



**SUPREME COURT OF CANADA**

**CITATION:** R. v. Chouhan\*

**APPEAL HEARD AND JUDGMENT  
RENDERED:** October 7, 2020  
**REASONS FOR JUDGMENT:** to follow  
**DOCKET:** 39062

**BETWEEN:**

**Her Majesty The Queen**  
Appellant / Respondent on cross-appeal

and

**Pardeep Singh Chouhan**  
Respondent / Appellant on cross-appeal

- and -

**Attorney General of Canada, Attorney General of Manitoba,  
Attorney General of British Columbia, Attorney General of Alberta,  
Aboriginal Legal Services, Association québécoise des avocats et avocates de la défense,  
David Asper Centre for Constitutional Rights, Canadian Association of Black Lawyers,  
Canadian Muslim Lawyers Association, Federation of Asian Canadian Lawyers,  
South Asian Bar Association of Toronto, Advocates' Society,  
Defence Counsel Association of Ottawa, Criminal Lawyers' Association (Ontario),  
Debbie Baptiste and British Columbia Civil Liberties Association**  
Intervenors

**CORAM:** Wagner C.J. and Abella, Moldaver, Karakatsanis, Côté, Brown, Rowe, Martin and Kasirer JJ.

**JUDGMENT:**  
(para. 1)

Wagner C.J. (Abella, Moldaver, Karakatsanis, Côté, Brown,  
Rowe, Martin and Kasirer JJ. concurring)

**COUNSEL:**

*Andreea Baiasu and Michael Perlin*, for the appellant/respondent on cross-appeal.

*Dirk Derstine and Tania Bariteau*, for the respondent/appellant on cross-appeal.

*Jeffrey G. Johnston*, for the intervener the Attorney General of Canada.

*Charney Murray*, for the intervener the Attorney General of Manitoba.

*Lara Vizsolyi*, for the intervener the Attorney General of British Columbia.

*Andrew Barg*, for the intervener the Attorney General of Alberta.

*Caitlyn E. Kasper*, for the intervener the Aboriginal Legal Services.

*Jean-Guillaume Blanchette*, for the intervener Association québécoise des avocats et avocates de la défense.

*Kent Roach*, for the intervener the David Asper Centre for Constitutional Rights.

*Peter Thorning*, for the intervener the Canadian Association of Black Lawyers.

*Nader Hasan*, for the interveners the Canadian Muslim Lawyers Association and the Federation of Asian Canadian Lawyers.

*Janani Shanmuganathan*, for the intervener the South Asian Bar Association of Toronto.

*Jill R. Presser*, for the intervener the Advocates' Society.

*Michael A. Johnston*, for the intervener the Defence Counsel Association of Ottawa.

*Nathan Gorham*, for the intervener the Criminal Lawyers' Association (Ontario).

*Christopher R. Murphy*, for the intervener Debbie Baptiste.

*Joshua Sealy-Harrington*, for the intervener the British Columbia Civil Liberties Association.

**NOTE:** This document is subject to editorial revision before its reproduction in final form in the *Canada Supreme Court Reports*.

\*Neutral citation to follow.

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October 13, 2020

Le 13 octobre 2020

Coram: Wagner C.J. and Abella,  
Moldaver, Karakatsanis, Côté, Brown,  
Rowe, Martin and Kasirer JJ.

Coram : Le juge en chef Wagner et les juges  
Abella, Moldaver, Karakatsanis, Côté,  
Brown, Rowe, Martin et Kasirer

**BETWEEN:**

**ENTRE :**

**Her Majesty The Queen**

**Sa Majesté la Reine**

Appellant / Respondent on cross-appeal

Appelante / Intimée à l'appel incident

- and -

- et -

**Pardeep Singh Chouhan**

**Pardeep Singh Chouhan**

Respondent / Appellant on cross-appeal

Intimé / Appellant à l'appel incident

- and -

- et -

**Attorney General of Canada, Attorney  
General of Manitoba, Attorney General  
of British Columbia, Attorney General  
of Alberta, Aboriginal Legal Services,  
Association québécoise des avocats et  
avocates de la défense, David Asper  
Centre for Constitutional Rights,  
Canadian Association of Black  
Lawyers, Canadian Muslim Lawyers  
Association, Federation of Asian  
Canadian Lawyers, South Asian Bar  
Association of Toronto, Advocates'  
Society, Defence Counsel Association of  
Ottawa, Criminal Lawyers' Association  
(Ontario), Debbie Baptiste and British  
Columbia Civil Liberties Association**

**Procureur général du Canada, procureur  
général du Manitoba, procureur général  
de la Colombie-Britannique, procureur  
général de l'Alberta, Aboriginal Legal  
Services, Association québécoise des  
avocats et avocates de la défense, David  
Asper Centre for Constitutional Rights,  
Canadian Association of Black Lawyers,  
Association canadienne des avocats  
musulmans, Federation of Asian  
Canadian Lawyers, South Asian Bar  
Association of Toronto, Société des  
plaideurs, Defence Counsel Association of  
Ottawa, Criminal Lawyers' Association  
(Ontario), Debbie Baptiste et British  
Columbia Civil Liberties Association**

Interveners

Intervenants

**JUDGMENT**

**JUGEMENT**

The appeal from the judgment of the Court  
of Appeal for Ontario, Number C67600,

L'appel interjeté contre l'arrêt de la Cour  
d'appel de l'Ontario, numéro C67600, 2020

2020 ONCA 40, dated January 23, 2020, was heard on October 7, 2020, and the Court on that day delivered the following judgment orally:

THE CHIEF JUSTICE — A majority of the Court is of the view that the statutory change is constitutional and purely procedural and therefore has retrospective application. Accordingly, the appeal is allowed, the cross-appeal is dismissed and the conviction is restored. Reasons to follow.

ONCA 40, daté du 23 janvier 2020, a été entendu le 7 octobre 2020 et la Cour a prononcé oralement le même jour le jugement suivant :

[TRADUCTION]

LE JUGE EN CHEF — La Cour à la majorité est d'avis que la modification législative est constitutionnelle et purement procédurale, et qu'elle s'applique donc rétroactivement. En conséquence, l'appel est accueilli, l'appel incident est rejeté et la déclaration de culpabilité est rétablie. Motifs à suivre.

C.J.C.  
J.C.C.