Court of Appeal File No.: CA47363

Vancouver Registry

COURT OF APPEAL

BETWEEN:

ALAIN BEAUDOIN, BRENT SMITH, JOHN KOOPMAN, JOHN VAN MUYEN, RIVERSIDE CALVARY CHAPEL, IMMANUEL COVENANT REFORMED CHURCH and FREE REFORMED CHURCH OF CHILLIWACK, B.C.

APPELLANTS

(Petitioners)

AND:

THE ATTORNEY GENERAL OF BRITISH COLUMBIA and DR. BONNIE HENRY IN HER CAPACITY AS PROVINCIAL HEALTH OFFICER FOR THE PROVINCE OF BRITISH COLUMBIA

RESPONDENTS

(Respondents)

AND:

THE ASSOCIATION FOR REFORMED POLITICAL ACTION (ARPA) CANADA

INTERVENOR

(Intervenor)

FACTUM OF THE INTERVENER

THE ASSOCIATION FOR REFORMED POLITICAL ACTION (ARPA) CANADA

INDEX

INDEX 1
OPENING STATEMENT 2
PARTS 1 & 2 – STATEMENT OF FACTS AND ISSUES ON APPEAL 1
PART 3 – ARGUMENT 1
A. A Free and Democratic Society respects Institutional Pluralism 1
B. Institutional Pluralism Should be Addressed in the Final Stage of s. 1 4
C. The Fundamental Freedoms Preserve Institutional Pluralism 6
D. Compound *Charter* violations must be weighed cumulatively 8
PART 4 – NATURE OF ORDER SOUGHT 10
LIST OF AUTHORITIES 1

OPENING STATEMENT

1. The orders under constitutional review in this proceeding are unprecedented. Never before has any branch of government imposed a blanket prohibition on in-person religious gatherings in British Columbia. This intervener submits that the constitutional costs of these orders are greater than the sum of their infringements on the fundamental freedoms of *individual* churches, pastors, or congregants. The orders also inflict *macro* harms through the weakening of civil society institutions vis-à-vis the state in a time of declared emergency. This court's assessment of the Respondents' justificatory burden under s. 1 of the *Charter* must begin by identifying which features of our "free and democratic society" are imperilled by the orders.
2. Institutional pluralism is an organizing principle under the *Charter*. This principle is reflected in the preamble and sections 1-2 which together safeguard the role, vitality and independence of non-state institutions and associations in our free society. Their rights represent a structural limitation on the powers of government, and reflect the fact that there are other valid sources of authority and meaning in citizens' lives. The state's monopoly on coercion does not equate to plenary authority to constrain other constitutionally protected institutions and communities, including faith institutions and communities. Government shares constitutional space with these other institutions which, like government, also have responsibilities, duties, and a constitutionally protected public role during a time of crisis. The s. 1 analysis in this case must appreciate the weighty compound infringements of multiple fundamental freedoms and their collective damage to institutional pluralism.
3. An emergency order which unjustifiably violates institutional pluralism undermines society's shared objective of responding well to that very emergency. It assumes and exacerbates an adversarial relationship between government and affected religious groups, treating the latter as mere transmission risks to be managed, reducing respect for the orders within those communities. By contrast, respecting religious communities' constitutional status and rights, and treating them as legitimate stakeholders worthy of co-operation, preserves their goodwill and support in the common goal of fighting covid-19. A mutually respectful relationship between government and the other constitutional actors, whose vitality are essential to a free and democratic society, is both good constitutional law and good for public health.

PARTS 1 & 2 – STATEMENT OF FACTS AND ISSUES ON APPEAL

1. ARPA Canada intervenes to provide submissions regarding institutional pluralism and the weighing of compound *Charter* violations.

PART 3 – ARGUMENT

A. <u>A Free and Democratic Society respects Institutional Pluralism</u>

2. Although extraordinary times can call for extraordinary measures, government does not become ultimate with the declaration of a state of emergency (health or other). The importance of other social institutions, including religious institutions, also increase during such times. Together with government, they share a responsibility to decrease and alleviate the various burdens of the pandemic. Religious organizations are committed to contributing to the common good in these times; indeed, this is part of *being* a church.

3. Early modern thinkers such as Hobbes and Rousseau "tried in different ways to subordinate religious claims to the sovereignty of politics." William Galston describes this tradition as an effort to return to the "civic totalism" of ancient Greece and Rome, in which "intermediate associations existed only as revocable 'concessions' of power from the sovereign political authority."[1] Civic totalism has not triumphed in Canadian legal history, thanks in large part to the judiciary. Liberal democracy and constitutionalism qualify and limit state power. A free and democratic society is pluralist, not statist.

4. "The preamble [to the *Charter*], including its reference to God, articulates the "political theory" on which the *Charter's* protections are based."[2] That political theory sees state authority as structurally limited vis-à-vis individuals and non-government institutions, whose rights against government are subsequently spelled out. This is consistent with the principle in Reformed Christian thought that all authority belongs to God who delegates <u>*limited*</u> authority to the different institutions in society, including the state. The state's authority is thus inherently limited by its original grant: authority is neither unlimited nor self-defined, and the state cannot arrogate to itself additional authority based on what a frightened citizenry might acquiesce to in a time of emergency.

---

[1] William Galston, "Religion and the Limits of Liberal Democracy" in Douglas Farrow, ed, *Recognizing Religion in a Secular Society* (McGill-Queen's U.P., 2004) 12 at 44.

[2] *Mouvement laïque québécois v. Saguenay (City)*, 2015 SCC 16 ¶147.

5. The *Charter*'s preamble signals "a kind of secular humility, a recognition that there are other truths, other sources of competing worldviews, of normative and authoritative communities that are profound sources of meaning in people's lives that ought to be nurtured as a counter-balance to state authority."[3] In turn, section 1, properly interpreted, identifies "principles essential to a free and democratic society" including "accommodation of a wide variety of beliefs, respect for cultural and group identity, and faith in social and political institutions which enhance the participation of individuals and groups in society."[4] A "free and democratic society" is therefore robustly pluralistic.

6. The *Charter's* commitment to institutional pluralism requires government (or the courts) to adhere to disciplined state neutrality as between religious and 'secular' modes of life.[5] There is a fundamental incompatibility between being a free and democratic society, and sacrificing, or severely constraining, religious communities' freedom to assemble. The state bears an extremely heavy burden to demonstrably justify such an infringement.

7. Religious bodies do not exercise coercive power, yet possess, as Chief Justice Hinkson aptly described, "a sphere of independent spiritual authority, at the core of which is the authority to determine their own membership, doctrines, and religious practices, including manner of worship."[6] The Supreme Court has affirmed these points unequivocally in *Amselem*, in *Wall,* and again recently in *Aga.*[7] The authority to determine manner of worship includes whether in-person attendance is a religious obligation.

8. The Supreme Court of Canada acknowledges institutional pluralism when it states that "a constitution may seek to ensure that vulnerable minority groups are endowed with the institutions and rights necessary to maintain and promote their identities against the

---

[3] Bruce Ryder, "State Neutrality and Freedom of Conscience and Religion" (2005), 29 SCLR (2d) ¶17.

[4] *R. v. Oakes*, [1986] 1 SCR 103 ¶64. Also: *R. v. Big M Drug Mart*, [1985] 1 SCR 295 ¶94.

[5] *Saguenay* ¶137.

[6] *Beaudoin v. British Columbia*, 2021 BCSC 512 ¶199.

[7] *Syndicat Northcrest v. Amselem*, 2004 SCC 47 ¶50; *Highwood Congregation v. Wall*, 2018 SCC 26 ¶24; *Ethiopian Orthodox Tewahedo Church v. Aga*, 2021 SCC 22 ¶23.

assimilative pressures of the majority."[8] The vitality of non-state actors is essential for societal health; it is a characteristic of a free and democratic society.

9. Addressing the constitutional principle of protection for minority rights, the Supreme Court writes of "the delineation of spheres of jurisdiction… and the [limited] role of our political institutions."[9] In the Reformed Christian tradition, as in Canada's legal tradition, the delineation of spheres of jurisdiction is not just between levels of government, but also between the state and other spheres of society, including the church. These spheres of jurisdiction should not be seen as mutually exclusive territorial boundaries, but rather as overlapping *aspects* of shared responsibility.

10. Government's responsibility and authority with respect to religious gatherings is legitimately engaged in matters of public safety. However, this state authority does not automatically supersede other authority. It co-exists with the church's constitutionally protected responsibility and authority over assembled worship. Government must pursue public safety objectives in a manner that respects, wherever possible, the core religious authority of the church. The state's total prohibition, for six months, of the core function of the church (which word is derived from the Greek *ecclesia*, literally meaning "the assembled"), requires the highest justificatory bar. The infringement strikes at the heart of the right.

11. Government and religious institutions fulfil different, but equally crucial, roles in a free and democratic society. Government's prolonged ban on peaceful religious assemblies implies that churches' core functions are not worth the risk, while indoor dining, visiting the art gallery, or going to the pub to watch the hockey game with friends, are worth the risk. The courts must remind government of its obligation to consider not only its statutory objective, but also its constitutional duties and limits in pursuing those objectives, manifested here as respect for the role of other spheres and a willingness and demonstrated effort to accommodate as much as possible.

12. Churches' ability to fulfil both their religious duties and their societal responsibilities may be legitimately inconvenienced by laws or regulations of general application, subject to the state's duty under the *Charter* to accommodate under s. 2(a) and s. 15. By the same

---

[8] *Reference re Secession of Québec,* [1998] 2 S.C.R. 217 ¶74 [emphasis added].

[9] *Reference re Secession of Québec* ¶52.

token, government's ability to fulfill its responsibilities may be legitimately "inconvenienced" by its obligation to respect religious institutions and practices (as in *Multani*[10] or *Loyola*[11]). This is the nature of a free and democratic society. In this mutually respectful relationship:

> state actors [must] be attentive to the capacity of the state to harm associational life. The state might cause harm when it acts… on behalf of a purportedly homogeneous "public interest." […] there can never be an all-encompassing "we" without an already present "them"; every consensus is, to some extent, based on antecedent acts of exclusion. It is not enough, then, to insist on mere neutrality regarding associational activities; we must be attentive to the possibility that state action will work to oppress group objects.[12]

13. The manner and practice of worship is at the core of what it means to be religious.[13] For Reformed Christians, as for the appellants, *communal* worship *physically present with others*, and the administration of the sacraments which involves *physically* eating *the same* bread and drinking *the same* wine are inherently mutual religious obligations which cannot be achieved by livestream. The state's interests may well impact these assemblies but must do so carefully, weighing the constitutional importance and priority of religious practices in citizens' lives. For Christians, the church is not a building, but rather the in-person assembly of worshippers. Corporate worship and partaking in the sacraments are the manifestation of the church's doctrines and the essence of its members' practices.

B. Institutional Pluralism Should be Addressed in the Final Stage of s. 1

14. As a constituent feature of a free and democratic society, institutional pluralism underpins the entire section 1 analysis and is most appropriately addressed explicitly in its final stage, whether conducted under the *Oakes* test, or under the *Doré* framework which "works the same justificatory muscles".[14] Chief Justice Dickson describes the purpose of this last "proportionality" stage as follows:

> Some limits on rights and freedoms protected by the *Charter* will be more serious

---

[10] *Multani v. Commission scolaire Marguerite-Bourgeoys*, 2006 SCC 6.

[11] *Loyola High School v. Quebec (Attorney General),* 2015 SCC 12.

[12] David Schneiderman, "Associational Rights, Religion, and the Charter" in Richard Moon, ed., *Law and Religious Pluralism in Canada* (Vancouver: UBC Press, 2008), at 72.

[13] *Beaudoin* BCSC ¶199.

[14] *Doré v. Barreau du Québec*, 2012 SCC 12 ¶5. See also *Loyola* ¶40.

> than others in terms of … the degree to which the measures which impose the limit trench upon the integral principles of a free and democratic society. Even if an objective is of sufficient importance … it is still possible that, because of the severity of the deleterious effects of a measure on individuals or groups, the measure will not be justified by the purposes it is intended to serve.[15]

15. Chief Justice Dickson sets the vision in describing a "second contextual element of interpretation of s. 1 … provided by the words 'free and democratic society'." Dickson expands: "The Court must be guided by the values and principles essential to a free and democratic society which I believe embody, to name but a few … respect for cultural and group identity, and faith in social … institutions which enhance the participation of individuals and groups in society." This is an institutionally pluralist vision. The underlying "values and principles of a free and democratic society" are the genesis of the rights and freedoms guaranteed by the *Charter* and the ultimate standard against which a limit on those rights must be shown, despite its effect, to be demonstrably justified.[16] "Faith in social institutions" requires government to respect and work with other institutions, dialoguing with, rather than dictating to, them. This is all the more important during times of crisis which call for sacrifice from individuals and civil society. Faith in (rather than suspicion of) those groups' institutions listens, accommodates, learns from, protects, and co-operates with them for the achievement of mutual societal goals.

16. Institutional pluralism takes more work on the part of government, but is the only way to protect minority rights. The Supreme Court warns, "there are occasions when the majority will be tempted to ignore fundamental rights in order to accomplish collective goals more easily or effectively. Constitutional entrenchment ensures that those rights will be given due regard and protection."[17]

17. A blanket ban on corporate worship services may be easier for government, but it is not equitable. It does not respect the other valuable and contributing institutions of society, and it is not the approach endorsed by our constitution. The self-interest bias of government itself is reflected in the fact that the impugned orders exempt governmental activities, while

---

[15] *Oakes* ¶71 [emphasis added].

[16] *Oakes* ¶64 [emphasis added] (source of all earlier quotes in this factum paragraph).

[17] *Reference re Secession of Québec* ¶74 [emphasis added].

absolutely banning in-person worship gatherings.[18] Government thus is not only prioritizing certain segments of society (e.g. economic relationships and activities) over others (e.g. religious relationships and activities), but is also prioritizing *government over society*. By placing itself at the top of a constitutional hierarchy, the executive branch of government is not respecting institutional pluralism.[19] The courts have a crucial role in re-asserting the constitutional role of non-state institutions precisely during times of emergency such as this, both to preserve those institutions' ability to contribute to a shared response to the emergency, and to ensure that mediating societal institutions continue to provide a counterpoint to an otherwise unchallenged state. Thus, at the final stage of the *Oakes*/*Doré* analysis, when the court considers and weighs the deleterious effects of the infringements with their salutary benefits,[20] the fact that the orders in question trench so deeply on the core of other key social institutions must weigh very heavily on the "deleterious" side of the scale.

C. <u>The Fundamental Freedoms Preserve Institutional Pluralism</u>

18. The *Charter's* fundamental freedoms structurally limit state authority and protect "social space" for an institutionally pluralistic society against usurpation by an ever-expanding state. This is particularly so in times of emergency where the political majority risks overlooking how minorities disproportionately bear the unintended harms of the majority's well-intentioned actions. "The guarantees of freedom of conscience and religion, the freedoms of expression, assembly, and association, all speak to the aim of

---

[18] E.g. Preamble K to the February 10, 2021 order (App. Appeal Bk. p. 1025) stated:

> "This Order does not apply to the Executive Council, the Legislative Assembly; a council, board, or trust committee of a local authority as defined under the Community Charter … court sittings wherever they occur; … [or] the use of any place for local government, provincial or federal election purpose …"

[19] Alvin Esau, "Living by Different Law: Legal Pluralism, Freedom of Religion, and Illiberal Religious Groups," in Richard Moon, ed., *Law and Religious Pluralism in Canada* (Vancouver: UBC Press, 2008), at 111: "When we affirm legal pluralism, we do not automatically think in *hierarchical* ways about the outside law of the state as superior and sovereign to the inside law of the church; rather, we think in more *horizontal* ways."

[20] Only the transmission reduction arising specifically from the religious assembly ban may be considered at this stage.

dispersing power to civic and religious associations while bringing groups together in the generation of public policy outcomes."[21] The Supreme Court concurs: "one of the key considerations motivating the enactment of the *Charter*, and the process of constitutional judicial review that it entails, is the protection of minorities…"[22]

19. Dickson C.J.C. writes that the uniting feature of the fundamental freedoms "is the notion of the centrality of individual conscience and the inappropriateness of governmental intervention to compel or to constrain its manifestation." He continues:

> … the centrality of the rights associated with freedom of individual conscience both to basic beliefs about human worth and dignity and to a free and democratic political system […] underlies their designation in the *Canadian Charter of Rights and Freedoms* as "fundamental". They are the *sine qua non* of the political tradition underlying the *Charter*."[23]

20. The Supreme Court has likewise held that these individual rights manifest in religious institutions, which also receive constitutional protection.[24] The fundamental freedoms in the *Charter* protect the manifestation of Canadians' beliefs, including the peaceful assemblies of citizens for religious purposes.

21. In a Supreme Court Law Review article concerning the heretofore under-developed freedom of assembly protected by s. 2(c), Nnaemeka Ezeani anticipates that:

> governments might as a result of the outbreak of [a] virus place restrictions on the gathering of … groups to curtail the spread. Freedom of assembly may be valuable in at least providing a way we could scrutinize the restrictions placed by the government were they to become too stringent.[25]

22. Ezeani quotes law professor John Inazu on how freedom of assembly better accounts for what is taking place than can freedom of expression or association:

> Many group expressions are only intelligible against the lived practices that give them meaning. The ritual and liturgy of religious worship often embody deeper meaning than an outside observer would ascribe them. The political significance of a women's pageant in the 1920's would be lost without

---

[21] Schneiderman, at 73.

[22] *Reference re Secession of Québec* ¶81.

[23] *Big M Drug Mart* ¶121 and ¶122.

[24] See *Loyola* ¶60 and *Mounted Police Assn. Of Ontario v. Canada*, 2015 SCC 1 ¶64.

[25] Nnaemeka Ezeani, "Understanding Freedom of Peaceful Assembly in the Canadian Charter of Rights and Freedoms", (2020) 98 SCLR (2d) 351-376, ¶24.

knowing why these women are gathered.[26]

23. Each of these examples are manifestations of institutional pluralism protected by the *Charter.* Individuals' political beliefs are worth little without the freedom to associate as an advocacy group and physically assemble in peaceful protests in appropriate places. Likewise, individual religious beliefs are worth little without the freedom to associate as a church and physically assemble together to manifest those beliefs.

D. <u>Compound *Charter* violations must be weighed cumulatively</u>

24. Courts should give due weight and attention to each of multiple infringements, as well as to the cumulative and intersectional impact upon all of them collectively, with a view to the harm inflicted on institutional pluralism. Professor Dwight Newman opines:

> What could appear to be a trivial infringement of one freedom might actually be more appropriately recognized as a more substantial infringement in the context of an intersectionality of different freedoms […] The possibility of such intersectional freedom infringement is a further reason to carry out independent development of each of the freedoms recognized within the section 2 fundamental freedoms clause -- only in doing so can we fully identify the full depth of impacts on human freedom arising from certain state actions."[27]

25. Another Supreme Court Law Review article argues that restricting the s. 1 analysis to only a single infringement, despite others being alleged, "unfairly puts the onus on claimants to pick their "best" *Charter* right or freedom and rely entirely on it" despite the fact that each *Charter* right or freedom protects "a distinct (though, at times, overlapping) good and each right or freedom has its own test."[28] The Supreme Court acknowledged in

---

[26] John D. Inazu, *Liberty's Refuge: The Forgotten Freedom of Assembly,* (New Haven, CT: Yale University Press, 2012) at pp. 2-3.

[27] Dwight Newman, "Interpreting Freedom of Thought in the Canadian Charter of Rights and Freedoms", (2019), 91 SCLR (2d) 107 – 122 ¶34-35; See also Jamie Cameron, "Big M's Forgotten Legacy of Freedom", (2020) 98 SCLR (2d) 15 – 45 ¶41-4 : "Minimizing the severity of the violation [by addressing only one freedom] demonstrated a lack of insight into the scope and severity of the breach and how it engaged section 2's guarantees as an integral whole…[This] can diminish the significance and severity of compound violations."

[28] André Schutten, "Recovering Community: Addressing Judicial Blindspots on Freedom of Association", (2020) 98 SCLR (2d) 399 – 430 ¶27.

Mounted Police, for example, that freedom of association is not merely derivative from freedom of religion but "stands as an *independent* right with *independent* content, essential to the development and maintenance of the vibrant civil society upon which our democracy rests".[29] And so subsuming freedom of peaceful assembly into freedom of religion "raises concerns regarding stagnation of the law and the effectiveness of peaceful assembly as an individual freedom."[30]

26. This Court's jurisprudence,[31] consistent with scholarly opinion,[32] already directs lower courts in the criminal context to weigh the *cumulative* effect of infringements of multiple *Charter* breaches of legal rights (in particular, sections 8, 9, and 10).

27. Other courts have also given particular consideration to the cumulative effect of multiple *Charter* violations in a context of search and seizure for the media at the intersection of sections 2(b) and 8:

> It is because of the fundamental importance of a free press in a democratic society that special considerations arise in applications to search media premises or to seize material from journalists […] the damaging effect of the search on the freedom and functioning of the press is highly relevant to the assessment of the reasonableness of the search.[33]

28. Similarly, in *Figueroa*, in which the Supreme Court invalidated a provision of the *Canada Elections Act* setting a minimum of 50 candidates to maintain registered party

---

[29] *Mounted Police* ¶49 [emphasis added].

[30] Basil S. Alexander, "Exploring a More Independent Freedom of Peaceful Assembly in Canada", (2017) 8:1 WJLS at p. 2.

[31] *R. v. Lauriente*, 2010 BCCA 72 ¶30: "these breaches did not occur in a vacuum…the trial judge was entitled to have regard to all of these breaches, both in placing the seriousness of the individual breaches in context, and … in determining whether this pattern of disregard of the *Charter* by the authorities could bring the administration of justice into disrepute."

[32] James Fontana and David Keeshan, *The Law of Search and Seizure in Canada*, 11th ed. (2019), Ch 24, §5: "courts are not to consider breaches of *Charter* rights in a vacuum… they should take into account the cumulative effect of multiple *Charter* breaches."

[33] *National Post v. Canada*, [2004] 178 O.J. (Sup. Ct.) ¶45, overturned, but not on this point.

status[34], the court noted the intersectional impact of the impugned law on sections 2(b) and section 3 of the *Charter*.

29. This intervener submits that this court should likewise weigh the cumulative and intersectional effect of the multiple s. 2 *Charter* infringements in the s. 1 analysis. The damaging effect of the impugned orders on *religious* assemblies in particular (in contrast to assembling merely for entertainment, for example) is highly relevant to the assessment of the sufficiency of the justification. The prohibition or severe limitations, not on peaceful assemblies generally, but on *religious* assemblies in particular – "communities of faith, the autonomous existence of which is indispensable for pluralism in a democratic society."[35] – requires particular judicial attention. The cumulative effect of the compound *Charter* infringements, particularly of section 2(a) and 2(c) of the *Charter* in this case, is a "double-barrelled infringement" and ought to be weighed as such.[36]

30. "Some aspects of a religion, like … basic sacraments, may be so sacred that any significant limit verges on forced apostacy."[37] When the severity of the infringements of multiple fundamental freedoms is as extreme as in the case at bar, and considering the principles of institutional pluralism discussed above, this last stage of the *Oakes*/*Doré* analysis must be robustly applied.

PART 4 – NATURE OF ORDER SOUGHT

31. The intervener seeks to present oral argument at the hearing of the appeal. It does not seek costs and asks that no order as to costs be made against it.

All of which is respectfully submitted at the City of Vancouver, Province of British Columbia, this 28th day of February, 2022.

Geoffrey Trotter, André Schutten, and Tabitha Ewert
Co-Counsel for the intervener ARPA Canada

---

[34] *Figueroa v. Canada (Attorney General)*, 2003 SCC 37 ¶26-29.

[35] *Mounted Police* ¶64.

[36] *R. v. Simpson,* (1993), 79 CCC (3d) 482 (Ont. C.A.) at 507.

[37] *Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37 ¶89.

LIST OF AUTHORITIES

Authorities	Factum Page	Factum Paragraph
Alberta v. Hutterian Brethren of Wilson Colony, 2009 SCC 37	10	30
Beaudoin v. British Columbia, 2021 BCSC 512	2, 4	7, 13
Doré v. Barreau du Québec, 2012 SCC 12	4	14
Ethiopian Orthodox Tewahedo Church of Canada St. Mary Cathedral v. Aga, 2021 SCC 22	2	7
Figueroa v. Canada (Attorney General), 2003 SCC 37	10	28
Highwood Congregation of Jehovah's Witnesses (Judicial Committee) v. Wall, 2018 SCC 26	2	7
Loyola High School v. Quebec (Attorney General), 2015 SCC 12	4, 7	12, 14, 20
Mounted Police Assn. Of Ontario v. Canada, 2015 SCC 1	7, 9, 10	20, 25, 29
Mouvement laïque québécois v. Saguenay (City), 2015 SCC 16	1, 2	4, 6
Multani v. Commission scolaire Marguerite-Bourgeoys, 2006 SCC 6	4	12
National Post v. Canada, [2004] 178 O.J. (Sup. Ct.)	9	27
R. v. Big M Drug Mart Ltd, [1985] 1 SCR 295	2, 7	5, 19
R. v. Lauriente, 2010 BCCA 72	9	26
R. v. Oakes, [1986] 1 SCR 103	2, 5	5, 14, 15
R. v. Simpson, (1993), 79 CCC (3d) 482 (Ont. C.A.)	10	29
Reference re Secession of Québec, [1998] 2 S.C.R. 217	3, 5, 7	8, 9, 16, 18
Syndicat Northcrest v. Amselem, 2004 SCC 47	2	7

Other (secondary sources)

SOURCE	**FACTUM PARAGRAPH**
Alvin Esau, “Living by Different Law: Legal Pluralism, Freedom of Religion, and Illiberal Religious Groups,” in Richard Moon, ed., *Law and Religious Pluralism in Canada* (Vancouver: UBC Press, 2008)	17
André Schutten, “Recovering Community: Addressing Judicial Blindspots on Freedom of Association”, (2020) 98 SCLR (2d) 399 – 430	25
Basil S. Alexander, “Exploring a More Independent Freedom of Peaceful Assembly in Canada”, (2017) 8:1 WJLS	25
Bruce Ryder, “State Neutrality and Freedom of Conscience and Religion” (2005), 29 SCLR (2d) ¶17.	2
David Schneiderman, “Associational Rights, Religion, and the Charter” in Richard Moon, ed., *Law and Religious Pluralism in Canada* (Vancouver: UBC Press, 2008)	12
Dwight Newman, “Interpreting Freedom of Thought in the Canadian Charter of Rights and Freedoms”, (2019), 91 SCLR (2d) 107 – 122	24
James Fontana and David Keeshan, *The Law of Search and Seizure in Canada*, 11th ed. (2019), Ch 24, §5	26
Jamie Cameron, “Big M's Forgotten Legacy of Freedom”, (2020) 98 SCLR (2d) 15 – 45	24