



September 21, 2016

Ref: 22253

Honourable Suzanne Anton, QC  
Attorney General and Minister of Justice  
Ministry of Justice  
PO Box 9044 Stn Prov Govt  
Victoria, B.C. V8W 9E2

Dear Minister Anton,

**Re: New Context Evidence and Material Regarding the Métis Adoption Case involving 3 year old child**

I am writing regarding the recent decision in the Court of Appeal on the issue of the adoption of a Métis foster child (L.M. and R.B. v. The Director of Child, Family and Community Services, 2016 BCCA 367). I write to let you know that critical issues of indigenous law and customary practice are involved in this matter and have recently been brought forward. I believe these issues were not adequately reflected in legal processes and you may wish to review this issue.

In the Court of Appeal decision, S.S.'s Métis heritage was not given substantial consideration because the evidentiary basis and information before decision makers at the administrative level was scant. Justice Saunders stated "Last, L.M. and R.B. challenge the Director's consideration of S.S.'s Métis heritage and say that inadequate attention was given to this circumstance by Mr. Justice Macintosh. It is true he did not explore this aspect at length. However, this complaint could apply only to the decision under the CFCSA to place the child in Ontario, and that decision was not subject of the petition." (para 44)

Métis heritage and the customs or input from Michif or Métis legal practices are distinct issues and both need to be carefully considered in decisions for children.

My staff has acted as the advocate for the child in this matter within our statutory role and in that capacity expressed concerns about whether indigenous customs and practices have been sought and considered in decision making. I have no role in court decisions, but I am well aware of the fact that specific cases can develop in a way that does not give full consideration to indigenous legal practices and traditions, as was arguably the case for this child where Michif law and Métis customs and traditions were not canvassed. I know Grand Chief Ed John has made specific reference to his similar concerns about gaps in current practices for other indigenous peoples.

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I have been made aware of three leading Michif knowledge keepers who have expertise on practices and customs surrounding kinship and customs for the Métis Nation of Canada. These experts approached my office and they have deep capacity to inform a proper process. These individuals are:

Dr. Nicolas Vrooman is a folklorist and historian with graduate degrees in History Museum Studies and American Folk Culture from the SUNY Cooperstown Graduate Program and a doctorate in the History of the American West from the University of Montana. He is the author of *The Whole Country was 'One Robe.'* The Little Shell Tribe's America, which elaborates on the relationships between the Michif and other Plains indigenous peoples. Vrooman continues working for the Little Shell Tribe of Chippewa Indians (Montana) as assistant director of their language and cultural preservation program. He was the State Folklorist of North Dakota (1980) and Montana (1990), the Nevada Arts Council Folklorist for Indian Traditional Arts (1996), and was program manager of Educational Talent Search in Indian Country for the Montana Office of the Commissioner of Higher Education. Nicolas was adopted into a North Dakota family Indigenous family in accordance with Michif traditional laws.

Dr. Maria Campbell, Order of Canada, Saskatchewan Order of Merit, is an internationally-acclaimed Métis author, playwright, broadcaster, filmmaker and Elder who knows the languages and cultures of the Michif, Cree and Anishinabeg peoples. Her broad expertise includes knowledge and experience about custom adoptions. Visiting professor and Writer in Residence at various universities, Maria sits as an Elder on the Saskatchewan Aboriginal Justice Commission, and is a member of the Grandmothers for Justice Society. Academically, she has focused on teaching Métis history and Methods in Oral Tradition Research. She has worked as a researcher, meeting with elders to gather and record oral historical evidence of many aspects of aboriginal traditional knowledge, including medical and dietary as well as spiritual, social, and general cultural practices

Dr. Paul L.A.H. Chartrand, IPC. (Indigenous Peoples' Counsel of Canada's Indigenous Bar Association) is a retired Professor of Law and a member of the Bar of Manitoba who served on public bodies in Canada including the federal Royal Commission on Aboriginal Peoples and Manitoba's Aboriginal Justice Implementation Commission. He resides in his home community of St Laurent along Lake Manitoba where he grew up immersed in the Michif culture and language. He is the author of numerous publications including three books and about twenty other publications on Métis issues. He specialized over more than three decades in the law and policy of states respecting indigenous peoples. He has advised Métis organizations at the national and provincial levels and was a Métis Nation Ambassador to the United Nations during discussions on the UN Declaration on the Rights of Indigenous Peoples.



I respectfully urge you to consider how the policies and laws of British Columbia can be interpreted to give due consideration to this indigenous expertise and guidance when the subject child is Métis.

In order to make sure the decisions for S.S. give proper respect and scope for indigenous legal traditions, I ask you to support the Provincial Director of Child Welfare, and/or other public officials, to convene a proper process for the input of these individuals. While this is scoped out, I suggest decision to place the child be held for a short period of time (perhaps 30 days) so that proper consideration of this input can be considered. These individuals are not taking "positions" in litigation but are experts on the law itself for Métis individuals and communities.

As the Attorney General for B.C., I believe your leadership is required on a matter crucial to indigenous legal issues, and with no existing practice framework or guideline on these kinds of matters, your involvement would be most welcome to pressure a space for indigenous customs and laws and to ensure one child's culture is protected to the best standard possible.

Sincerely,



Mary Ellen Turpel-Lafond  
Representative

pc: Cory Heavener, Provincial Director of Child Welfare  
Ministry of Children and Family Development

Honourable Stephanie Cadieux, Minister  
Ministry of Children and Family Development

Tony Belcourt, O.C., LL.D  
Former Métis Nation Ambassador for International Issues

Clara Morin-Dal Col, President  
Métis Nation British Columbia

Grand Chief Ed John  
First Nations Summit

