

S.2(a) freedom of conscience and religion

LEGAL ISSUE — does s.2(a) allow religious claims that seek protection for sacred land THAT may infringe on the rights of others

* others meaning developers building on Crown land

How is Aboriginal spiritual connection to land CO-EQUAL to economic development by private interests?

Ktunaxa Nation's Argument

- ① right to religious freedom independent of Aboriginal right to a religious practice tied to land
s.2(a) freedom SEPARATE from s.35 right
- ② Minister's decision to approve the development INCORRECT because it was an error in law to consider religious claims only as part of a s.35 determination

s.2(a) freedom of religion violated if the gov't approves a development on sacred land that will destroy their spiritual connection / focal point of their spirituality

s.35 hold a right to exercise spiritual practices which rely on a sacred site and require its protection (duty to accommodate not adequately met by Crown)