

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

BETWEEN:

JOHN MICHAEL KAPP, ROBERT AGRICOLA, WILLIAM ANDERSON,
ALBERT ARMSTRONG, DALE ARMSTRONG, LLOYD JAMES ARMSTRONG,
PASHA BERLAK, KENNETH AXELSON, MICHAEL BEMI, LEONARD BOTKIN,
JOHN BRODIE, DARRIN CHUNG, DONALD CONNORS, BRUCE CROSBY,
BARRY DOLBY, WAYNE ELLIS, WILLIAM GAUNT, GEORGE HORNE, HON VAN LAM,
WILLIAM LESLIE SR., BOB M. MCDONALD, LEONA MCDONALD,
STUART MCDONALD, RYAN MCEACHERN, WILLIAM MCISAAC,
MELVIN (BUTCH) MITCHELL, RITCHIE MOORE, GALEN MURRAY,
DENNIS NAKUTSURU, THEODORE NEEF, DAVID LUKE NELSON, PHUOC NGUYEN,
NUNG DUC GIA NGUYEN, RICHARD NOMURA, VUI PHAN, ROBERT POWROZNIK,
BRUCE PORBERT, LARRY SALMI, ANDY SASIDIAK, COLIN R. SMITH,
DONNA SONNENBERG, DEN VAN TA, CEDRIC TOWERS, THANH S. TRA,
GEORGE TUDOR, MERVIN TUDOR, DIEU TO VE, ALBERT WHITE,
GARY WILLIAMSON, JERRY A. WILLIAMSON, SPENCER J. WILLIAMSON,
KENNY YOSHIKAWA, DOROTHY ZILCOSKY and ROBERT ZILCOSKY

APPELLANTS (APPELLANTS)

- AND -

HER MAJESTY THE QUEEN

RESPONDENT (RESPONDENT)

- AND -

ATTORNEY GENERAL OF NEW BRUNSWICK, ATTORNEY GENERAL OF ALBERTA,
PROCUREUR GÉNÉRAL DU QUÉBEC, ATTORNEY GENERAL OF ONTARIO,
ATTORNEY GENERAL OF SASKATCHEWAN, TSAWWASSEN FIRST NATION,
NEE TAHI BUHN INDIAN BAND, ATLANTIC FISHING INDUSTRY ALLIANCE,
JAPANESE CANADIAN FISHERMENS ASSOCIATION,
SPORTFISHING DEFENCE ALLIANCE, B.C. SEAFOOD ALLIANCE,
PACIFIC SALMON HARVESTERS SOCIETY,
ABORIGINAL FISHING VESSEL OWNERS ASSOCIATION, UNITED FISHERMEN
AND ALLIED WORKERS UNION, SONGHEES INDIAN BAND,
MALAHAT FIRST NATION, T'SOU-KE FIRST NATION, SNAW-NAW-AS (NANOOSE)
FIRST NATIONS, BEECHER BAY INDIAN BAND, ASSEMBLY OF FIRST NATIONS,
HAISLA NATION, COWICHAN TRIBES, HEILTSUK NATION,
MUSQUEAM INDIAN BAND, and the TSESHAHT FIRST NATION

INTERVENERS

FACTUM OF THE INTERVENER
THE ATTORNEY GENERAL FOR SASKATCHEWAN

R. James Fyfe

Agent for the Attorney General for Saskatchewan
Constitutional Law
820, 1874 Scarth Street
REGINA SK S4P 4B3
Tel: (306) 787-7886
Fax: (306) 787-9111
Email: jfyfe@justice.gov.sk.ca

Counsel for the Respondent,
Attorney General for Saskatchewan

PUBLIC PROSECUTION SERVICE OF CANADA

3400 - 130 King Street West
TORONTO ON M5X 1K6

Per: Croft Michaelson and Paul Riley
Tel: (416) 952-7261 / (604) 666-0704
Fax: (416) 973-3004 / (604) 666-1599
Email: croft.michaelson@justice.gc.ca
paulriley@ppsc-sppc.ca

Counsel to the Respondent

WEIRFOULDS LLP

1600 - 130 King Street West
TORONTO ON M5X 1J5

Per: Bryan Finlay, Q.C.
Tel: (416) 365-1110
Fax: (416) 365-1876
Email: bfinlay@weirfoulds.com

Counsel to the Appellants

ATTORNEY GENERAL OF NEW BRUNSWICK

Centennial Building
P.O. Box 6000, Station A
FREDERICTON NB E3B 5H1

Per: John G. Furey
Tel: (506) 453-2222
Fax: (506) 453-3275
Email: john.furey@gnb.ca

Counsel to the Intervener,
Attorney General of New Brunswick

Henry S. Brown, Q.C.

Gowling Lafleur Henderson LLP
Suite 2600, 160 Elgin Street
OTTAWA ON K1P 1C3

Tel: (613) 786-0139
Fax: (613) 563-9869
Email: henry.brown@gowlings.com

Ottawa Agent to Counsel for the Respondent

BRIAN J. SAUNDERS

Acting Director of Public Prosecutions
284 Wellington Street
OTTAWA ON K1A 0H8

Per: François Lacasse
Tel: (613) 957-4770
Fax: (613) 941-7865
Email mmajor@langmichener.ca

Ottawa Agent to Counsel for the Respondent

GOWLING LAFLEUR HENDERSON LLP

2600 - 160 Elgin Street
OTTAWA ON K1P 1C3

Per: Henry S. Brown, Q.C.
Tel: (613) 233-1781
Fax: (613) 563-9869
Email: henry.brown@gowlings.com

Ottawa Agent to Counsel for the Appellants

GOWLING LAFLEUR HENDERSON LLP

2600 - 160 Elgin Street
OTTAWA ON K1P 1C3

Per: Brian A. Crane, Q.C.
Tel: (613) 786-0107
Fax: (613) 788-3500
Email: brian.crane@gowlings.com

Ottawa Agent to Counsel for the Intervener,
Attorney General of New Brunswick

ATTORNEY GENERAL OF ALBERTA

4th Floor, Bowker Building
9833 - 109 Street
EDMONTON AB T5J 3S8

Per: Robert J. Normey
Tel: (780) 422-9532
Fax: (780) 425-0307
Email: robert.normey@gov.ab.ca

Counsel to the Intervener,
Attorney General of Alberta

PROCUREUR GÉNÉRAL DU QUÉBEC

1200, Route de l'Église
STE-FOY QC G1V 4M1

Per: Isabelle Harnois
Tel: (418) 643-1477
Fax: (418) 646-1696

Counsel to the Intervener,
Attorney General of Québec

ATTORNEY GENERAL OF ONTARIO

720 Bay Street
TORONTO ON M5G 2K1

Per: Sarah Kraicer
Tel: (416) 326-8517
Fax: (416) 326-4015

Counsel to the Intervener,
Attorney General of Ontario

BLAKE CASSELS & GRAYDON LLP

Suite 2600, Three Bentall Centre
595 Burrard Street, Box 49314
VANCOUVER BC V7X 1L3

Per: Maria Morellato and
Joanne Lysyk
Tel: (604) 631-3324
Fax: (604) 631-3309

GOWLING LAFLEUR HENDERSON LLP

Gowling Lafleur Henderson LLP
2600 - 160 Elgin Street
OTTAWA ON K1P 1C3

Per: Henry S. Brown, Q.C.
Tel: (613) 233-1781
Fax: (613) 563-9869
Email: henry.brown@gowlings.com

Ottawa Agent to Counsel for the Intervener,
Attorney General of Alberta

NOËL & ASSOCIÉS

111, rue Champlain
GATINEAU QC J8X 3R1

Per: Pierre Landry
Tel: (819) 771-7393
Fax: (819) 771-5397
Email: p.landry@noelassociés.com

Ottawa Agent to Counsel for the Intervener,
Attorney General of Québec

BURKE-ROBERTSON

70 Gloucester Street
OTTAWA ON K2P 0A2

Per: Robert E. Houston, Q.C.
Tel: (613) 236-9665
Fax: (613) 235-4430

Ottawa Agent to Counsel for the Intervener,
Attorney General of Ontario

GOWLING LAFLEUR HENDERSON LLP

2600 - 160 Elgin Street
OTTAWA ON K1P 1C3

Per: Brian Crane, Q.C.
Tel: (613) 786-0212
Fax: (613) 788-3500

Counsel to the Intervener,
Heiltsuk Nation and
Musqueam Indian Band

Ottawa Agent to Counsel for the Intervener,
Heiltsuk Nation and
Musqueam Indian Band

ARVAY FINLAY
1350 - 355 Burrard Street
VANCOUVER BC V6C 2G8

LANG MICHENER LLP
300 - 50 O'Connor Street
OTTAWA ON K1P 6L2

Per: Joseph J. Arvay, Q.C.
Tel: (604) 689-4421
Fax: (604) 687-1941

Per: Jeffrey W. Beedell
Tel: (613) 232-7171
Fax: (613) 231-3191
Email: jbeedell@langmichener.ca

Counsel to the Intervener,
Tsawwassen First Nation

Ottawa Agent to Counsel for the Intervener,
Tsawwassen First Nation

DONOVAN & COMPANY
73 Water Street
6th Floor
VANCOUVER BC V6B 1A1

GOWLING LAFLEUR HENDERSTON LLP
2600 - 160 Elgin Street
P.O. Box 466, Stn D
OTTAWA ON K1P 1C3

Per: Allan Donovan
Tel: (604) 688-4272
Fax: (604) 688-4282

Per: Brian A. Crane, Q.C.
Tel: (613) 786-0107
Fax: (613) 788-3500
Email: brian.crane@gowlings.com

Counsel to the Intervener,
Haisla Nation

Ottawa Agent to Counsel for the Intervener,
Haisla Nation

COOK, ROBERTS LLP
7th Floor - 1175 Douglas Street
VICTORIA BC V8W 2E1

GOWLING LAFLEUR HENDERSON LLP
2600 - 160 Elgin Street
P.O. Box 466, Stn D
OTTAWA ON K1P 1C3

Per: Robert J.M. Janes
Tel: (250) 385-1411
Fax: (250) 413-3300

Per: Brian A. Crane, Q.C.
Tel: (613) 786-0107
Fax: (613) 788-3500
Email: brian.crane@gowlings.com

Counsel to the Interveners,
Songhees Indian Band
Malahat First Nation, T'Sou-Ke First Nation
and Snaw-Naw-As (Nanoose) First Nation
and Beecher Bay Indian Band
(collectively Te'Mexw Nations)

Ottawa Agent for Counsel for the Interveners
Songhees Indian Band
Malahat First Nation, T'Sou-Ke First Nation
and Snaw-Naw-As (Nanoose) First Nation
and Beecher Bay Indian Band
(collectively Te'Mexw Nations)

RATCLIFF & COMPANY

500 - 221 West Esplanade
NORTH VANCOUVER BC V7M 3J3

Per: F. Matthew Kirchner
Tel: (604) 988-5201
Fax: (604) 988-1452

Counsel for the Intervener
Cowichan Tribes

J. KEITH LOWES

Suite 4076, 535 Howe Street
VANCOUVER BC V6C 2Z4

Per: J. Keith Lowes
Tel: (604) 681-8461
Fax: (604) 638-0116

Counsel for the Interveners Sportfishing
Defence Alliance, B.C. Seafood Alliance,
Pacific Salmon Harvesters Society, Aboriginal
Fishing Vessel Owners Association and
United Fishermen and Allied Workers Union

**CANADIAN CONSTITUTION
FOUNDATION**

235, 3545 - 32 Avenue NE
Suite 641
CALGARY AB T1Y 6M6

Per: John Carpay
Tel: (403) 592-1731
Fax: (403) 592-1459

Counsel for the Intervener
Japanese Canadian
Fishermens Association

GOWLING LAFLEUR HENDERSON LLP

2600 - 160 Elgin Street
P.O. Box 466, Stn D
OTTAWA ON K1P 1C3

Per: Brian A. Crane, Q.C.
Tel: (613) 786-0107
Fax: (613) 788-3500
Email: brian.crane@gowlings.com

Ottawa Agent for Counsel for the Intervener
Cowichan Tribes

FRASER MILNER CASGRAIN LLP

1420 - 99 Bank Street
OTTAWA ON K1P 1H4

Per: K. Scott McLean
Tel: (613) 783-9600
Fax: (613) 783-9690
Email: scott.mclean@fmc-law.com

Ottawa Agent for Counsel for the Interveners
Sportfishing Defence Alliance, B.C. Seafood
Alliance, Pacific Salmon Harvesters Society,
Aboriginal Fishing Vessel Owners Association
and United Fishermen and Allied Workers Union

GOWLING LAFLEUR HENDERSON LLP

2600 - 160 Elgin Street
P.O. Box 466, Stn D
OTTAWA ON K1P 1C3

Per: Chris Schafer
Tel: (613) 786-0221
Fax: (613) 788-3636
Email: christopher.schafer@gowlings.com

Ottawa Agent for Counsel for the Intervener
Japanese Canadian Fishermens Association

FASKEN MARTINEAU DUMOULIN LLP

2100 - 1075 Georgia Street W.
VANCOUVER BC V6E 3G2
Per: Kevin O'Callaghan
Tel: (604) 631-3131
Fax: (604) 631-3232

Counsel for the Intervener
Atlantic Fishing Industry Alliance

BULL, HOUSSEY & TUPPER LLP

3000 - 1055 West Georgia Street
VANCOUVER BC V6E 3R3
Per: Ryan D.W. Dalziel
Tel: (604) 641-4881
Fax: (604) 646-2671

Counsel for the Intervener
Nee Tahi Buhn Indian Band

BRAKER & COMPANY

Suite 1108 - 100 Park Royal
WEST VANCOUVER BC V7T 1A2
Per: Hugh M.G. Braker
Tel: (604) 926-0601
Fax: (604) 926-0611

Counsel for the Intervener
Tseshah First Nation

PITBLADO LLP

2500 - 360 Main Street
WINNIPEG MB R3C 4H6
Per: Bryan P. Schwartz
Tel: (204) 956-0560
Fax: (204) 957-0227
Email: bschwar@ms.umanitoba.ca

Counsel for the Intervener
Assembly of First Nations

FASKEN MARTINEAU DUMOULIN LLP

1700 - 275 Slater Street
OTTAWA ON K1P 5H9
Per: Stephen B. Acker
Tel: (613) 236-3882
Fax: (613) 230-6423

Ottawa Agent for Counsel for the Intervener
Atlantic Fishing Industry Alliance

GOWLING LAFLEUR HENDERSON LLP

2600 - 160 Elgin Street
OTTAWA ON K1P 1C3
Per: Brian A. Crane, Q.C.
Tel: (613) 786-0107
Fax: (613) 788-3500

Ottawa Agent for Counsel for the Intervener
Nee Tahi Buhn Indian Band

LANG MICHENER LLP

300 - 50 O'Conner Street
OTTAWA ON K1P 6L2
Per: Marie-France Major
Tel: (613) 232-7171
Fax: (613) 231-3191
Email: mmajor@langmichner.ca

Ottawa Agent for Counsel for the Intervener
Tseshah First Nation

LANG MICHENER LLP

300 - 50 O'Conner Street
OTTAWA ON K1P 6L2
Per: Marie-France Major
Tel: (613) 232-7171
Fax: (613) 231-3191
Email: mmajor@langmichner.ca

Ottawa Agent for Counsel for the Intervener
Assembly of First Nations

TABLE OF CONTENTS

	<u>Page</u>
I. STATEMENT OF FACTS	1
II. ISSUES ON APPEAL	1
III. ARGUMENT	2
A. Introduction	2
B. Reasons for Saskatchewan's Intervention	2
C. The PSP is not Discriminatory	4
1. The Appellants are not Denied a Benefit	4
2. The Dignity Analysis Cannot be Short-Circuited	5
3. Social, Political and Legal Context	8
i. Social	8
ii. Political	11
iii. Legal	12
4. Pre-Existing Disadvantage	12
5. Correspondence Between Needs and Capacities	12
i. Correspondence to the Appellants' Needs and Circumstances	13
ii. Correspondence to the Comparator Groups' Needs and Circumstances	15
6. Ameliorative Purpose or Effect	16
7. Nature of the Interest Affected	17
D. Section 25 of the <i>Charter</i> is not Applicable	18
IV. COSTS	22
V. NATURE OF ORDER REQUESTED	22

VI.	LIST OF AUTHORITIES	23
VII.	STATUTORY PROVISIONS	25
VIII.	APPENDIX “A”	26

PART I

STATEMENT OF FACTS

1. The Attorney General for Saskatchewan (“Saskatchewan”) adopts the Statement of Facts presented at pages 1 to 23 of the Respondent’s Factum.

2. Saskatchewan participates in this appeal by virtue of a Notice of Intention to Intervene, dated May 1, 2007, and filed with this Honourable Court.

PART II

ISSUES ON APPEAL

3. The constitutional questions stated by the Court are set out at page 24 of the Respondent’s Factum, and need not be repeated here.

4. Saskatchewan will not address the *vires* question, as it has been abandoned by the Appellants. Though the applicability of section 25 of the *Canadian Charter of Rights and Freedoms* (“*Charter*”) to the impugned Pilot Sales Program (“PSP”) was not stated as a constitutional question by the Court, both the Appellants and the Respondent have dedicated significant attention to that issue in their Factums. As a result, Saskatchewan will also address that issue.

PART III

ARGUMENT

A. Introduction

5. Saskatchewan submits that the impugned provisions of the *Aboriginal Communal Fishing Licences Regulations* and *Fishery Regulations*, and specifically the PSP implemented thereunder, do not violate section 15 of the *Charter*. The bulk of Saskatchewan's argument in this regard is that the PSP is not discriminatory according to the third stage of the test set out in *Law v. Canada*.¹ Saskatchewan also submits that section 25 of the *Charter* has no application to this case as the PSP does not fall within the meaning of "other rights or freedoms" in that provision.

B. Reasons for Saskatchewan's Intervention

6. Saskatchewan has implemented a number of programs targeted at improving the economic and social conditions of the First Nations and Métis people within the Province. A number of those programs are administered through the Department of First Nations and Métis Relations, and include:

- * The *First Nations and Métis Relations Development Program*, under which Aboriginal people can obtain funding for business development;
- * The *Aboriginal Grants Initiative*, which provides grants for First Nations and Métis events, projects and other initiatives related to youth leadership, cultural promotion and activities, Aboriginal women and Aboriginal veterans, and literacy;

¹ [1999] 1 S.C.R. 497.

- * The *Aboriginal Urban Management Authorities Program* provides financial assistance to facilitate the development of Aboriginal service delivery institutions at the community level;
- * The *First Nations and Métis Women's Initiative*, which provides funding to Aboriginal women's organizations to undertake special projects and policy development activities to benefit their respective memberships; and
- * The *Aboriginal Employment Development Program*, which works to address high unemployment rates in the Aboriginal community by partnering with employers to remove barriers to Aboriginal employment.²

7. The outcome of the present appeal, both in relation to section 15 and section 25 of the *Charter*, may have a significant impact on how Saskatchewan develops and administers such programs in the future.

8. The issues raised in this appeal also bear on a recent section 15 challenge in Saskatchewan. In *Ochapowace Indian Band v. Saskatchewan (Department of Community Resources)*, a provision of *The Child and Family Services Act* that allows for band chiefs to have standing at child protection hearings of children who are both band members and status Indians was challenged under s.15 as discriminating against non-status Indian children, who are not included under the provision.³ Relying primarily on this Court's decision in *Lovelace v. Ontario*, Sandomirsky J. dismissed the challenge on the basis of the provision's correspondence to and amelioration of the conditions of an historically

² Appendix "A" - Saskatchewan Department of First Nations and Métis Relations, Programs and Services.

³ [2007] 2 C.N.L.R. 261 (Sask. Q.B.).

disadvantaged group. Saskatchewan submits that this Court's analysis in the present matter may have a bearing on *Ochapowace* when it is heard by the Saskatchewan Court of Appeal in 2008.

C. The PSP is not Discriminatory

1. The Appellants are not Denied a Benefit

9. Though Saskatchewan's focus in this Factum is not on the question of whether the Appellants have been denied a benefit under section 15, we would like to refer the Court to a recent Federal Court of Appeal decision that may assist the Court in dealing with that issue.

10. *Moresby Explorers Ltd. v. Canada (Attorney General)* involved a s. 15 challenge by a non-Aboriginal person to the regulation of commercial touring operations in the Queen Charlotte Islands in British Columbia.⁴ The applicant in that case owned and operated a business providing kayak rentals, transportation, overnight tours and guides for kayak and dive operations in the region. The region is managed by the Canadian Parks Service but is subject to a comprehensive land claim by the Haida Nation. In 1993, Canada and the Haida Nation entered into an agreement to cooperatively manage the area. A board was created to review activities in the park which led to caps and quotas being placed on tours with a view to protecting the island's ecological integrity. The board also established the "Haida Allocation Policy", which set aside one-third of the overall user quota to Haida-owned touring businesses. The applicant continued to receive his tour operator licence and quota.

⁴ *Moresby Explorers Ltd. v. Canada (Attorney General)*, 2006 FCA 144.

He argued, however, that the Policy violated his right to equality because it treated him differently than Haida persons on the basis of race or ethnic origin.

11. Pelletier J.A. concluded that the applicant was not denied a benefit:

The difficulty with Mr. Gould's claim is that he is unable to establish that he has been the object of differential treatment because he has his licence and his quota. Consequently, the Haida Allocation Policy does not result in differential treatment between him and a person of Haida ancestry seeking to obtain a licence to do business in the park.⁵

12. As with the Haida Allocation Policy, the PSP is part of an overall scheme allocating licences or resources to different user groups. And as with the applicant in *Moresby*, the Appellants are allocated commercial licences and significant access to the resource. Indeed, from 1992 to 1998, the non-PSP allocation comprised a large majority of the overall commercial fishing allocation in Area E.⁶ Saskatchewan submits that *Moresby* supports Low J.A.'s conclusion in the Court below that the PSP does not deny the Appellants a benefit.

2. The Dignity Analysis Cannot be Short-Circuited

13. At pages 19 to 26 of their Factum, the Appellants argue that the third stage of the *Law* test, which considers whether dignity has been impaired, need not be applied in the present matter because the impugned Program creates a racial distinction. In their view, where such distinctions are identified, the analysis can move directly to section 1 and by-pass the third stage of the *Law* test.

⁵ *Supra*, at para. 9.

⁶ Low J.A., *Appellants' Record*, Vol. I, at para. 49.

Saskatchewan submits that the Appellants' view of the law is inconsistent with section 15 jurisprudence.

14. The Appellants rely primarily on selected quotes from *Law* and from Arbour J.'s reasons in *Lavoie v. Canada*.⁷ Neither of these cases support the Appellants' position. Nowhere in *Law* does the Court state that the dignity factors can be by-passed. While the Court acknowledged that it may be easier to establish discrimination where a law draws a formal distinction based on an enumerated or analogous ground, it stated that "[i]n every case [...] a court's central concern will be with whether a violation of human dignity has been established, in light of the historical, social, political, and legal context of the claim."⁸

15. Thus Arbour J.'s view in *Lavoie* that a contextual inquiry can be short-circuited for race-based distinctions, is inconsistent with *Law*. Her view was not adopted by any other member of the Court and was expressly rejected by Bastarache J.. He correctly pointed out that her approach implies a hierarchy of grounds that finds no support in the *Charter*, and leaves open the question of how a hierarchy could be rationalized.⁹

⁷ *Law, supra*, at para. 83; *Lavoie v. Canada*, [2002] 1 S.C.R. 769 at para. 83.

⁸ *Law, supra*, at paras. 83 [emphasis added] & 38. See also *Andrews v. Law Society of British Columbia*, [1989] 1 S.C.R. 143 at 182 ("[...] it is not enough to focus only on the alleged ground of discrimination and decide whether it is an enumerated or analogous ground"); *Lovelace v. Ontario*, [2000] 1 S.C.R. 950 at para. 55 ("[i]n appreciation of the depth and complexity of the human dignity interest, the discrimination inquiry demands a full contextual analysis"); *Gosselin v. Quebec*, [2002] 4 S.C.R. 429 at para. 110 ("[t]he proper focus of analysis is on the effects of discrimination, not on the categorization of grounds").

⁹ *Lavoie, supra*, at paras. 41 & 51.

16. Furthermore, the Appellants' suggested approach is formalistic and flies in the face of this Court's acknowledgment that distinctions based on enumerated or analogous grounds may be respectful of dignity by taking differences into account or by furthering ameliorative purposes.¹⁰

17. Finally, this Court has not adopted the United States Supreme Court's "strict scrutiny" approach for racial classifications (as evidenced by its decision in *Lovell*). McIntyre J. recognized in *Andrews* that both the American Constitution and the *European Convention on Human Rights* contain no limiting provisions equivalent to section 1 of the *Charter*. As result, judicial consideration under those documents has led to varying levels of scrutiny within the equality analysis.¹¹ As noted by Professor Hogg, "the American cases are not directly relevant to the *Canadian Charter of Rights*, because the interaction of ss. 15, 28 and 1 of the *Charter* call for the development of indigenous Canadian doctrine."¹²

18. Saskatchewan encourages this Court to expressly reject the Appellants' submission that the third stage of the *Law* test can be short-circuited in the present matter.

¹⁰ *Weatherall v. Canada (Attorney General)*, [1993] 2 S.C.R. 872 at 877-878; *Eaton v. Brant County Board of Education*, [1997] 1 S.C.R. 241 at para. 66.

¹¹ *Andrews, supra*, at 177.

¹² Peter W. Hogg, *Constitutional Law of Canada*, 5th ed. (looseleaf) (Toronto: Carswell, 2006) at 52-8.

3. Social, Political and Legal Context

19. This Court highlighted in *Law* how it has stressed in previous cases, particularly *Andrews*, the importance of applying section 15 purposively by “taking into account the full social, political, and legal context of the claim.”¹³ Saskatchewan acknowledges that there are relevant contextual facts in the present matter relating specifically to the Appellants: for example, the history of the non-Aboriginal fishery on the Fraser River is an important piece of the social context. However, this matter also requires consideration of the social circumstances of Aboriginal peoples in Canada; the political relationship between Canada and First Nations underlying the Aboriginal Fisheries Strategy (“AFS”) and the PSP; and the broader legislative context relating to the regulation of coastal fisheries. When assessed in the light of that context, it becomes clear that while the PSP might understandably frustrate and cause hard feelings among the Appellants, it does not violate their essential human dignity.

i. Social

20. In Saskatchewan’s view, it is highly significant that the PSP is targeted at Aboriginal groups. In *Corbiere v. Canada*, L’Heureux-Dubé J. stated that the subjective-objective perspective for section 15 analysis recognizes not only the circumstances of the claimant and those like him or her, “but also

¹³ *Law, supra*, at para. 30.

appreciates the situation of others.”¹⁴ She stressed the importance of such consideration where Aboriginal people are concerned:

[I]n the case of equality rights affecting Aboriginal people and communities, the legislation in question must be evaluated with special attention to the rights of Aboriginal peoples, the protection of the Aboriginal and treaty rights guaranteed in the Constitution, the history of Aboriginal people in Canada, and with respect for and consideration of the cultural attachment and background of all Aboriginal women and men.¹⁵

21. In both *Corbiere* and *Lovelace*, this Court acknowledged that all Aboriginal peoples in Canada have been affected by a “legacy of stereotyping and prejudice.”¹⁶ In *Lovelace*, the Court also found that Aboriginal peoples “experience high rates of unemployment and poverty, and face serious disadvantages in the areas of education, health, and housing.”¹⁷ The challenges facing Aboriginal People were exhaustively examined in the over 3000 page *Report of the Royal Commission on*

¹⁴ *Corbiere v. Canada (Minister of Indian and Northern Affairs)*, [1999] 2 S.C.R. 203 at para. 65.

¹⁵ *Ibid.*, at para. 67.

¹⁶ *Ibid.*, at para. 66; *Lovelace, supra*, at para. 69.

¹⁷ *Ibid.*

Aboriginal Peoples, and have been the subject of concern in a number of United Nations reports.¹⁸

In *R. v. Sparrow*, this Court poignantly summarized the history of Aboriginal people in Canada:

And there can be no doubt that over the years the rights of the Indians were often honoured in the breach [...]. As MacDonald J. stated in *Pasco v. Canadian National Railway Co.* [...]: “We cannot recount with much pride the treatment accorded to the native people of this country.”¹⁹

22. Saskatchewan acknowledges that First Nations in Canada may suffer from varying levels of disadvantage. However, there is little basis in the present matter to conclude that the Musqueam, Tsawwassen or Burrard Bands (“MTB”) have stepped outside the legacy of disadvantage described by the Court in *Corbiere* and *Lovelace*.

23. One further piece of the social context is the historic and cultural value of the fishery to Aboriginal people, which was recognized by Brenner C.J. in the Court below.²⁰ Saskatchewan would

¹⁸ *Report of the Royal Commission on Aboriginal Peoples* (Ottawa: Canada Communication Group, 1996); U.N. Committee on the Elimination of Racial Discrimination, *Concluding observations of the Committee on the Elimination of Racial Discrimination* (Canada), CERD/C/CAN/CO/18, March 2007 at para. 21 (“the Committee remains concerned at the extent of the dramatic inequality in living standards still experienced by Aboriginal peoples”); U.N. Committee on Economic, Social and Cultural Rights, *Concluding Observations of the Committee on Economic, Social and Cultural Rights* (Canada), E/C.12/CAN/CO/5, 19 May 2006 at paras. 11(d) & 15; U.N. Economic and Social Council, *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people* (Canada), E/CN.4/2005/88/Add.3, 2 December 2004.

¹⁹ *R. v. Sparrow*, [1990] 1 S.C.R. 1075 at 1103.

²⁰ *Applicants’ Record*, Vol. I, page 133 at para. 51.

add that the significance of fishing is evidenced in its inclusion as a protected avocation in a number of historical treaties between the Crown and Aboriginal people in Canada.²¹

ii. Political

24. In Saskatchewan's view, there is a large and important political component to the AFS and PSP. As outlined in the Respondent's Factum, the AFS was developed as a strategy to negotiate agreements with First Nations to cooperatively manage the fishery. It has been described by Canada as forming the basis for "'a new social contract' among government, Aboriginal people and non-Native fishing groups."²² This was in response to a long history of conflict with Aboriginal peoples over regulation of the fishery, as well as the *Sparrow* decision, which left unanswered questions about the potential scope of Aboriginal fishing rights (the Musqueam, Tsawwassen and Hupacasath First Nations claim an Aboriginal right to fish commercially). Saskatchewan views it as particularly relevant that Canada has been in the process of negotiating treaties with First Nations in British Columbia, and that the PSP was a test initiative that might be incorporated into those treaties.

²¹ *R. v. Marshall*, [1999] 3 S.C.R. 456 (treaty right to fish and trade to earn a moderate livelihood); see also, Robinson-Huron Treaty and Treaties No. 3, 4 and 6 in Alexander Morris, *The Treaties of Canada with the Indians* (Toronto: Coles, 1971).

²² *Applicants' Record*, Vol. X, at p. 1759.

iii. Legal

25. The Court in *Law* directed that “the larger context of the legislation in question” must be considered as part of the dignity analysis.²³ As Low J.A. noted in the Court below, the overall fishery is subject to regulation under which the Appellants can and do fish commercially under licence.²⁴ The AFS is a national program that applies to the fishery in British Columbia, Atlantic Canada and the North. The Federal Court of Appeal in *Chippewas of Nawash First Nation v. Canada* described the AFS as having “an ameliorative aim to improve the life of Aboriginals, as well as to regulate and manage the fishery industry.”²⁵

4. Pre-Existing Disadvantage

26. The Appellants do not claim pre-existing disadvantage, stereotyping or prejudice.

5. Correspondence Between Needs and Capacities

27. Saskatchewan highlights the following principles that inform this dignity factor:

²³ *Law*, *supra*, at para. 59.

²⁴ Reasons of Low J.A., *Applicants’ Record*, Vol. I, at para. 81.

²⁵ *Chippewas of Nawash First Nation v. Canada (Minister of Fisheries & Oceans)*, [2003] 2 C.N.L.R. 78 at paras. 6, 7, 8 & 48, leave to appeal to SCC refused, [2003] 4 C.N.L.R. iv (note).

- * the court must consider the needs, capacity and circumstances of the applicant's group, but also the needs, capacity and circumstances of the comparator group;²⁶
- * legislation need not correspond perfectly with social reality in order to comply with section 15(1) of the *Charter*;²⁷
- * A more precise correspondence will likely be important where the individual or group which is excluded by the legislation is already disadvantaged or vulnerable within Canadian society;²⁸
- * Parliament is entitled to premise remedial legislation upon informed generalizations without running afoul of section 15(1);²⁹

i. Correspondence to the Appellants' Needs and Circumstances

28. Saskatchewan submits that the impugned legislation and program need not correspond perfectly to the Appellants' needs and circumstances, particularly since they are not members of a historically disadvantaged or vulnerable group.

29. Even so, the overall regulation of the fishery does take into account the Appellants' needs and circumstances. As Low J.A. noted in the Court below, the Appellants are accorded significant access to the resource as part of the general commercial fishery. The PSP represented less than twenty

²⁶ *Tomasson v. Canada (A.G.)*, 2007 FCA 265 at para. 111; *Corbiere, supra*, at para. 65.

²⁷ *Law, supra*, at para. 106; *Gosselin v. Quebec (Attorney General)*, [2002] 2 S.C.R. 429 at para. 55; *Tomasson, supra* at para. 120.

²⁸ *Law, supra*, at para. 106; *Lovelace, supra*, at para. 83.

²⁹ *Law, supra*, at para. 106.

percent of the combined Area “E” commercial and PSP catch.³⁰ This may persuade the Court that the Appellants have not been denied a benefit. Saskatchewan submits that, at the very least, it is particularly relevant for the correspondence analysis. The PSP is limited in terms of duration (24 hours) and quantity of catch. It allows for a continued and proportionately far larger general commercial fishery, thereby taking into account the needs and circumstances of the Appellants.

30. In the recent case of *Tomasson v. Canada*, the Federal Court of Appeal considered a section 15 challenge to the maternity benefits provisions of the federal *Employment Insurance Act*. The claimant argued that the *Act* violates section 15 because it grants parental and maternity benefits to biological mothers, while only providing parental benefits to adoptive mothers. Writing for a unanimous Court, Nadon J.A. was particularly impressed that adoptive mothers, while being accorded differential treatment, are nevertheless beneficiaries under the legislation:

In my view, when the legislation is considered in its entire context, it becomes impossible to argue that in enacting the maternity benefits provisions, Parliament has demeaned adoptive mothers or cast any doubt on their worthiness as human beings. Not only have adoptive mothers not been excluded from a fundamental social institution, i.e., motherhood, but their interests were considered and accommodated by Parliament when it enacted the parental benefits provisions.³¹

31. Similarly, when the regulation of the coastal fishery is considered in its entire context, it can be seen that the Appellants’ needs and interests have been accommodated.

³⁰ *Applicants’ Record*, Vol. I, page 180 at para. 49.

³¹ *Tomasson, supra*, at para. 129 [emphasis added].

32. In *Law*, the Court considered a section 15 challenge to the survivor's benefit scheme under the *Canada Pension Plan*, which provided a threshold age of thirty-five to receive partial benefits for able-bodied surviving spouses without dependent children, and a threshold age of sixty-five to receive full benefits. The Court was similarly impressed that the thirty year old claimant, though accorded differential treatment, was nevertheless a beneficiary under the legislation:

In conclusion with respect to the particular circumstances of the appellant's case, I would also note that people in the position of the appellant are not completely excluded from obtaining a survivor's pension, although it is delayed until the person reaches age 65 unless they become disabled before then. The availability of the pension to the appellant strengthens the conclusion that the law does not reflect a view of the appellant that suggests that she is undeserving or less worthy as a person, only that the distribution of the benefit to her will be delayed until she is at a different point in her life cycle, when she reaches retirement age.³²

33. Saskatchewan submits that the Appellants' significant and continued access to the resource under the broad scheme regulating fisheries likewise suggests that they are not viewed as being undeserving or less worthy.

ii. Correspondence to the Comparator Groups' Needs and Circumstances

34. Saskatchewan submits that the AFS corresponds to Aboriginal peoples' historic and cultural relationship to the fishery. As Brenner C.J. stated in the Court below:

The A.F.S. represented an attempt to reconcile this unique relationship with the need for regulation of the fishery by providing for a separately regulated fishery respectful of and sensitive to traditional aboriginal values.³³

³² *Law, supra*, at para. 107.

³³ *Applicants' Record*, Tab I, page 133 at para. 93.

35. In Saskatchewan's view, it is equally important that the AFS and PSP involved negotiated agreements with First Nations to co-manage the fishery. Like the First Nations Fund considered in *Lovelace*, the AFS and PSP involved the development of a partnered or government-to-government relationship with First Nations. This was an important factor in the Court's correspondence analysis in *Lovelace*.³⁴ In the present matter, the development of such a relationship has particular importance because of the ongoing treaty negotiations with First Nations in British Columbia. The PSP was developed, in part, with a view for potential incorporation into treaty, and corresponds as such to the circumstances of First Nations in British Columbia. Unlike the claimants in *Lovelace*, who were Aboriginal groups pursuing self-government initiatives parallel to the beneficiaries of the First Nations Fund, the Appellants in the present matter do not have even remotely similar self-government or treaty concerns facing British Columbia First Nations.

6. Ameliorative Purpose or Effect

36. In *Chippewas of Nawash First Nation*, a unanimous Federal Court of Appeal held that the AFS has an ameliorative purpose of enhancing economic opportunities for First Nations people in Canada.³⁵ Saskatchewan submits that the PSP, as part of the AFS, is simply an extension of that purpose with the difference that it is not animated by existing Aboriginal rights to fish. Like the First Nations Fund considered in *Lovelace*, the PSP is a partnered and targeted program that, compared to comprehensive

³⁴ *Lovelace, supra*, at para. 74; see also, *Peavine Métis Settlement v. Alberta*, 2007 ABQB 517 at para. 183.

³⁵ *Supra*, at para. 48.

programs, is less likely to demean human dignity.³⁶ Moreover, though not all First Nations may have the same levels of wealth or poverty, the Respondent was entitled to premise the AFS and PSP upon informed generalizations about the state of economic and social disadvantage facing Aboriginal peoples.

37. Furthermore, Saskatchewan submits that the ameliorative aspect of the AFS and PSP is not limited to strictly financial or economic benefits. The AFS and PSP are partnered, co-management initiatives, which like the First Nations Fund considered in *Lovelace*, have “the related ameliorative purpose of supporting the bands in achieving self-government and self-reliance.”³⁷

7. Nature of the Interest Affected

38. The Appellants’ interests affected in this matter are primarily economic. Those interests are only narrowly affected because the Appellants have maintained access to the general commercial fishery, which overall is proportionately much larger than the PSP.

39. That fact that the Appellants’ interests are accommodated in the general fishery is a relevant consideration for this dignity factor. Saskatchewan compares the present matter in this regard to *Arishenkoff v. British Columbia*. That case involved a section 15 challenge to a provision of British Columbia’s *Limitations Act* that removed limitation periods for civil actions related to sexual abuse

³⁶ *Lovelace, supra*, at para. 86.

³⁷ *Lovelace, supra*, at para. 87.

of minors. The challenge was brought by victims of historic non-sexual abuse, who could not benefit by the provision. When considering the nature of the interest affected, the British Columbia Court of Appeal was impressed that the interest at issue, while important, was only narrowly affected by the impugned provision because the claimants received the benefit of limitation rules generally available in the *Act*:

But although the importance of the interest affected by the impugned legislation in this case is clear, it is equally clear that the interests of the claimant group are only narrowly prejudiced by s.3(4)(k). As the Chambers judge pointed out, the plaintiffs and all other tort victims have the advantage of various postponements implicit in s.6 of the *Limitation Act*, including the statutory discoverability rule, subject to the ultimate 30-year limitation.³⁸

40. Likewise, while the Appellants in the present matter do not qualify for inclusion in the PSP, they do continue to participate in the relatively generous general commercial fishery. L’Heureux-Dubé J.’s comments from *Egan v. Canada*, quoted with approval by the Court in *Law*, are apposite:

It stands to reason that a group's interests will be more adversely affected in cases involving complete exclusion or non-recognition than in cases where the legislative distinction does recognize or accommodate the group, but does so in a manner that is simply more restrictive than some would like.³⁹

D. Section 25 of the *Charter* is not Applicable

41. Saskatchewan submits that section 25 of the *Charter* has no application to the present matter because the Appellants have not established a section 15 violation. As such, there is no conflict between section 15 and section 25.

³⁸ *Arishenkoff v. British Columbia*, 2004 BCCA 299 at para. 141.

³⁹ *Egan v. Canada*, [1995] 2 S.C.R. 513 at para. 64; *Law, supra*, at para. 74.

42. Saskatchewan disagrees with Kirkpatrick J.A.'s interpretation of the meaning of "other rights and freedoms" found in section 25. In her view, common rules of statutory interpretation are supplanted in this context by the rule articulated in *Nowegijick v. The Queen* that "treaties and statutes relating to Indians should be liberally construed and doubtful expressions resolved in favour of the Indians."⁴⁰ As support for this proposition she quoted Dickson C.J.'s reasons in *Mitchell v. Peguis Indian Band* where he found that the *ejusdem generis* rule of interpretation does not prevail over the *Nowegijick* principle.⁴¹

43. With respect, Kirkpatrick J.A.'s analysis in this regard is flawed. In *Mitchell* the Court was required to interpret clause 90(1)(b) of the *Indian Act*. Dickson C.J. wrote alone and the other members of the Court did not adopt his views on the applicability of the *Nowegijick* principle in interpreting that clause. To the contrary, La Forest J. (for the majority on this issue) applied the "principle of associated meaning" of statutory interpretation, which was followed by this Court recently when considering that very same provision in *McDiarmid Lumber Ltd. v. God's Lake First Nation*.⁴² Furthermore, Dickson C.J. did not state that ordinary rules of statutory interpretation are inapplicable when considering statutes relating to Indians (as Kirkpatrick J.A. seems to have assumed), but held that they do not supercede the *Nowegijick* principle.

⁴⁰ *Appellants' Record*, Vol I., page 210 at para. 123. *Nowegijick v. The Queen*, [1983] 1 S.C.R. 29 at 36.

⁴¹ *Mitchell v. Peguis Indian Band*, [1990] 2 S.C.R. 85 at 113-114.

⁴² *Ibid* at 124. *McDiarmid Lumber Ltd. v. God's Lake First Nation*, 2006 SCC 58 at paras. 26 & 35.

44. The *Charter*, which is neither a treaty nor a “statute related to Indians”, is to be interpreted purposively. Dickson J. (as he then was) held in *R. v. Big M Drug Mart Ltd.* that *Charter* interpretation is to be generous, not technical or legalistic. At the same time, however, he directed that purpose is to be found by reference to, among other things, the language chosen to articulate the specific right or freedom; he also stressed the importance of not overshooting the actual purpose of the right or freedom in question.⁴³

45. Saskatchewan submits that while Kirkpatrick J.A. interpreted section 25 generously, she failed to properly interpret the provision by reference to its language. In particular, she ignored reference in the provision to the *Royal Proclamation, 1763* and rights and freedoms found in land claims agreements, which colour and limit the scope of “other rights rights and freedoms.” Land claims agreements are protected as “treaties” in subsection 35(3) of the *Constitution Act, 1982*. The *Royal Proclamation, 1763* was described by Lord Denning as “equivalent to an entrenched provision in the Constitution of the colonies of North America” and “binding on the Crown ‘so long as the sun rises and the river flows’.”⁴⁴ In *Calder v. British Columbia*, Hall J. equated the *Proclamation* to the *Magna Carta* and stated that it “must be regarded as a fundamental document upon which any just determination of original rights rests.”⁴⁵ In *St. Catharines Milling and Lumber Co. v. The Queen* it was described by Gwynne J. of this Court as “the Indian Bill of Rights”.⁴⁶ In Saskatchewan’s view,

⁴³ *R. v. Big M Drug Mart Ltd.*, [1985] 1 S.C.R. 295 at para. 117.

⁴⁴ *R. v. Secretary of State*, [1981] 4 C.N.L.R. 86 at 91 (Eng. C.A.).

⁴⁵ [1973] S.C.R. 313 at 395.

⁴⁶ [1887] 13 S.C.R. 577 at 652.

the PSP does not even remotely compare with such significant constitutional or quasi-constitutional documents.

46. Kirkpatrick J.A. cited *Haida Nation v. British Columbia* and *Taku River Tlingit First Nation v. British Columbia* to suggest that the honour of the Crown may give rise to “other” rights encompassed by section 25.⁴⁷ Saskatchewan agrees, and can envision section 25 applying to accommodations made to First Nations flowing from the Crown’s constitutional duty to consult where its activities infringe or potentially infringe Treaty or Aboriginal rights.

47. However, the PSP is not the product of the duty to consult. While the PSP involved negotiated agreements and reflected the importance of the fishery to Aboriginal peoples and their unique relationship to the fishery, those are contextual considerations which properly inform the section 15 analysis in line with L’Heureux-Dubé J.’s direction in *Corbiere*.⁴⁸ They do not on their own raise those programs to the level of “other rights” within the meaning of section 25. There is no suggestion that the federal Crown was obligated to develop and implement the PSP as a result of an existing Treaty or Aboriginal right or any duty to consult or accommodate arising therefrom. As the Respondent indicates, the program was simply an exercise of administrative discretion, subject to numerous conditions and temporary in nature. The PSP (or some form of commercial fishing rights) was only viewed as potentially flowing into a negotiated Treaty; it did not, however, flow out of a

⁴⁷ *Appellants’ Record*, Vol I., page 215 at paras. 135-136. *Haida Nation v. British Columbia*, [2004] 3 S.C.R. 511; *Taku River Tlingit First Nation v. British Columbia*, [2004] 3 S.C.R. 550.

⁴⁸ *Supra*, at para. 67.

Treaty or existing Aboriginal rights that would engage section 25. In Saskatchewan's view, to suggest that the PSP falls within the ambit of section 25 is an example of confusing generous rules of interpretation with "vague ... after-the-fact largesse."⁴⁹

PART IV

COSTS

48. No order as to costs is sought.

PART V

NATURE OF ORDER REQUESTED

49. Saskatchewan respectfully submits that the application for leave to appeal be dismissed.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

DATED at Regina, Saskatchewan, this ____ day of November, 2007.

R. James Fyfe

Counsel for the Attorney General for Saskatchewan

⁴⁹ *Marshall v. Canada*, [1999] 3 S.C.R. 456 at para. 14.

PART VII

STATUTORY PROVISIONS

Saskatchewan is not including any statutory provisions.

PART VIII

APPENDIX “A”

Saskatchewan Department of First Nations and Métis Relations, Program and Services

(See following pages).

LIST OF AUTHORITIES

Paragraphs

CASES

<i>Andrews v. Law Society of British Columbia</i> , [1989] 1 S.C.R. 143.	14, 17, 19
<i>Arishenkoff v. British Columbia</i> , 2004 BCCA 299.	39
<i>Calder v. British Columbia</i> , [1973] S.C.R. 313.	45
<i>Chippewas of Nawash First Nation v. Canada (Minister of Fisheries & Oceans)</i> , [2003] 2 C.N.L.R. 78.	25, 36
<i>Corbiere v. Canada (Minister of Indian and Northern Affairs)</i> , [1999] 2 S.C.R. 203.	20, 21, 22, 27, 47
<i>Egan v. Canada</i> , [1995] 2 S.C.R. 513.	40
<i>Gosselin v. Quebec (Attorney General)</i> , [2002] 2 S.C.R. 429.	8, 14, 27
<i>Lovelace v. Ontario</i> , [2000] 1 S.C.R. 950.	8, 14, 17, 21, 22, 27, 35, 36, 37
<i>Lavoie v. Canada</i> , [2002] 1 S.C.R. 769.	14, 15
<i>Law v. Canada</i> , [1999] 1 S.C.R. 497.	5, 13, 14, 15, 18, 19, 25, 27, 32, 40
<i>McDiarmid Lumber Ltd. v. God's Lake First Nation</i> , 2006 SCC 58.	43
<i>Mitchell v. Peguis Indian Band</i> , [1990] 2 S.C.R. 85.	42, 43
<i>Moresby Explorers Ltd. v. Canada (Attorney General)</i> , 2006 FCA 144.	10, 11, 12
<i>Nowegijick v. The Queen</i> , [1983] 1 S.C.R. 29.	42, 43
<i>Ochapowace Indian Band v. Saskatchewan (Department of Community Resources)</i> , [2007] 2 C.N.L.R. 261 (Sask. Q.B.).	8
<i>Peavine Métis Settlement v. Alberta</i> , 2007 ABQB 517.	35
<i>St. Catharines Milling and Lumber Co. v. The Queen</i> , [1887] 13 S.C.R. 577.	45

<i>Tomasson v. Canada (A.G.)</i> , 2007 FCA 265.	27, 30
<i>R. v. Secretary of State</i> , [1981] 4 C.N.L.R. 86.	45
<i>R. v. Sparrow</i> , [1990] 1 S.C.R. 1075.	21, 24

OTHER

U.N. Committee on the Elimination of Racial Discrimination, <i>Concluding Observations of the Committee on the Elimination of Racial Discrimination</i> (Canada), CERD/C/CAN/CO/18, March 2007.	21
U.N. Committee on Economic, Social and Cultural Rights, <i>Concluding Observations of the Committee on Economic, Social and Cultural Rights</i> (Canada), E/C.12/CAN/CO/5, 19 May 2006.	21
U.N. Economic and Social Council, <i>Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people</i> (Canada), E/CN.4/2005/88/Add.3, 2 December 2004.	21
Alexander Morris, <i>The Treaties of Canada with the Indians</i> (Toronto: Coles, 1971).	23
Peter W. Hogg, <i>Constitutional Law of Canada</i> , 5th ed. (looseleaf) (Toronto: Carswell, 2006).	17

Quick Search:

Wednesday, November 21, 2007

[Directory](#)[Contact Us](#)

• This Site

• All Government Sites

• Advanced Search |

• Help?

Saskatchewan!
A shared journey.
A brighter future.

Services For:

First Nations

Métis

Employers / Businesses

[Home](#)/[About FNMR](#)/[Economic Development](#)/[Economic Development Program](#)/[Guidelines](#)
Resources**First Nations and Métis Economic Development Program - Guidelines**[About Saskatchewan](#)[About Government](#)[About First Nations & Métis Relations](#)[Aboriginal Community](#)[Common Questions](#)[Demographics](#)[Department Overview](#)[Economic Development & Gaming](#)[Lands & Resources](#)[Legislation](#)[Major Documents](#)[News Releases](#)[Programs & Services](#)[Publications](#)[Relations & Initiatives](#)**SUMMARY OF PROGRAM CRITERIA AND CONTACT INFORMATION****PROGRAM PURPOSE**

Grants under this program are intended to support business development and expansion within Saskatchewan through funding a portion of initial start-up capital and operating expenditures in businesses within key sectors of the Saskatchewan economy.

APPLICANT ELIGIBILITY

To be eligible for support, an applicant must be a Canadian resident of Aboriginal ancestry living in Saskatchewan or a Canadian corporation, partnership, association or other legal entity that is majority-owned or controlled by Canadian residents of Aboriginal ancestry living in Saskatchewan. Businesses with Aboriginal and Non-Aboriginal partners are eligible for funding provided the Aboriginal partner holds the majority ownership position and meets the other program requirements.

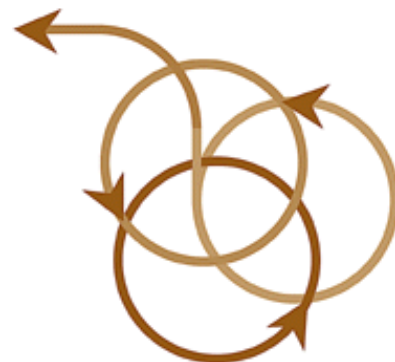
A Canadian of Aboriginal ancestry is a person who is:

- a Status Indian;
- a Non-Status Indian;
- an Inuk; or
- a Métis.

Evidence of ancestry will include self identification on the application form and any other available documentation (e.g. Treaty cards for Status Indians, MNS membership cards for Métis). As evidence of residency, applicants will be required to provide current and previous addresses, and length of time at each location, as well as copies of health cards or other Saskatchewan based identification.

Legal entities associated with Indian Bands, Tribal Councils, Métis organizations and communities are eligible to apply for support. Evidence of legal entity status, such as a corporation's Articles of Incorporation, must be provided as part of the application process.

Applicants that intend to locate a business on-reserve must obtain a Band Council Resolution in support of the proposal.



**THRONE SPEECH
2006** >>

**2007 - 2008
PROVINCIAL
BUDGET** >>

**Saskatchewan
First Nations and Métis
Economic
Development Program** >>



Who Knew?

In 1965, southern Metis formed the Metis Society of Saskatchewan. In 1967, the Society combined with the Metis Association of Saskatchewan, which represented northern Metis.

If the involvement of the applicant is deemed critical to the success of the business, the applicant must be actively involved in the business on a day-to-day basis. Exceptions may be made based on the seasonality of a business (for example, a client may have a full time job during the off-season of a seasonal tourist destination).

Status Indians, Non-Status Indians, Inuit individuals, and legal entities associated with Indian Bands and Tribal Councils will provide applications to the Saskatchewan Indian Equity Foundation (SIEF). Métis individuals, and legal entities associated with Métis organizations and communities will provide applications to the Clarence Campeau Development Fund (CCDF). Based on a review of applications, SIEF and CCDF will make recommendations for funding to the Government of Saskatchewan through Saskatchewan First Nations and Métis Relations (FNMR). FNMR will make final funding decisions and disburse monies to approved applicants.

GRANTS LIMITED TO KEY STRATEGIC SECTORS

The Program provides grants aimed at enhancing Aboriginal involvement in the following key strategic sectors of the province:

Energy

To be eligible for support, an initiative must demonstrate that business activities would either derive at least 50% of its revenues from energy sector activities; or receive at least 50% of the value of its products or services from the energy sector.

Examples of potential opportunities in the energy sector include:

- Wind-power
- Ethanol
- Oil and gas exploration
- Transportation of oil and gas
- Environmental assessment and monitoring
- Site reclamation and restoration

Mining

To be eligible for support, an initiative must demonstrate that business activities would either derive at least 50% of its revenues from mining activities; or receive at least 50% of the value of its products or services from the mining sector.

Examples of potential opportunities in the mining sector include:

- Mineral exploration or extraction
- Transportation of minerals
- Environmental assessment and monitoring
- Site reclamation and restoration

Forestry

To be eligible for support, an initiative must demonstrate that business activities would either derive at least 50% of its revenues from forestry activities; or receive at least 50% of the value of its products or services from the forestry sector.

Examples of potential opportunities in the forestry sector include:

- Logging and lumber businesses (non-retail)
 - Transportation of forestry products
 - Processing forest resources into higher value, consumer-ready products such as cabinets, windows, furniture, doors, building components, remanufactured products and pallets used for shipping
 - Wildcrafting
 - Specialty forest products, such as:
 - Wild berries, herbs, spices, mushrooms and peat moss
 - Pine needles, which produce essential oils
 - Mosses and lichens; tree bark for use in crafts
 - Harvesting burned timber
 - Re-manufacturing and specialty wood products:
 - Oriented Strand Board industry, paper and secondary manufacturing of wood-based products such as millwork products
 - Portable sawmills

Value-Added Agriculture

To be eligible for support, an initiative must demonstrate that business activities would either derive at least 50% of its revenues from value-added agriculture activities; or receive at least 50% of the value of its products or services from the value-added agriculture sector.

Examples of potential opportunities in the value-added agriculture sector include:

- Pulse crop products
 - Processed packaged food products

- Meat processing and slaughtering
 - Beef, pork and chicken processing
 - Specialty meat processing
- Animal feeds
 - Commercial pre-mixes, bean/pea protein, processed forages
 - Other animal feed ingredients
- Oilseed processing
 - Edible oils from canola
- Fruit products
 - Wines, jams, pie fillings, syrups
- Specialty and gourmet foods
 - Organic products from grains and livestock
 - Specialty livestock
- Nutraceuticals and functional foods
 - Herb or spice-based products
 - Dietary supplements and medicinal herbs
- Non-food and non-traditional food products
 - Dermaceuticals (oats)
 - Detergents (canola)
 - Biodegradable lubricants, bio-diesel fuel
 - Hemp or flax fibre-based products
 - Pharmaceuticals

Manufacturing

The manufacturing sector comprises companies primarily engaged in the transformation of materials into new products. These products may be finished (i.e. ready to be used or consumed) or semi-finished (i.e. a material for another business to use in further manufacturing). Manufacturing may take place in factories or in workers' homes, using either machinery or hand tools.

Examples of potential opportunities in the manufacturing sector include:

- Arts and crafts
- Electronics and instrumentation
- Flour goods and bakery mixes
- Beef, pork and chicken products
- Jams, jellies and other preserves
- Paper, furniture, cabinets, millwork and flooring
- Specialty vehicles such as ambulances, highway trailers, recreation vehicles and automotive accessories
- Agricultural equipment
- Mining and industrial equipment
- Satellite and landline communications technology
- CATV and wireless telecom products
- Contract manufacturing services for telecommunications, satellite, military and aviation markets
- Chemicals

Aboriginal-Themed Tourism

Tourism businesses will be limited to Aboriginal-themed tourism destinations and attractions. Examples include eco-tourism, nature/wildlife viewing, and cultural museums. Any business expecting to derive a significant portion of its revenues from Aboriginal-theme tourist ventures is eligible for support. Short-term events such as festivals and powwows are not eligible for support, since they are not ongoing commercial activities.

ELIGIBLE INITIATIVES

Eligible costs include **initial** project costs such as:

1.
capital costs (land, buildings, equipment, leaseholds, etc.)
2.
inventory costs
3.
pre-operating costs
4.
marketing costs
5.
purchase of shares to acquire an existing business as a going concern
6.
costs involved with infrastructure (such as access roads, sewer and water lines, etc.)
7.
costs of engaging consultants and/or qualified professionals (lawyers, accountants, etc. for business plans, business skills training and mentoring, building inspections, environmental inspections, building and equipment appraisals, etc.)
- 8.

financial and business service costs (information technology, telecommunications, website development, accounting systems, etc.)

Note: This list of eligible costs is not intended to be all inclusive. Other justified expenditures will be considered on a case by case basis.

•
Eligible costs apply to new businesses, acquisitions of existing businesses, and expansion of existing businesses.

•
Businesses must be located in Saskatchewan.

•
The business may operate year round or seasonal.

INITIATIVES NOT ELIGIBLE FOR FUNDING

- Travel, sustenance, lodging, conferences, seminars, convention and like costs
- Residential real estate
- Non-arms length business acquisitions
- Businesses not located in Saskatchewan
- Refinancing, repaying existing debt or dividend payments

FUNDING CRITERIA

- There are two steps to apply for funding. Initially, applicants will be required to complete and submit a general application. Those chosen for further consideration will be required to submit a comprehensive business plan demonstrating the long-term viability of the proposal and the ability to create jobs. Where required, the program may fund up to 75% of the cost of business plan development.
- Applicants will be required to list total financial requirements as part of a business plan which could include personal equity, borrowings from financial institutions, CCDF, SIEF, etc., private and public equity financing or funding from Federal Government Programs.
- For businesses owned by individual entrepreneurs or private corporations, grant funding will be set at a maximum of \$50,000 on condition that the provincial contribution will not exceed 35% of the total financial package.
- For businesses owned by legal entities associated with Indian Bands, Tribal Councils, Métis communities and institutions, grant funding will be set at a maximum of \$100,000 on condition that the provincial contribution will not exceed 35% of the total financial package.
- In a case of businesses with Aboriginal and Non-Aboriginal partners, the maximum funding will be prorated based on the level of Aboriginal ownership and control. This requirement will be waived in the case of a marital relationship where the business is clearly a family business.
- 10% of total financial requirements will be sourced from applicant's own equity through cash and other asset injections. In the case of youth (ages 18-35) this requirement drops to 5%. The value of non-cash asset injections must be appropriately substantiated through an independent appraisal by a qualified person. Cash injections may come from a variety of sources (personal savings, friends, relatives, bands, etc.) provided that there are no repayment terms and no business related assets pledged as security. Applicants will be required to provide bank documentation as proof of available cash.

APPROVAL OF PROJECTS AND PAYMENT

Based on a review of applications, SIEF and CCDF will make recommendations for funding to the Government of Saskatchewan through Saskatchewan First Nations and Métis Relations (FNMR). FNMR will make final funding decisions and disburse monies to approved applicants.

LIMITED FUNDING FOR RELATED INITIATIVES

- Funding is also available from FNMR for related initiatives other than capital and operating costs. This includes building community capacity in the key sectors and assisting applicants in the development of their proposals through feasibility studies and market analysis, etc. Where required, the program may fund up to 75% of these costs up to a maximum of \$10,000. There may be exceptions but these would be considered on a case by case basis.
- To assess merits and strengths, proposals should include such information as rationale, its connection to one of the strategic sectors, potential economic impact and other benefits, involvement of other communities/partners, breakdown of costs and sources of funding, timelines, etc.
- Applications of this type should be submitted directly to FNMR (see the contact information below).

CONTACT INFORMATION

For more information about this program please contact:

Saskatchewan First Nations and Métis Relations (FNMR)
710 – 1855 Victoria Avenue
REGINA, SK S4P 3T2
Toll-free: 1-866-240-4484

Phone: (306) 798-7800

Fax: (306) 798-0004

Métis individuals, and legal entities associated with Métis organizations and communities can submit applications to:

Clarence Campeau Development Fund (CCDF)

2158 Airport Drive

SASKATOON, SK S7L 6M6

Phone: (306) 657-4870

Toll-Free: 1-888-657-4870

Fax: (306) 657-4890

Website: <http://www.clarencecampeau.com/>

Status Indians, Non-Status Indians, Inuit, and legal entities associated with Indian Bands and Tribal Councils can submit their applications to:

Saskatchewan Indian Equity Foundation (SIEF)

Asimakaniseekan Askiy Reserve

202 Joseph Okemasis Drive

SASKATOON SK S7N 1B1

Phone: (306) 955-4550

Fax: (306) 373-4969

Website: <http://www.sief.sk.ca/>

Related Links

[Economic Development Program Guidelines \(PDF format\)](#)



[Print this page](#)



[Email to a friend](#)

Quick Search:

Wednesday, November 21, 2007

[Directory](#)[Contact Us](#)

• This Site

• All Government Sites

• Advanced Search |

• Help?

Saskatchewan!
A shared journey.
A brighter future.



Services For:

First Nations

Métis

Employers / Businesses

[Home](#)/[About FNMR](#)/[Relations & Initiatives](#)/[Programs](#)/[Grants](#)

Resources

Aboriginal Grants Initiative

About Saskatchewan

About Government

About First Nations & Métis Relations

Aboriginal Community

Common Questions

Demographics

Department Overview

Economic Development &
Gaming

Lands & Resources

Legislation

Major Documents

News Releases

Programs & Services

Publications

Relations & Initiatives

Through the Aboriginal Grants Initiative, the Department of First Nations and Métis Relations provides small grants to organizations for a variety of First Nations and Métis events, projects and other initiatives.

Guidelines

Grant proposals must include a well-defined plan with clear objectives and goals, and include a budget. The initiative must fit within the Department's focus categories and must also address a demonstrated need in the Aboriginal community. Please note, capital expenditures are ineligible for funding.

Focus categories for First Nations and Métis initiatives in 2007-08 are:

- Youth Leadership
- Cultural Promotion: Repatriation, Heritage Languages and Elders
- Women
- Literacy
- Honouring Veterans
- Cultural Activities
- Policy and Research

Applicants are encouraged to apply no less than two months before the event or start of the project, as proposals are reviewed on a monthly basis and it is important to allow time for processing.

The proposal must describe the applicant's interests, experiences and past successes and state what other sources of funding or in-kind support are being pursued and, where possible, demonstrate a partnership with other organizations or communities.

Typical examples of grants and projects are: \$500 for a historical research project, \$1,500 for a cultural celebration, and \$3,000 for a province-wide conference. Applicants must have at least one other source of funding or in-kind support.

For more information please contact:

Aboriginal Grants Initiative

Saskatchewan First Nations and Métis Relations

210 – 1855 Victoria Avenue

REGINA, SK S4P 3T2

Phone: (306) 798-0489

Fax: (306) 798-5832

THRONE SPEECH
2006



2007 - 2008
PROVINCIAL
BUDGET



Saskatchewan
First Nations and Métis
Economic
Development Program





Print this page



Email to a friend

Who Knew?

The "Michif" language is based on Cree and Canadian French, with influences from English and from other First Nations languages, such as Assiniboiné and Ojibway.

[Home](#) | [Disclaimer](#) | [Privacy](#) | [Help](#) | [Feedback](#) | [Site Map](#) | [© Copyright 2007](#) | [Saskatchewan.ca](#)

Last Updated: November 21, 2007

Quick Search:

Wednesday, November 21, 2007

[Directory](#)[Contact Us](#)

• This Site

• All Government Sites

• [Advanced Search](#) |

• [Help?](#)

Saskatchewan!
A shared journey.
A brighter future.



Services For:

First Nations

Métis

Employers / Businesses

[Home](#)/[About FNMR](#)/[Relations & Initiatives](#)/[Programs](#)/[Urban Management](#)

Resources

Aboriginal Urban Management Authorities Program

About Saskatchewan

About Government

About First Nations & Métis Relations

[Aboriginal Community](#)

[Common Questions](#)

[Demographics](#)

[Department Overview](#)

[Economic Development & Gaming](#)

[Lands & Resources](#)

[Legislation](#)

[Major Documents](#)

[News Releases](#)

[Programs & Services](#)

[Publications](#)

[Relations & Initiatives](#)

The Aboriginal Urban Management Authorities Program promotes Aboriginal community development, enabling First Nations and Métis people to develop their own service delivery systems in urban settings. The Program provides financial assistance to facilitate the development of Aboriginal service delivery institutions at the community level, which deliver culturally appropriate, rationalized and accountable services.

Systems developed can be First Nations-specific, Métis-specific, or a cooperative arrangement where First Nations and Métis people form a joint partnership, each responsible for decisions affecting services to their own constituency. As "models" for special community-based approaches, these systems are based on the following key components:

- Community-based and community-paced
- Provides for integrated services
- Potential for community management and control

For additional information on the Aboriginal Urban Management Authorities Program contact:

Mark La Rocque

Tel: (306) 787-6400

Email: mlarocque@fnmr.gov.sk.ca



Print this page



Email to a friend

**THRONE SPEECH
2006** >>



**2007 - 2008
PROVINCIAL
BUDGET** >>



**Saskatchewan
First Nations and Métis
Economic
Development Program** >>





Who Knew?

Between 1876 and 1923, land grants and scrip were given to the Métis under the provisions of the Dominion Lands Act.

[Home](#) | [Disclaimer](#) | [Privacy](#) | [Help](#) | [Feedback](#) | [Site Map](#) | [Copyright © 2007](#) | [Saskatchewan.ca](#)

Last Updated: November 21, 2007

Quick Search:

Wednesday, November 21, 2007

[Directory](#)[Contact Us](#)

This Site

All Government Sites

Advanced Search |

Help?

Saskatchewan!
A shared journey.
A brighter future.



Services For:

First Nations

Métis

Employers / Businesses

[Home](#)/[About FNMR](#)/[Relations & Initiatives](#)/[Programs](#)/[Women's Initiative](#)

Resources

First Nations and Métis Women's Initiative

About Saskatchewan

About Government

About First Nations & Métis
Relations

Aboriginal Community
Common Questions
Demographics
Department Overview
Economic Development &
Gaming
Lands & Resources
Legislation
Major Documents
News Releases
Programs & Services
Publications
Relations & Initiatives

Under the First Nations and Metis Women's Initiative, First Nations and Métis Relations enables provincial Aboriginal women's organizations to undertake special projects and policy development activities of benefit to their respective memberships.

First Nations and Métis Relations works with the Saskatchewan First Nations Women's Commission and the Saskatchewan Aboriginal Women's Circle Corporation to administer the initiative.

Funding for provincial organizations enables First Nations and Métis women to address priority issues such as family violence, child abuse, health care, education, housing, justice, and social development.

For information on the First Nations and Métis Women's Initiative, contact:

Trisha Lafontaine
Tel: (306) 787-5725
Email: tlafontaine@fnmr.gov.sk.ca



Print this page



Email to a friend

THRONE SPEECH
2006 >>



2007 - 2008
PROVINCIAL
BUDGET >>



Saskatchewan
First Nations and Métis
Economic
Development Program >>





Who Knew?

In Saskatchewan it has been formally recognized that 33 of 72 First Nations did not receive the amount of land they were promised under Treaties. Treaty Land Entitlement is a process where the federal and provincial governments are fulfilling these Treaty commitments.



A B O R I G I N A L

E M P L O Y M E N T

D E V E L O P M E N T

P R O G R A M



**Saskatchewan
First Nations and
Métis Relations**

Table of Contents:

Why the Aboriginal Employment Development Program (AEDP)?	2
The Objectives and Principles of AEDP	3
Becoming an AEDP Partner.....	3
1. The Aboriginal Representative Workforce Strategy	4
2. The Roles of AEDP Participants.....	4
3. Preparing the Workplace.....	5
4. Workplace Employment Opportunities	6
5. Aboriginal Procurement Opportunities	6
AEDP Leading Change.....	7
The Provincial Aboriginal Representative Workforce Council (PARWC).....	8

For more information contact:

Aboriginal Employment Development Program
710 – 1855 Victoria Avenue
Regina, Saskatchewan S4P 3T2
Phone: (306) 787-6250 • Fax (306) 798-0004
aedp@fnmr.gov.sk.ca
www.fnmr.gov.sk.ca



**Saskatchewan
First Nations and
Métis Relations**

WHY THE ABORIGINAL EMPLOYMENT DEVELOPMENT PROGRAM (AEDP)?

Saskatchewan's workforce will look much different in ten years. Today's workforce is aging and expected mass retirements will significantly reduce Saskatchewan's labour supply. Meanwhile the Aboriginal population is growing. In 2001, 57% of Aboriginal people in Saskatchewan were under the age of 25 according to the 2001 *Aboriginal Peoples Survey* from Statistics Canada. By 2012, it is expected that one in three students in the K-12 system will be of Aboriginal descent and an additional 46,000 Aboriginal people will be of working force age.

To help address high unemployment rates in the Aboriginal community, and meet the human resource demands anticipated by labour shortages in the near future, the Government of Saskatchewan created the Aboriginal Employment Development Program (AEDP).

The AEDP measures success on non-discriminatory hiring practices of qualified applicants. AEDP works with employers to identify employment needs and remove possible barriers to ensure a workplace that is grounded in fairness, respect and dignity, trust and open communication.

Partnerships seek to prepare the workplace for the current and future Aboriginal workforce. Partners review workplace policies, provide Aboriginal misconception training to staff, and communicate the employment and economic opportunities to Aboriginal communities and training institutions.

As part of the program, the Aboriginal Representative Workforce Strategy was implemented with the goal of having Aboriginal workers represented at all occupational levels (entry, middle, and senior management) in the provincial workforce.

THE OBJECTIVES OF AEDP:

- To foster
 - Employment Development
 - Economic Development
 - Workplace Cultural Development

THE PRINCIPLES OF AEDP:

- Cooperation
- Fairness
- Consistency
- Mutual Respect
- Open Communication
- Committees are formed to:
 - Negotiate how the partnership will unfold.
 - Co-monitor progress, and to co-evaluate the results.

BECOMING AN AEDP PARTNER

The current and future Aboriginal workforce is preparing to participate in Saskatchewan's labour market. If you want your workplace to become a fair and welcoming environment for Aboriginal people, consider becoming an AEDP partner and implementing the Aboriginal Representative Workforce Strategy. Partnership agreements are in principle. How each agreement unfolds is unique and is negotiated between the parties.

Aboriginal Employment Development Program
710 – 1855 Victoria Avenue
Regina, Saskatchewan S4P 3T2
Phone: (306) 787-6250 • Fax (306) 798-0004
aedp@fnmr.gov.sk.ca
www.fnmr.gov.sk.ca

1. THE ABORIGINAL REPRESENTATIVE WORKFORCE STRATEGY

The Aboriginal Representative Workforce Strategy is an employer focussed process that works to ensure the workplace is a fair and welcoming environment for Aboriginal people. This includes addressing possible barriers to Aboriginal employment, identifying employment and business opportunities, enhancements to collective bargaining agreements, and providing Aboriginal misconception training for employees at all levels of the organization.

Employers typically form a steering committee to ensure the Aboriginal Representative Workforce Strategy moves forward. Membership on the committee consists of the employer and representatives from Saskatchewan First Nations and Métis Relations. Membership may also include, but is not limited to, employee unions, education or training institutions, business organizations, and local Aboriginal communities. Every partnership is unique and is reflected by the membership of the steering committee.

In terms of process, steering committees may create implementation plans, operational goals, identify roles and responsibilities, or create monitoring and partnership evaluation criteria. Partnerships are based on a collective decision-making process. Where possible, steering committees may decide to hire an AEDP coordinator dedicated to the coordination and implementation of the strategy in the workplace and with partners. This person can become a role model to others, assist in breaking down workplace barriers, and perform outreach and networking to Aboriginal communities.

2. THE ROLES OF AEDP PARTNERS

The success of the Aboriginal Representative Workforce Strategy depends on each partner implementing their role towards creating a workforce that includes Aboriginal people.

Employers

- Identify and communicate employment and business opportunities in a generic way.
- Establish relationships with Aboriginal communities and organizations.
- Address workplace barriers with misconception training and acceptable dispute resolution processes.
- Hire qualified Aboriginal people.
- If applicable, work with union(s) in partnership to support Aboriginal employment development initiatives.

Aboriginal Community

- Ensure education is a priority.
- Ensure education meets employer's educational requirements.
- Focus training efforts where opportunities exist.
- Pursue new training opportunities.
- Compete for jobs and business contracts on an equal footing.

Government

- Facilitate partnerships.
- Ensure programs are relevant for Aboriginal people.
- Communicate opportunities to Aboriginal communities and organizations.
- Provide leadership on policy and programs relevant to the Aboriginal Representative Workforce Strategy.
- Promote public policy that prepares for the changing demographics of Saskatchewan.

Unions

- Identify and seek resolution to workplace practices that limit or discourage Aboriginal participation.
- Enhance collective agreements with language supporting the Aboriginal Representative Workforce Strategy.
- Engage Aboriginal union members to assume leadership roles within their respective unions.
- Build commitment to the Aboriginal Representative Workforce Strategy within union membership.

Education and Training Institutes

- Support a K-12 education that makes Aboriginal youth competitive in the labour market.
- Assist Aboriginal communities and people in acquiring education and skills training.
- Ensure education and training programs will meet the skill requirements of the employer demand.
- Become a workplace of choice for Aboriginal people.

3. PREPARING THE WORKPLACE

There are several ways that partnerships can work towards preparing the workplace for the inclusion of Aboriginal people.

- Identifying employment and economic opportunities in a generic way and

communicating the information to Aboriginal communities and organizations.

- Working toward becoming the employer of first choice for Aboriginal people, and lead by example.
- Adopting acceptable practices to deal with personal, sexual, and racial harassment.
- Providing Aboriginal misconception training to all staff.
- Ensuring there are retention strategies in place for Aboriginal employees.
- Ensuring that Aboriginal employees are educated on collective agreement rights, and can participate in the business of unions.

4. WORKPLACE EMPLOYMENT OPPORTUNITIES

There are two aspects to identifying workplace employment opportunities.

Generic Menu of Opportunities

Successful partnerships depend on the employer identifying the full range of employment opportunities in the workplace. This means providing a generic list of all positions of employment in the workplace, including training and experience requirements, job duties and responsibilities. This will provide information about the employer's education, training and employment needs to Aboriginal communities and people who can acquire the skills to compete in Saskatchewan and Canada's labour market.

Review Current Hiring Practices

Partners are encouraged to examine hiring practices and communication efforts to ensure that fair access to employment is available to all people.

5. ABORIGINAL PROCUREMENT OPPORTUNITIES

There are two aspects to identifying economic opportunities in the purchasing of goods and services.

Identifying Economic Opportunities

Successful partnerships depend on the employer identifying the full range of goods and services purchased in order to do business. This might include contracts for construction or renovations, office supplies, cleaning services, food services, purchase of retail merchandise, courier services, etc. This means providing a list of all goods and services purchased by the employer, and sharing this information with Aboriginal communities and business people.



An economic audit determines all the goods and services required by the employer. The audit provides information about current and future business opportunities with employers.

Fair Access to Contracts

Partners are encouraged to review how goods and services contracts are awarded to ensure that fair access is available to all Saskatchewan businesses.

Aboriginal entrepreneurs and business organizations are then empowered to compete fairly and equally for business opportunities.

Communicating business opportunities to Aboriginal people will reduce dependency on government, and will enable Aboriginal people to become employers.

AEDP LEADING CHANGE

Policy Development

As part of the Government of Saskatchewan, in the Department of First Nations and Métis Relations, the Aboriginal Employment Development Program is working to create a representative workforce that includes Aboriginal people. The AEDP is a leading policy development model which seeks to create fair access to employment and economic opportunities.

Youth Awareness

The dominant demographic characteristic of the Saskatchewan Aboriginal populations is the large number of youth under the age of 25. The AEDP focuses on communicating future opportunities to Aboriginal businesses, organizations, and communities to ensure Aboriginal youth get the necessary education and training to compete for the opportunities of their choice.

Workshops

AEDP representatives provide workshops on implementing the Representative Workforce Strategy. Workshops have been conducted throughout Saskatchewan and across Canada.



THE PROVINCIAL ABORIGINAL REPRESENTATIVE WORKFORCE COUNCIL

AEDP partners are invited to join the Provincial Aboriginal Representative Workforce Council (PARWC). The Council brings partners and participating stakeholders together to share and develop strategies for developing and delivering training, facilitating change, developing succession planning, and linking training and job opportunities to potential Aboriginal employees. Aboriginal people can then better prepare for current or future jobs by obtaining the education and skills required.

The Council shares best practices and creates synergy for the program by working together on development projects. This combination of knowledge, experience and resources optimizes our efforts to achieve a representative workforce in Saskatchewan. To find out more about the Council visit www.parwc.usask.ca

