

February 26, 2025

via electronic portal

Ms. Chantal Charbonneau,
Registrar
Supreme Court of Canada
166-301 Wellington Street
Ottawa, ON K1A 0H9

Madam Registrar,

Re: SCC File No. 41210 – Attorney General of Quebec v. Bijou Cibuabua Kanyinda – Reply of the Proposed Intervenor, Charter Committee on Poverty Issues

We represent the proposed Intervenor, Charter Committee on Poverty Issues. The following are our submissions in Reply on the Intervention Motion.

1. Contrary to the Appellant’s submission, CCPI did not propose to argue that this Court’s judgment in *R. v. Sharma* should be reversed.¹ Instead, CCPI will contend that, in the context of this case, the Court should reconsider the majority’s statement in *Sharma*—which the minority described as ‘pre-emptive’—that section 15 imposes no positive obligations on governments to remedy social inequalities.²
2. As the Respondent has affirmed, and contrary to the Appellant’s submission, the issue of positive obligations under section 15 is directly relevant to this appeal.³ The Court of Appeal explicitly addressed this issue when attempting to reconcile the majority’s statement in *Sharma* with this Court’s jurisprudence in *Eldridge*, *Vriend*, and other cases recognizing positive obligations to implement programs to alleviate disadvantage that exists independently of state action.⁴ The Appellant, in its Memorandum for Leave to Appeal, argues that the Court of Appeal’s decision wrongly suggests that section 15 “confers a general guarantee of equality and

¹ Procureur général du Québec, [Réponse aux requêtes en intervention](#) (February 20, 2025) [p 2](#).

² Charter Committee on Poverty Issues, [Notice of Motion](#), at [para 9](#), [Motion Record p 4](#).
[R. v. Sharma](#), 2022 SCC 39 at [para 63](#) and [para 205](#).

³ [Réponse de l’intimée Bijou Cibuabua Kanyinda aux requêtes en intervention](#) (February 20, 2025) [p 2](#).

⁴ [Procureur général du Québec c. Kanyinda](#), 2024 QCCA 144 at [para 84](#).

oblige the State to correct all inequalities.”⁵ The Appellant further criticizes the Manitoba Court of Appeal for “making the same mistake” by finding a violation of section 15 where the disproportionate impact of a policy on persons with disabilities was linked to their poverty, “a situation independent of the law.”⁶ The Appellant contends that this Court’s intervention is necessary to clarify the framework for section 15 analysis in cases such as these and it is for this reason that this case is of national importance.⁷

3. The existing uncertainty in this Court’s jurisprudence regarding positive obligations under section 15 is also acknowledged by the Respondent, who relies on previous decisions in *Eldridge*, *Vriend* and *Fraser* to counter the Appellant’s interpretation of *Sharma*, which she argues would undermine “the fundamental norm of substantive equality.”⁸ As it explains in its Motion for leave to intervene, CCPI will address these issues from a unique and important perspective.
4. Contrary to the Appellant’s submission, CCPI’s proposed intervention is also directly relevant to the crucial issue of the appropriate remedy in this case. The Appellant relies on *Schachter* to argue for striking down the eligibility criteria altogether while the Respondent relies on *Schachter* and *Vriend* to argue that the benefit must be provided to the subgroup of women who are denied it.⁹ CCPI’s intervention will provide an important and different perspective on how the *Schachter* and *Vriend* decisions should be applied in this case in order to ensure a remedy that, instead of imposing “equality with a vengeance”, fully delivers on section 15’s promise of substantive equality.¹⁰

Sincerely,



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⁵ [Mémoire du Demandeur](#) at [para 31](#).

⁶ [Mémoire du demandeur](#) at [paras 32-33](#) referring to [Stadler v. Director, St Boniface/St Vital](#), 2020 MBCA 46.

⁷ *Ibid*, at [paras 34-35](#).

⁸ *Ibid* at [para 32](#).

⁹ [Mémoire de l’appelant](#) at [para 164](#); [Mémoire de l’intimée](#) at [para 85](#).

¹⁰ [CCPI Notice of Motion](#) at [para 12](#).