

# LEAF Newsletter

## February 2008



Women's Legal  
Education and  
Action Fund

Fonds d'action et  
d'éducation juridiques  
pour les femmes

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Happy 2008!

**LEAF has started the year off with a buzz of activity. Here are some of the highlights.**

### Legal Update - February 2008

#### ***Federation of Francophone and Acadian Communities v. Canada et al.***

The Federation of Francophone and Acadian Communities is challenging the constitutionality of the de-funding of the Court Challenges Program (CCP), particularly as it applies to minority language rights. LEAF applied for leave to intervene in the Federation's challenge as part of a coalition organized by the Council of Canadians with Disabilities. The Coalition sought to argue that the de-funding of the Court Challenges Program, specifically the equality seeking division, severely hinders the ability of members of historically disadvantaged, equality-seeking groups to assert their rights guaranteed by the *Charter*. The Coalition sought to argue that the de-funding exacerbated the access-to-justice crisis in Canada and under-mined constitutional principles.

Unfortunately on January 8, 2008, the Coalition was denied leave to intervene in *Federation of Francophone and Acadian Communities* by the Federal Court of Canada.

The Coalition's work has been effective in bringing public attention to the case and LEAF will continue to participate in public discussions about the importance of the Court Challenges Program. The case provided LEAF with an opportunity to work with other equality-seeking groups in an effort to articulate the impact of the cuts to the Court Challenges Program on disadvantaged communities. Finally the substantive work on the joint factum, particularly the work on the importance of government-funded equality-promoting programs, will be useful in LEAF's intervention work in the future.

### ***Honda v. Kevin Keays***

LEAF was pleased to be granted leave to make oral argument before the Supreme Court of Canada in *Honda v. Keays*, a wrongful dismissal case regarding compensation for harassment and discrimination for employees with disabilities. Counselors, Susan Ursel and Kim Bernhardt, appeared on LEAF's behalf before the Court on February 20<sup>th</sup>.

The appeal raised the question of whether courts have the responsibility to apply common law principles in a manner consistent with the protections afforded to individuals by human rights law. It also examined the relationship between human rights and the common law. LEAF is concerned that equality claimants are currently denied full and meaningful access to justice. This is because the common law fails to recognize fully discriminatory wrongs, and to adequately and coherently compensate for discriminatory harm. This has resulted in the artificial and unnecessary separation of human rights laws from civil wrongs. LEAF argued that employment contracts should be understood to prohibit all forms of discrimination, and that equality claimants are entitled to compensation for discrimination as an implied term of contract.

LEAF will also argued that the comparator group analysis for both human rights and section 15 purposes must incorporate substantive equality, not the formal equality limitations advocated by Honda.

A decision in the case was reserved. LEAF's factum for *Honda v. Keays* is available at [www.leaf.ca](http://www.leaf.ca).

### ***CCR et al. v. HMQ***

In January the Federal Court of Canada released its final decision in *Canadian Council of Refugees (CCR) et al. v. Her Majesty the Queen* and found that the Safe Third Country Agreement (STCA) at issue in the case, is unconstitutional and will be invalid as of February 1, 2008. The case deals with a challenge to the constitutionality of the Safe Third Country Agreement that was signed in December, 2001 and went into force in 2004. The Agreement prevents refugees from seeking safe haven in Canada, if they are seeking to enter from the United States at a land border, which can result in their return to persecution and torture. The challenge claimed that the Agreement is in violation of sections 7 and 15 of the *Charter*, as well as in violation of Canada's international human rights obligations. The applicants sought a declaration that the Agreement is invalid and unlawful.

LEAF applied for leave to intervene before the Federal Court in this case but was denied leave.

The Federal Government is appealing the Federal Court decision and seeking a stay of the decision. The appeal is expected to likely be heard on an expedited basis. For more details about STCA and its implications for women visits <http://www.leaf.ca/CCR%20et%20al%20v%20HMQ%20Article%20-%20by%20F%20Sampson%20-%20Feb%202008.pdf>.

### **LEAF National Equality Day Celebration**



LEAF Equality Day Celebration  
Justice Bertha Wilson Fund Launch



*Justice Bertha Wilson Fund*  
Women's Legal Education and Action Fund (LEAF)

*Cocktail Reception*

THURSDAY, APRIL 17, 2008

This year on Equality Day, join the  
Women's Legal Education and Action Fund to celebrate the

*Justice Bertha Wilson Fund*

RBC PLAZA  
200 BAY STREET  
40<sup>th</sup> Floor, South Tower  
Toronto  
COCKTAIL RECEPTION  
6:00 pm to 8:00 pm



Hosted by  
**Louanne Ducharme, Regional Vice-President, RBC**  
**Audrey M. Johnson, Executive Director, LEAF**

*Special Guest Speakers*

**Claire L'Heureux-Dubé** is former justice of the Supreme Court of Canada who served with Justice Wilson between 1987 and 1991.

**Ellen Anderson** wrote *Judging Bertha Wilson: Law as Large as Life* (2001). She practices law at Gibson and Adams LLP in Innisfil, Ontario.

Donations of \$150 are payable to LEAF

To reserve tickets, contact  
Mitzi Reinsilber, 416.595.7170 ext. 222  
m.reinsilber@leaf.ca



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LEAF gratefully acknowledges the generosity of RBC in hosting the Equality Day Celebration.

## West Coast LEAF's Equality Day Breakfast 2008

West Coast LEAF is excited to welcome Dr. Shirin Ebadi as keynote speaker for the Equality Breakfast on February 29th, 2008. Iranian human-rights lawyer Dr. Shirin Ebadi was awarded the Nobel Peace Prize on October 10, 2003. She is the first Muslim woman and first Iranian to receive the prize, which recognized her important and pioneering efforts in democracy and human rights, especially for the rights of women and children. Dr. Ebadi served as the country's first female judge, in the 1970's. She has also been recognized by Human Rights Watch and Amnesty International for her fight for human rights and democracy in Iran. In 2004, during Dr. Ebadi's most recent visit to Vancouver, she received an Honorary Doctor of Laws from University of British Columbia.

We invite you to join us!

Equality Breakfast 2008  
February 29<sup>th</sup>, 2008  
Hyatt Regency, Vancouver

Keynote Speaker, Dr. Shirin Ebadi  
Nobel Peace Prize winner and Women's Rights Activist

She will also be speaking at the University of Victoria on March 3<sup>rd</sup>, 2008

Contact: [www.westcoastleaf.org](http://www.westcoastleaf.org) or [breakfast@westcoastleaf.org](mailto:breakfast@westcoastleaf.org)  
604-684-8772 or 1-866-737-7716  
*Some free tickets are available*

## West Coast LEAF's Oxfam Symposium



[Please click here for more details](#)

## Personnel Moves

LEAF said good-bye to Director of Communications and Branch Relations, Angela Regnier, in January after she accepted the position of Executive Director of the University of Toronto Students' Union. Angela made tremendous contributions to the organization during her tenure. We congratulate and wish her all the best in the new post.

## International Women's Day

LEAF encourages supporters - women and men, girls and boys - to promote and participate in events celebrating International Women's Day/Week.

This year's theme is Strong Women, Strong World.

This theme draws in part from one of the fundamental beliefs underlying the modern women's movement, that "a woman's place in society marks the level of civilization of that society." This refers not only to the empowerment of women as a means to bring about positive and fundamental social change but to the critical roles that women play as leaders, policy-makers, caregivers, educators, and international peacemakers. The theme also draws from the fact that empowered women can, and do, play a fundamental role in current and future efforts to preserve and protect the world's natural environment.

As the International Women's Day/Week theme, Strong Women, Strong World, makes clear, when we empower women, we secure a brighter future for everyone.

*Taken from the [Status of Women Canada](#) website*

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