

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

BETWEEN:

KULDEEP KAUR AHLUWALIA

Appellant)
(Respondent)

– and –

AMRIT PAL SINGH AHLUWALIA

Respondent
(Appellant)

Style of Cause Continued on Next Page

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(Pursuant to Rules 37 and 42 of the *Rules of the Supreme Court of Canada*, S.O.R./2002-156)

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PART I – OVERVIEW AND STATEMENT OF FACTS

1. Family violence is a pervasive and insidious form of violence that disproportionately impacts women. Over the course of decades, society’s understanding of family violence has evolved beyond physical abuse to encompass psychological and financial abuse, including patterns of coercive and controlling conduct. The physical and psychological effects of this violence – including “diminished confidence, depression, flashbacks, anxiety and post-traumatic stress disorder” – exact an economic penalty, which is “the financial burden of domestic violence.”¹ The prevalence and devastating impact of family violence requires effective legal remedies that account for the practical and lived realities of these victims.

2. The Women’s Legal Education and Action Fund (LEAF) intervenes in this appeal to make submissions relevant to whether this Court should recognize a new tort of family violence. First, promoting equal access to justice must be a relevant consideration in recognizing novel torts. Second, the values underpinning section 7 of the *Charter* must inform the development of the common law and are relevant to whether a tort of family violence should be recognized. Third, if recognized, this Court should provide practical guidance on how a new tort of family violence is to be considered, analyzed, and established.

PART II – QUESTIONS IN ISSUE

3. The question on this appeal is whether the Court should recognize a tort of family violence.

PART III – STATEMENT OF ARGUMENT

A. Access to justice is a relevant consideration in recognizing new torts

4. This appeal requires the Court to articulate when and under what conditions a new tort should be recognized. The Appellant has outlined (a) how requiring litigants to frame experiences of family violence within existing torts creates many barriers to accessing justice, and (b) how recognizing a tort of family violence would reduce or (in some cases) eliminate those barriers.²

¹ Fiona Kelly, “[Private Law Responses to Domestic Violence: The Intersection of Family Law and Tort](#)” [Kelly] (2009) 44 S.C.L.R. (2d) 321, at pp. 322, 325.

² Appellant’s Factum at paras. 40-41, 59.

5. It is appropriate for this Court to explicitly state that access to justice considerations are relevant to assessing when a novel tort should be recognized. Doing so would (a) be consistent with the principle that “[c]ommon law change is evolutionary in nature”;³ (b) mirror the role of access to justice in developing other areas of the common law; (c) fall within the existing approach to recognizing a new tort;⁴ and (d) be consistent with existing theories of tort law, as well as responsive to critiques that the development of tort law has been overwhelmingly gendered.

6. Expressly integrating access to justice into the doctrinal framework for recognizing new torts would represent an incremental development consistent with the evolution of other areas of the common law. This Court has held that access to justice is “fundamental to the rule of law.”⁵ It has also stated that “[a]ccess to justice means many things”, including “knowing one’s rights, and how our legal system works”, as well as “breaking down barriers that often prevent prospective litigants from ensuring that their legal rights are respected.”⁶ Access to justice has been a foundational consideration in driving the evolution of the common law as it relates to issues including public interest standing⁷ and class proceedings.⁸ It should similarly be integrated into the test for recognizing novel torts, including the tort of family violence.

7. This development would also be consistent with the existing framework for establishing new torts. In *Nevsun*, a majority of this Court noted that the “[d]evelopment of the common law occurs where such developments are necessary to clarify a legal principle, to resolve an inconsistency, or to keep the law aligned with the evolution of society.”⁹ Absent legislation occupying the field, “the common law enables the judges, when faced with a situation where a right recognized by law is not adequately protected, either to extend existing principles to cover

³ *Merrifield v. The Attorney General of Canada et al.*, [2019 ONCA 205](#) at [para. 20](#), citing, *inter alia*, *Watkins v. Olafson*, [1989] 2 S.C.R. 750, at p. 760.

⁴ *Nevsun Resources Ltd. v. Araya* [*Nevsun*], [2020 SCC 5](#), at [para. 118](#) (see also [para. 237](#), *per* Brown and Rowe JJ., dissenting in part).

⁵ *British Columbia (Attorney General) v. Council of Canadians with Disabilities* [*Council of Canadians with Disabilities*], [2022 SCC 27](#), at [para. 34](#), citing *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, [2014 SCC 59](#), at [para. 39](#).

⁶ *Council of Canadians with Disabilities*, at [para. 35](#).

⁷ *Council of Canadians with Disabilities*, at [para. 31](#).

⁸ *AIC Limited v. Fischer*, 2013 SCC 69, at [para. 24](#).

⁹ *Nevsun*, at [para. 118](#).

the situation or to apply an existing remedy to redress the injustice.”¹⁰ Dissenting in part, Brown and Rowe JJ. set out a test for recognizing new torts, which was cited with approval by the Court of Appeal for Ontario in the decision under appeal: “for a proposed nominate tort to be recognized by the courts, at a minimum it must reflect a wrong, be necessary to address that wrong, and be an appropriate subject of judicial consideration.”¹¹

8. Though predating *Nevsun*, when recognizing a new tort of intrusion upon seclusion in *Jones v. Tsige*, the Court of Appeal for Ontario stated that the most important factor driving its conclusion was being “presented in this case with facts that cry out for a remedy.”¹² Persistent barriers to access to justice raise facts that cry out for a remedy, represent a misalignment of the law with the evolution of society, and constitute a wrong that is necessary for courts to address. As such, access to justice should be a relevant consideration in developing novel torts.

9. Incorporating access to justice into the test for recognizing novel torts would also be consistent with existing theories of tort law, while being responsive to critiques (notably feminist critiques) of this area of law.¹³ Tort law has historically developed through a gendered lens. It has focused primarily on tangible physical harms while devaluating harms – including emotional and relational harms – most often experienced by women.¹⁴ As a result, tort law primarily reflects the male experience and “has often failed to compensate women for recurring harms – serious though they may be in the lives of women – for which there is no precise male analogue.”¹⁵

¹⁰ *Nevsun*, at [para. 118](#), quoting *Sidaway v. Board of Governors of the Bethlem Royal Hospital*, [1985] 1 A.C. 871, at p. 884 (H.L.).

¹¹ *Nevsun*, at [para. 237](#) (*per* Brown and Rowe JJ.), cited with approval in *Ahluwalia v. Ahluwalia* [*Ahluwalia ONCA*], [2023 ONCA 476](#), at [para. 56](#).

¹² *Jones v. Tsige* [*Jones*], [2012 ONCA 32](#), at [para. 69](#).

¹³ Deanne Sowter and Jennifer Koshan, “[‘Weaponizing’ The Tort of Family Violence? Myths, Stereotypes, Lawyers’ Ethics and Access to Justice](#)” (November 12, 2024), SSRN [*Sowter and Koshan*], at pp. 24-27 and sources cited therein.

¹⁴ Sowter and Koshan at pp. 25, 32; Martha Chamallas, “[Feminist Legal Theory and Tort Law](#)” (June 18, 2018), Ohio State Public Law Working Paper No. 448 [*Chamallas 2018*] at p. 2; Martha Chamallas, “[The Architecture of Bias: Deep Structures in Tort Law](#)” 146 U. Pa. L. Rev. 463 (1998) at p. 467; Elizabeth Adjin-Tettey, “Sexual Wrongdoing: Do the Remedies Reflect the Wrong?” in J. Richardson & E. Rackley, eds., *Feminist Perspectives on Tort Law* (Routledge, 2012) at pp. 190-191.

¹⁵ Chamallas 2018 at p. 1.

10. While framing tort law’s purpose around two primary objectives (compensation and deterrence), some tort scholars have also advocated a social justice aim that includes “identify[ing], address[ing], and ameliorat[ing] the effects of ... systemic inequalities and disparities.”¹⁶ Others have articulated a conception of tort law “as a means of ensuring that someone who has been wronged can hold a wrongdoer answerable to them.”¹⁷ Each of these reflections supports an appropriate role for access to justice in recognizing novel torts, rather than relying on what the Respondent submits are appropriate “centuries old elements and guardrails”¹⁸ foundational to tort law, developed at a time when “tort law expressly conceived women in property terms.”¹⁹

11. A framework for recognizing new torts that incorporates considerations of access to justice should remain focused on the barriers to accessing justice to which the novel tort would respond. It should not be concerned with how effective recognizing the new tort might be relative to other social, judicial, or political measures that could be undertaken. As the Appellant highlights, the proposed tort of family violence would serve the important role of recognizing the wrong perpetrated against claimants and affirming their sense of worth.²⁰ Research supports that this acknowledgement is significant to survivors in the context of intimate partner violence; they “often want validation, they want to be believed and to have their experiences acknowledged.”²¹ Providing an avenue for that type of validation would legitimately enhance access to justice, as would recognizing a tort – namely, the tort of family violence – that could address the myriad barriers to justice the Appellant identifies.²²

¹⁶ Martha Chamallas, “[Social Justice Tort Theory](#)” (2021) 14 J. Tort Law 309 at p. 6, cited in Sowter and Koshan at p. 25.

¹⁷ Sophia Moreau, “[Beyond Discrimination Law: Realizing Equality Through Other Laws, Such as Tort Law](#)”, *American Journal of Law and Equality* 2024(4) 427 at p. 455, citing John C. P. Goldberg and Benjamin C. Zipursky’s “civil recourse theory” (John C. P. Goldberg and Benjamin C. Zipursky, *Recognizing Wrongs* (2020) The Belknap Press of Harvard University Press, Cambridge, Mass. 2020).

¹⁸ Respondent’s Factum at para. 151.

¹⁹ Joanne Conaghan, “Tort Law and Feminist Critique”, *Current Legal Problems* 2003 (56:1) 175 at pp. 207, 193.

²⁰ Appellant’s Factum at para. 114.

²¹ Sowter and Koshan at p. 35, citing Deborah Epstein and Lisa A. Goodman, “[Discounting Women: Doubting Domestic Violence Survivors’ Credibility and Dismissing Their Experiences](#)” (2019) 167: 2 U. PA L. Rev. 399 at pp. 447-448.

²² Appellant’s Factum at paras. 40-41, 59.

B. The values underpinning section 7 of the *Charter* support recognizing the tort of family violence

12. The common law should develop consistently with *Charter* values.²³ In addition to those values highlighted by the Appellant, the values underpinning section 7 of the *Charter* are also relevant to this Court’s consideration of whether to recognize a tort of family violence.

13. In *Jones v. Tsige*, when recognizing the novel tort of intrusion upon seclusion, the Court of Appeal for Ontario confirmed that *Charter* “jurisprudence identifies privacy as being worthy of constitutional protection” and the protection thereof is aligned with Article 12 of the Universal Declaration of Human Rights.²⁴ Accordingly, “[t]he explicit recognition of a right to privacy as underlying specific *Charter* rights and freedoms, and the principle that the common law should be developed in a manner consistent with *Charter* values, supports the recognition of a civil action for damages for intrusion upon the plaintiff’s seclusion.”²⁵

14. Section 7 of the *Charter* is relevant here: “Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.”²⁶ Section 7 “expresses some of the basic values of the *Charter*.”²⁷

15. *Charter* values are “those values that underpin each right and give it meaning.”²⁸ These play a role in developing the common law – including tort law – in a way that has due regard for the interests underpinning *Charter* rights.²⁹ Tort law seeks to accomplish two main goals: to compensate “individuals for loss or injury suffered” and to deter and prevent “socially unacceptable and harmful conduct in addition to preserving certain fundamental values, setting

²³ Appellant’s Factum at paras. 75, 77; *RWDSU v. Dolphin Delivery Ltd.* [***Dolphin Delivery***], [1986] 2 S.C.R. 573, at para. 39; *R. v. Salituro* [***Salituro***], [1991] 3 S.C.R. 654, at p. 675; *M. (A.) v. Ryan*, [1997] 1 S.C.R. 157 at paras. 21-23.

²⁴ *Jones* at paras. 39, 44. See also *Jones* at paras. 31, 43, and 45.

²⁵ *Jones* at para 46. See also *Jones* at para. 66, cited with approval by Brown and Rowe JJ. (dissenting in part) in *Nevsun* at para. 243.

²⁶ *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982 (UK), 1982, c 11, s 7*.

²⁷ *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44, at para. 188 (*per* LeBel J., dissenting in part), cited with approval in *Gosselin v. Québec (Attorney General)*, 2002 SCC 84, at para. 82.

²⁸ *Loyola High School v. Quebec (Attorney General)*, 2015 SCC 12, at para. 36.

²⁹ *Dolphin Delivery Ltd.*, at para. 39; *Salituro*, at p. 675.

normative standards of responsibility and serving other less apparent purposes.”³⁰ In the context of a proposed tort of family violence, the life, liberty, and security of the person interests of women and girls – who are disproportionately the victims of intimate partner violence³¹ – are particularly relevant to these goals.

16. In *Charter* challenges to state action, the interest of life has been found to be engaged where there is a serious threat to a person’s life, either through action or inaction of the government.³² The liberty interest has two components: protection of a person in a physical sense and protection in the sphere of personal autonomy involving “inherently private choices” that go to the “core of what it means to enjoy individual dignity and independence.”³³ Security of the person has been given a broad interpretation that includes both physical and psychological security.³⁴ The right encompasses freedom from the threat of physical punishment or suffering as well as freedom from such punishment itself.³⁵ Security of the person is engaged where state action has the likely effect of seriously impairing a person’s physical or mental health.³⁶

17. Courts have already recognized some of the corresponding values underpinning these rights as being relevant to the common law’s development.³⁷ These values are relevant to considering whether the law should evolve to recognize the tort of family violence. The epidemic of domestic violence – whose victims are overwhelmingly women and girls – is well documented.³⁸ Its impacts – including on the physical and psychological safety of victims, as well

³⁰ Edwin Durbin, [Torts - Nature of Tort Law and Liability](#), CED: An Overview of the Law Torts, Westlaw Canada.

³¹ *R. v. Malott*, [1998] 1 S.C.R. 123, at para. 44; The Joint Federal/Provincial Commission into the April 2020 Nova Scotia Mass Casualty, [Turning the Tide Together: Final Report of the Mass Casualty Commission, vol. 3](#) (March 2023), (Hon. J. Michael MacDonald), at p. 275.

³² *Carter v. Canada (Attorney General)* [*Carter*], 2015 SCC 5, at para. 62; *Chaoulli v. Quebec (Attorney General)* [*Chaoulli*], 2005 SCC 35, at paras. 112-124, 200.

³³ *Godbout v. Longueuil (City)*, [1997] 3 S.C.R. 844, at para. 66; *Association of Justice Counsel v. Canada (Attorney General)*, 2017 SCC 55, at para. 49.

³⁴ *Carter*, at para. 64.

³⁵ *Suresh v. Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1, at paras. 53-55.

³⁶ *R. v. Monney*, [1999] 1 S.C.R. 652 at para. 55; *Chaoulli*, at paras. 112-124, 200.

³⁷ See, e.g., *R. v. Mabior*, 2012 SCC 47, at para. 45; *Norberg v. Wynrib*, [1992] 2 S.C.R. 226 at p. 247; *Malette v. Shulman*, 1990 CarswellOnt 642 (C.A.) at paras. 25, 41; *R. v. Oakes*, [1986] 1 S.C.R. 103 at para. 64; *Health Services and Support - Facilities Subsector Bargaining Assn. v. British Columbia*, [2007] 2 S.C.R. 391 at para. 81.

³⁸ Appellant’s Factum at paras. 21-29.

as their ability to make autonomous choices – engage the core of section 7’s purpose. Recognizing the tort of family violence would be consistent with the values underpinning section 7 of the *Charter*, in that it would contribute to deterring and providing redress for family violence.

C. If recognizing the tort of family violence, this Court should provide clear guidance on how the tort is considered, analyzed, and proven

18. The inconsistency in applying the torts of assault, battery, and intentional infliction of emotional distress favours establishing the tort of family violence.³⁹ To avoid replicating existing issues with current torts, this Court should provide clear guidance on how the tort – if recognized with the constituent elements articulated by the trial judge⁴⁰ – is to be considered, analyzed, and proven. Guidance and clarity, including on the following points, will enhance access to justice.

19. First, the Court should be clear that it is appropriate to consider a tort claim for family violence within a family law action. This Court’s decision in *Frame v. Smith*,⁴¹ which found that tort claims should not be raised in the context of parenting orders, has subsequently been relied upon “to decline tort remedies in family law cases generally.”⁴²

20. The Court of Appeal addressed this issue below, finding it appropriate to consider tort actions as part of a family law proceeding.⁴³ This conclusion is consistent with the proposition that access to justice includes “breaking down barriers that often prevent prospective litigants from ensuring that their legal rights are respected.”⁴⁴ Recognizing a tort of family violence, and being clear that this tort and any related torts can be raised in the same forum as a family law claim, would improve access to justice for family litigants.

³⁹ Appellant’s Factum at paras. 40-41, 59.

⁴⁰ *Ahluwalia v. Ahluwalia* [*Ahluwalia* ONSC], [2022 ONSC 1303](#), at [para. 52](#).

⁴¹ *Frame v. Smith*, [\[1987\] 2 S.C.R. 99](#).

⁴² Sowter and Koshan at p. 10. See also *Leitch v. Novac*, [2020 ONCA 257](#) at [paras. 41-50](#).

⁴³ *Ahluwalia* ONCA, at [paras. 39-46](#).

⁴⁴ *Council of Canadians with Disabilities*, at [para. 35](#).

21. Second, consistent with how other areas of law have evolved,⁴⁵ the Court should be clear that a subjective, intersectional, culturally competent, and contextual approach⁴⁶ must be taken to appreciate how family violence is perpetrated and its impacts. Family violence must be understood within a framework of relevant intersecting identity markers, such as gender, race, culture, religion, and immigration status. These contribute to physical and psychological effects that exact “an economic penalty” felt more severely by marginalized women “who often lack resources needed to leave the abusive relationship.”⁴⁷

22. In applying a test to establish the tort of family violence, access to justice requires casting a wide net of factors to be considered that account for the experiences of survivors without imposing an overly cumbersome evidentiary burden. Courts must be attuned to the lived realities of family law litigants, which requires considering intersectional and cultural contexts that inform an understanding of what conduct is violent or threatening, constitutes a pattern of coercive and controlling behaviour, and/or causes the plaintiff to fear for their own safety or that of another person *in their particular circumstances*.⁴⁸ This must be a highly individualized analysis that puts singular incidents into context with the larger reality in which the plaintiff lived in fear.⁴⁹

23. Should this Court recognize a tort of family violence comprising the elements set out by the trial judge, it should also provide a non-exhaustive set of contextual factors to be considered in determining whether the constituent elements are made out, including:

⁴⁵ See, e.g., *Cruze v. Canada (Citizenship and Immigration)*, 2015 FC 1256, at paras. 1-3, 18, 25-27; *Rahal v. Canada (Citizenship and Immigration)*, 2012 FC 319, at para. 44; *Fraser v. Canada (Attorney General)*, 2020 SCC 28, at para. 42.

⁴⁶ See, e.g., *Lee v. Dawson*, 2006 BCCA 159 at paras. 4-5; *To v. Toronto Board of Education* (2001), 55 OR (3d) 641 (CA) at paras. 11-12, 37, 43; *C.Y. v. Perrault*, 2006 BCSC 545 at paras. 2-3, 6, 28; *Kavanagh v. Akthar*, [1998] NSWSC 779 (after an accident, a Muslim women cut her hair without her husband’s approval and contrary to community practices of Islam; husband responded by abusing and abandoning her; woman was granted greater damages for disintegration of her marriage).

⁴⁷ Kelly, at p. 322.

⁴⁸ *Ahluwalia* ONSC at para. 52.

⁴⁹ *Ahluwalia* ONSC at para. 54.

- a. The power dynamics between the spouses and/or within the broader family;
- b. The role, conduct, and impact of family, including extended family, in the suppression or deprivation of autonomy and entitlements;⁵⁰
- c. The impact of violence upon any children, particularly any violence perpetrated against them and/or in their presence;⁵¹
- d. Residential arrangements and financial resources, including lack of access to financial resources or interconnected financial resources;⁵²
- e. The existence and outcome of any criminal charges, but not their absence;⁵³
- f. Whether there is a fear of retaliation against the plaintiff and/or others, including those outside the immediate family and/or jurisdiction;
- g. The implications of patriarchal norms and mores, which remain prevalent in many communities and cause shame, isolation, lack of support from family and/or poverty;⁵⁴
- h. Cultural and/or linguistic considerations or barriers;
- i. Health issues (including any physical, psychological, or cognitive impacts of the violence) and/or disabilities; and,

⁵⁰ See, e.g., *Leitch v. Novac* at [para. 45](#); N.S. Tasbiha & A.U. Zaidi, “The Psycho-Social Factors that Escalate Intimate Partner Violence (IPV) Among South Asian Women in North America: An Intersectional Approach and Analysis” (2023) *Journal of Human Behavior in the Social Environment* 1, at p. 32.

⁵¹ See, e.g., *K.M.N. v. S.Z.M.*, [2024 BCCA 70](#) at [paras. 73](#), [107-108](#); *Barendregt v. Grebliunas* [*Barendregt*], [2022 SCC 22](#), at [para. 143](#).

⁵² See, e.g., *Ahluwalia* ONSC at [paras. 78](#), [108-110](#); *Kasuji v. Chhibu*, [2023 ONSC 6904](#) at paras. [2-3](#), [6-8](#), [25](#); *Sidhu v. Sidhu*, [2023 ONSC 4618](#) at paras. [1](#), [7](#), [17](#).

⁵³ See, e.g., *V.K.G. v. I.G. [V.K.G.]*, [2023 ONSC 6329](#) at para. [123](#).

⁵⁴ See, e.g., *Zunnurain v. Chowdhury*, [2024 ONSC 5552](#) at [para. 231](#); *Ahluwalia* ONSC at [para. 99](#); *Nawab v. Abid*, [2019 ONSC 7590](#) at [paras. 7-8](#); *Kritharis v. Kritharis*, [2001 BCSC 258](#) at [paras. 6-8](#).

- j. The implications of immigration or refugee status of the defendant, plaintiff and/or children, which status may be intertwined with the defendant and/or leave the plaintiff without external supports within the jurisdiction.

24. In assessing the evidence tendered when family violence is alleged, courts must be cautious about relying on traditional indicators of credibility. These may be unhelpful and potentially harmful due to the negative impact that trauma has on the “ability to provide a detailed, consistent and accurate recollection and timeline of events.”⁵⁵ Further, courts must not assess credibility against “stereotypical notions of what a victim should have done in similar circumstances” or other myths and stereotypes historically connected with the experience of family violence.⁵⁶

25. Third, this Court should be clear that expert evidence is not required to prove the tort of family violence, while also reiterating that courts must consider the difficulties with proving family violence. In the family law context, some judges continue to comment negatively on the absence of expert evidence where family violence is alleged.⁵⁷ Family violence is “notoriously difficult to prove”, “often takes place behind closed doors and may lack corroborating evidence.”⁵⁸ Courts must acknowledge and incorporate these realities into the assessment of whether the tort of family violence is proven. To further the goal of removing obstacles and creating clear pathways to justice, expert evidence should not be required to establish the tort.

PART IV – SUBMISSIONS CONCERNING COSTS

26. LEAF seeks no costs and asks that no costs be awarded against it.

PART V – ORDER

27. LEAF takes no position with respect to the outcome of this appeal.

⁵⁵ *V.K.G.* at [para. 121](#) (see [paras. 120-123](#) generally). See also *K.K. v. M.M.*, [2021 ONSC 3975](#) at paras. [181-183](#) (aff’d [2022 ONCA 72](#)).

⁵⁶ *V.K.G.* at [para. 120](#). See also *Barendregt* at para. [183](#); *Ahluwalia* ONSC at para. [63](#); *McLellan v. Birbilis*, [2021 ONSC 7084](#) at para. 72.

⁵⁷ See, e.g., *Shipton v. Shipton* [*Shipton*], [2023 ONSC 1342](#), at [para. 28](#) (rev’d, *Shipton v. Shipton*, [2024 ONCA 624](#) at [para. 36](#)).


⁵⁸ *Barendregt* at [para. 144](#). See also Sowter and Koshan at p. 28.

PART VI – SUBMISSIONS ON PUBLICATION

N/A


ALL OF WHICH IS RESPECTFULLY SUBMITTED this 6th day of January 2025.

Per:



**Pam Hrick | Maneesha Mehra | Surinder
Multani**
Counsel for the Intervener,
Women's Legal Education and Action Fund

Per:



Nadia Effendi
Agent for the Intervener,
Women's Legal Education and Action Fund

PART VII – AUTHORITIES

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| 3. | <i>AIC Limited v. Fischer</i> , 2013 SCC 69 | 6 |
| 4. | <i>Association of Justice Counsel v. Canada (Attorney General)</i> , 2017 SCC 55 | 16 |
| 5. | <i>Barendregt v. Grebliunas</i> , 2022 SCC 22 | 23(c), 24, 25 |
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| 9. | <i>Canada (Prime Minister v Khadr)</i> , 2010 SCC 3 | 14 |
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| 20. | <i>Kasuji v. Chhibu</i> , 2023 ONSC 6904 | 23(d) |
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| 31. | <i>Nevsun Resources Ltd. v. Araya</i> , 2020 SCC 5 | 5, 7, 8, 13 |
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| 34. | <i>R. v. Malott</i> , [1998] 1 S.C.R. 123 | 15 |
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| 4. | Fiona Kelly, “Private Law Responses to Domestic Violence: The Intersection of Family Law and Tort” (2009) 44 S.C.L.R. (2d) 321 | 1, 21 |
| 5. | Joanne Conaghan, “Tort Law and Feminist Critique”, <i>Current Legal Problems</i> 2003 (56:1) 175 at pp. 207, 193 | 10 |
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| 1. | <i>Canadian Charter of Rights and Freedoms</i> , Part I of the <i>Constitution Act</i> , 1982, being Schedule B to the <i>Canada Act</i> 1982 (UK), 1982, c 11 | s 7 |
| | <i>Loi constitutionnelle de 1982, Annexe B de la Loi de 1982 sur le Canada</i> (R-U), 1982, c 11 | s 7 |