, 2005 SCC 35.
[16] *British Columbia (Attorney General) v Christie*, 2007 SCC 21 at paras. 16-17.; *Hryniak*, *supra* note **Error! Bookmark not defined.**; *Trial Lawyers Assn. of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59 ["*Trial Lawyers*"]; Michelle Flaherty and Andrea Cole, "Access to Justice, Looking for a Constitutional Home: Implications for the Administrative Legal System" (2016) 94 Can B Rev 13 at 29. [BOA, Tab 2]
[17] *Trial Lawyers*, *supra* note 16.
[18] *Downtown Eastside Sex Workers United Against Violence Society v. Canada (Attorney General)*, 2010 BCCA 439 at para 59; *British Columbia v Crockford,* 2006 BCCA 360 at para 49 ["*Crockford*"].

of marginalized communities, which are limited in the first place, to pursue state accountability and apply an approach to standing in a way that enhances, rather than obstructs, access to justice.

(a) A Flexible Approach to Justiciability

19. Justiciability is a key gatekeeping function that allows parties to have their rights adjudicated before courts, and it is one of the most important hurdles for marginalized and vulnerable groups to cross to seek recourse and remedies when they perceive their rights to be violated. Applying a generous and flexible approach to justiciability in the public interest standing analysis could advance access to justice and *Charter* values. Such an approach supports this Court's underlying goals for granting standing, rather than resorting to "the blunt instrument of a denial of standing" based on non-justiciability.[19]

20. As such, courts should be reluctant to preclude litigation aimed at advancing the evolution of the *Charter* from reaching hearings on the merits.[20] The Court of Appeal in the case before this Court rightly recognized that the issue of serious justiciability should be "assessed practically and possible means of addressing its goals other than refusing standing should be considered".[21] As such, courts should be cautious about denying standing on the basis of a lack of a serious justiciable claim and should do so only where it is clear or plain and obvious that the claim is "so unlikely to succeed that its result would be seen as a 'foregone conclusion'",[22] given that such a determination is likely to be a fatal flaw for a public interest litigant and can have grave repercussions for marginalized or vulnerable groups impacted by the legislation or state action.[23]

21. Justiciability needs to be understood through the lens of the lived experience of those who seek judicial remedies.[24] Greater flexibility regarding procedural matters in the context of *Charter* litigation is justified given the importance of the interests at stake and that the issues transcend the interests of the litigants. Where the issue concerns the constitutionality of a challenged provision and where marginalized groups are adversely affected, consideration of this factor unequivocally

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[19] *Downtown Eastside* at para 28.
[20] Lorne Sossin and Gerard J Kennedy, "Justiciability, Access to Justice and the Development of Constitutional Law in Canada" (2017) 45 Fed. L. Rev. 707 at 708. [BOA, Tab 3]
[21] *Downtown Eastside* at para 92.
[22] *Downtown Eastside* at para 42; *Hy and Zel's Inc v Ontario (Attorney General)*, [1993] 3 SCR 675 at p 690.
[23] See for example, *Moore v Canada*, 2020 FC 27.
[24] *Supra* note 20.

supports exercising discretion in favour of standing.[25] Such a procedural hurdle ought not to act as a "chilling effect" on public interest litigants seeking to ensure that their government behaves constitutionally.

22. Further, although this Court has not ruled on the role of reasonable hypotheticals in the context of public interest standing, recent decisions by the Federal Court and other provincial courts suggest that courts are open to formulating a hypothetical scenario that will satisfy the need for context within which to consider the constitutionality of the legislation. [26] In any event, courts appear to be inclined towards taking an approach to standing that ensures the advancement of constitutional rights and flexibility, particularly in respect to the issue of serious justiciability, rather than resorting to a complete denial of standing.

(b) Reasonable and Effective Means

23. This Court has provided a non-exhaustive list of interrelated considerations in assessing the "reasonable and effective" means factor.[27] However, this Court should also clarify the weight to be afforded to certain contextual considerations, which would guide the discretion of lower courts in applying the third branch of the test. In determining whether the claim is a reasonable and effective means to bring the issue before the court, we submit that courts should apply weight to the following considerations:

a) Whether the claim raises systemic issues or a broad-based comprehensive challenge to legislation or state action;[28]
b) Whether those most directly affected by the challenged law or action belong to a marginalized or disadvantaged group that experiences harsh socio-economic challenges, especially hate, violence, systemic racism or persecution;
c) Whether the public interest litigant represents a disadvantaged or vulnerable group that is alleged to be impacted by the challenged law or action; and

[25] *Downtown Eastside* at para 54.
[26] See for example, *Alberta Union of Public Employees v. Her Majesty the Queen (Alberta)*, 2021 ABQB 371; *Canadian Doctors for Refugee care*, 2014 FC 651; *Prairies Tubulars (2015) Inc v Canada (Border Services Agency),* 2021 FC 36 at para 77.
[27] *Downtown Eastside* at para 51.
[28] *Chaoulli*.

d) Whether the challenge raises issues that are likely to prevent or discourage individuals belonging to marginalized groups from bringing the claim forward, such as issues that are private, controversial or stigmatized in nature.[29]

24. These considerations would improve courts' understanding of the various historical, social and economic barriers that marginalized individuals and groups face and assist courts in determining whether to grant litigants standing to pursue broad constitutional challenges on their behalf. Considerations of these factors would enable courts to develop standing law in a way that reflects and addresses modern realities.

25. In particular, where those who are directly impacted are marginalized and fear reprisal or face a heightened risk of violence or hate, courts should apply greater weight to this consideration, irrespective of whether plaintiffs exist or can be located.[30] In such circumstances, granting public interest standing is almost always a more reasonable and effective means of advancing public interest litigation than a private litigant.

26. For instance, this Court has seen numerous times the difficulties of individual litigants challenging the constitutionality of legislation in the national security context. As Chief Justice McLachlin observed, as she was then, "From time to time, however, the courts are called upon to interpret laws on terrorism, to rule on the constitutionality of their provisions…The judiciary must stand ready to protect the rights of, not only the majority, but the poor and marginalized — the people who without the courts have no voice."[31]

27. Kent Roach observed, in cases involving constitutional challenges in terrorism cases, that the "requirement for proof of political or religious motive will make the politics and religion of suspects a fundamental issue in terrorism trials...Terrorism trials in Canada will be political and religious trials".[32] Canadian Muslims are well aware of this standard; and therefore, provisions

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[29] *NS*; *El-Alloul*; *Canada (Citizenship and Immigration) v Ishaq*, 2015 FCA 194; *Vriend v Alberta*, [1998] 1 SCR 493.
[30] *Downtown Eastside* at para 71.
[31] Remarks of the Right Honourable Beverley McLachlin, P.C. Chief Justice of Canada, "The Challenge of Fighting Terrorism While Maintaining our Civil Liberties", September 22, 2009, online: Supreme Court of Canada <https://www.scc-csc.ca/judges-juges/spe-dis/bm-2009-09-22-eng.aspx>.
[32] Anver Emon and Aaqib Mahmood, "Canada v. Asad Ansari: Avatars, Inexpertise, and Racial Bias in Canadian Anti-Terrorism Litigation", 2021 44-1 Manitoba Law Journal 255 at 272.

that could be challenged as unconstitutional must often wait until individual plaintiffs come forward.

28. The ability of a public interest group to locate one or two individual plaintiffs provides for a more fulsome factual context or record, but such a preference or requirement by courts can perpetuate the disadvantages or challenges that marginalized or vulnerable individuals face if they were to act as a plaintiff, such as potentially exposing them to threats, violence, or hate.

29. Indeed, this Court has highlighted the unreasonableness of refusing to allow public interest standing in the context of complex systemic challenges on the basis that they could be undertaken by directly affected individuals, where "material, physical and emotional resources" of those individuals make it unreasonable to expect them to do so.[33]

30. We submit that courts, through the evolution of its approach to public interest litigation, should consider expanding the standing analysis in order to advance *Charter* rights and access to justice for Canadians. As such, it would seem inconsistent with this general promotion of public interest cases for this Court to adopt a narrow approach, which can restrict the effective participation of marginalized groups from the courtroom.

PART IV – SUBMISSIONS ON COSTS

31. NCCM does not seek costs and asks that costs not be awarded against it.

PART V – ORDER

32. NCCM takes no position on the outcome of this appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 3rd day of December, 2021.

Per:

Sameha Omer

[33] *Chaoulli* at para 189.

PART VI – AUTHORITIES

No.	CASE LAW	Paragraph Reference
1.	*Alberta Union of Public Employees v. Her Majesty the Queen (Alberta)*, 2021 ABQB 371	22
2.	*Awan v. Levant*, 2014 ONSC 6890	12
3.	*Bissonnette c. R.,* 2020 QCCA 1585	9
4.	*British Columbia (Attorney General) v Christie*, 2007 SCC 21	17
5.	*British Columbia v Crockford,* 2006 BCCA 360	18
6.	*Canada (Attorney General) v. Downtown Eastside Sex Workers United Against Violence Society*, 2012 SCC 45	1, 15, 17, 18,19, 20, 21, 23, 25
7.	*Canada (Attorney General) v Kattenburg*, 2020 FCA 164	14
8.	*Canada (Citizenship and Immigration) v Canadian Council for Refugees,* 2021 FCA 13	14
9.	*Canada (Citizenship and Immigration) v Ishaq*, 2015 FCA 151	14
10.	*Canada (Citizenship and Immigration) v Ishaq*, 2015 FCA 194	23
11.	*Canadian Council with Disabilities v. Britsh Columbia (Attorney General),* 2020 BCCA 241	20
12.	*Canadian Doctors for Refugee care*, 2014 FC 651	22
13.	*Chaoulli v. Quebec (Attorney General),* 2005 SCC 35	15, 23, 29
14.	*El-Alloul v Attorney General of Quebec*, 2018 QCCA 1611	12, 23
15.	*Elmasry and Habib v Roger's Publishing and MacQueen (No. 4),* 2008 BCHRT 378	9
16.	*Hryniak v Mauldin*, 2014 SCC 7	12, 17
17.	*Hy and Zel's Inc v Ontario (Attorney General)*, [1993] 3 SCR 675	20
18.	*Moore v Canada*, 2020 FC 27	20
19.	*Paramount v Kevin J Johnston*, 2019 ONSC 2910, 2021 ONSC 5530, 2021 ONSC 6558	9, 10, 11, 12
20.	*Prairies Tubulars (2015) Inc v Canada (Border Services Agency),* 2021 FC 36	22
21.	*R v Medeiros*, 2014 ONSC 6550	9
22.	*R v Feltmate,* 2012 NSSC 319	9

No.	CASE LAW	Paragraph Reference
23.	*R v Ferguson*, 2008 SCC 6	4
24.	*R v NS*, 2012 SCC 72	12, 23
25.	*R c Rioux*, 2016 QCCQ 6762	9
26.	*Soliman v. Bordman*, 2021 ONSC 7023	12
27.	*Trial Lawyers Assn. of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59	17
28.	*Vriend v Alberta*, [1998] 1 SCR 493	23

No.	SECONDARY SOURCES	Paragraph Reference
1.	Reem Bahdi, Narrating Dignity: Islamophobia, Racial Profiling, and National Security Before the Supreme Court of Canada, 2018 55-2 OHLJ 557 at 570.	13
2.	Anver Emon and Aaqib Mahmood, "Canada v. Asad Ansari: Avatars, Inexpertise, and Racial Bias in Canadian Anti-Terrorism Litigation", 2021 44-1 Manitoba Law Journal 255 at 272.	27
3.	Michelle Flaherty and Andrea Cole, "Access to Justice, Looking for a Constitutional Home: Implications for the Administrative Legal System" (2016) 94 Can B Rev 13 at 29	17
4.	Remarks of the Right Honourable Beverley McLachlin, P.C. Chief Justice of Canada, "The Challenge of Fighting Terrorism While Maintaining our Civil Liberties", September 22, 2009, online: Supreme Court of Canada	26
5.	Lorne Sossin and Gerard J Kennedy, "Justiciability, Access to Justice and the Development of Constitutional Law in Canada" (2017) 45 Fed. L. Rev. 707 at 708	20, 21

No.	LEGISLATION	Section, Rule, Etc.
1.	*Human Rights Code*, RSO 1990, c H.19	Section 18
	Code des droits de la personne, LRO 1990, c H.19	Article 18
2.	*The Constitution Act, 1982,* Schedule B to the Canada Act 1982 (UK), 1982, c 11 *Loi constitutionnelle de 1982,* Annexe B de la Loi de 1982 sur le Canada (R-U), 1982, c 11	