

LEAF
NEWSLETTER
E-Lines
April 2010



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On Tuesday April 27th – LEAF will celebrate and honour a special group of women lawyers who have made a difference for women and girls in Canada. The event will take place from 6:30 – 9:30 p.m. at the **Bram and Bluma Appel Salon, Toronto Reference Library 789 Yonge Street, 2nd Floor**

Equality Day: A Celebration of Women will mark the 25th Anniversary for the Women's Legal Education and Action Fund and also the 25th anniversary of *Section 15* (the Equality Clause) in the *Charter*. To mark the occasion LEAF will showcase the lives and work of 15 amazing women and a group of LEAF Founders who are lawyers.

Please join us in celebrating the accomplishments of: **Deborah M. Alexander**, Jennifer Babe, **Mary Louise Dickson**, Barbara Findlay, **Elizabeth McIntyre**, Sheila McIntyre, **Sharon McIvor**, Mary Jane Mossman, **The Late Helena Orton**, **Kim Pate**, Laurie Pawlitzka, **Elizabeth Shilton**, Linda Silver Dranoff, **Latha Sukumar**, and Lisa Vogt.... And LEAF Founders – **Beth Atcheson**, Mary Eberts, **Marilou McPhedren**, Yvonne Peters, **Eloise Spitzer**, Beth Symes, and **Susan Tanner**.

Please join Co-chairs – Kirby Chown and Sylvia Chrominska in honouring these women lawyers that have made a difference.

To order ticket packages or sponsorship – please contact: Katherine Blake, 416.595.7170 ext 222, k.blake@leaf.ca.



Edmonton celebrates 25 years of equality rights in Canada, and 25 years of LEAF, with BOMBA! The Party begins at 7:00 p.m. on April 16th at the Crestwood Community League, 14325 – 96th Ave, and runs until midnight. Admission is \$20 for the general public, and \$10 for LEAF members. There will be a cash bar, free food, dancing, reminiscing and merriment.

Manitoba's LEAF branch will host an anniversary Youth Conference on May 19th – 25 Years Later: The Case for Equality Why Should I Care? LEAF Manitoba will also be hosting a Volunteer Appreciation event and their annual Wine and Cheese Reception. For more information contact leafmb@mts.net.

Ottawa's LEAF branch will celebrate Equality with a party at 6:00 p.m. on Saturday April 17th at Bevin's place. For more information contact bevin@rogers.com.

www.leaf.ca/youth



National Youth Commission

***To Determine the
Future of
Equality in Canada***

Today's youth are the first generation to grow up protected under the equality section of the Charter of Rights and Freedoms. With the launch and implementation of a national Youth Commission, LEAF will investigate how Section 15 has impacted today's young Canadians. LEAF hopes to learn about the social justice challenges these young people currently face, and how they see the future of equality in Canada.

The official launch of the LEAF Youth Commission, which celebrates the 25th anniversary of the Charter, will take place at the Ursula Franklin Academy, in Toronto, on April 15th.

During the event, students from Ursula Franklin Academy will have the opportunity to discuss what social justice means to their generation and how they envision equality in Canada's future.



LEAF is honoured to announce the distinguished Dr. Ursula Franklin will attend the launch event. Dr. Franklin is University Professor Emerita in the University of Toronto's Department of Materials Science Engineering, and a member of the Order of Ontario. She has campaigned for social justice, peace and women's rights and is the figurehead of the group that ushered in Section Fifteen. The United Nations Association of Canada awarded Dr. Franklin with the Pearson Peace Medal in recognition of her humanitarian work.

Speakers at the event also include Saron Ghebressellassie, a Youth Commissioner and 23-year-old doctoral candidate from York University. Saron has been active in Toronto's student, labour, feminist and anti-racist movements since 2003. She received the YWCA Young Woman of Distinction Award for speaking the languages of activism, and was named in Chatelaine Magazine's "Top 80 Women to Watch" feature article.

The goal of the Youth Commission program is to take the pulse of Canada's youth and discover how social justice and equality issues affect them. LEAF appointed twelve Youth Commissioners from across Canada to survey their local communities through focus groups, consultations and community events. At these gatherings, Commissioners will pose questions about social justice, and the responses will be captured on video.

LEAF will capitalize on communications technologies to connect interested parties and create interactive dialogue about issues concerning today's youth. This will include the launch of a new blog feature on the LEAF website on which youth from across Canada are encouraged to submit creative works that depict their perspectives on human rights, and awareness building via Facebook and Twitter.

LEAF will publish a digital record of youth responses and blog submissions. The video will be made available to the public through LEAF's website, YouTube and an open screening. LEAF will also use the feedback to improve their youth programming and develop a report to use as an educational tool to support further research on equality issues in Canada.

To find out about the Youth Commission in your community and local events check out the Youth Commission website at www.leaf.ca/youth. For more information on the program, please contact Niki Popper, Education Program Coordinator at 416-595-7170 ext. 229 or email n.popper@leaf.ca.



LEAF Working Hard

The **LEAF at Work** education program is currently being delivered in five cities across Ontario: Toronto, Ottawa, Kingston, Sudbury and Windsor, with fully trained people in each of the locations. Additional workshops are scheduled before the end of the school year, and end of year evaluations will be conducted. We will share the results of our study with you as soon as it becomes available. LEAF is seeking funding to deliver this program in other provinces.

LEAF Family Reunion

Hold the Date...
Family Reunion day
will be held October
29th and 30th in
Toronto. Details will
be forthcoming.



Withler v. Canada (SCC)

On March 17, 2010, LEAF intervened in the Supreme Court of Canada case of *Withler v. Canada*. The case is significant since it is the first appeal heard by the Supreme Court of Canada in over two years in which the only basis for the challenge is a violation of equality rights under the *Charter*. LEAF intervened to advance the equality rights analysis to ensure that the legal test fully accounts for the lived realities of marginalized groups. LEAF also intervened to emphasize the gendered dimension of the age-based discrimination challenge.

Withler involves a federal government supplementary death benefit (“SDB”) paid to spouses of deceased civil servants and armed forces members. The claimants allege that the legislation discriminates based on age because the death benefit payout decreases by 10 per cent each year for ten years once the participant lives beyond the age 60 or 65, at which point the participant’s spouse is entitled only to a minimum paid-up benefit. The claimant class are spouses of deceased civil servants and armed forces members. Noting that the overwhelming majority of surviving spouses are women, LEAF argued that the Supreme Court must consider the specific impact of the reduced benefit on elderly women. LEAF emphasized the financial vulnerability of elderly women, arising from the effects of systemic labour market discrimination, their caregiving roles and the limited participation of women in the workforce historically. LEAF argued that the exclusion of predominantly elderly single women from a scheme which is intended to offer transitional funding upon the death of a spouse is discriminatory; the exclusion exacerbates their already existing economic and social inequality.

Caron v. Alberta (SCC)

In February 2010, LEAF, in coalition with the Council of Canadians with Disabilities, the Charter Committee on Poverty Issues and the Poverty and Human Rights Law Centre, was granted leave to intervene by the Supreme Court of Canada in the case of *Alberta v. Caron*. The appeal concerns the discretion of the Courts to award advance costs to claimants who would otherwise be unable to litigate their public interest claims. The decision of the Supreme Court will have significant implications for access to justice for disadvantaged and marginalized groups. Over the past decade, the elimination of the Court Challenges Programme, restricted access to legal aid, and the decreased availability of any other sources of funding for equality seekers to enforce and advance their constitutional rights, have increased the barriers to access to justice for marginalized groups. The Coalition factum argues that the interests of justice require that legal claims that seek to advance the full social and political participation of marginalized and minority groups fall within the class of “exceptional” cases which are deserving of advance costs.

N.S. v. R. (Ontario C.A.)

On April 12, 2010, LEAF filed its intervener factum in the sexual assault case of *N.S. v. R.*. The appeal is scheduled to be heard in June 2010. LEAF has been granted leave to make oral submissions.

N.S. involves a sexual assault complainant who wears a niqab – a veil which covers the face, with the exception of the eyes. *N.S.* alleges that she was sexually abused as a child from the ages of six – 12. She is now in her early 30s. The accused are the complainant’s uncle and cousin. *N.S.* reported the alleged abuse to a teacher when she was a child, but her father convinced the police not to lay charges.

The accused object to *N.S.* wearing her niqab while giving evidence at the preliminary inquiry and trial, asserting a right to “demeanour evidence”, including *N.S.*’s full facial expressions. The preliminary inquiry judge ordered the complainant to remove her niqab. On appeal to the Ontario Court of Appeal, *N.S.* seeks an Order that she is entitled to wear her niqab at the preliminary inquiry and trial.

LEAF’s factum argues that *N.S.* is entitled to wear her niqab at the preliminary inquiry and trial, and that an Order requiring *N.S.* to remove her niqab as a precondition to testifying would violate her rights under ss.7 and 15 of the *Charter*.

LEAF argues that the accuseds’ objection to the complainant testifying in her niqab must be situated in the context of the historical and ongoing legal and procedural norms which re-victimize sexual assault complainants and reinforce their inequality. In particular, the objection must be seen in the context of defence tactics to “whack the complainant”, in an attempt to humiliate and intimidate complainants so that they withdraw from participating at trial or are diminished and beaten down as witnesses for trial.

LEAF argues that whatever one’s personal views are on the niqab, effectively disenfranchising sexual assault complainants who wear the niqab from the criminal justice system is inconsistent with promoting their substantive equality and respecting and protecting their s.7 *Charter* rights to life, liberty and security of the person.



25th Anniversary Campaign

We’ve come a long way...and LEAF looks forward to the next 25 years of helping build equality rights in Canada.

On April 17 2010, Canadians will celebrate **25 years** of constitutionally enriched equality rights for women since the enactment of Section 15, the equality section of the *Canadian Charter of Rights and Freedoms*.

LEAF, founded two days after the enactment of section 15 to steadfastly work on forging substantive equality rights for women, plans to joyously celebrate its 25th anniversary and the many milestones marked in those 25 years.

LEAF, also plans to launch itself into the next 25 years of substantive equality work, recognizing that the landscape has changed since 1985. LEAF needs to respond effectively and appropriately to the issues that prevent the substantive equality of all Canadians through its legal, education and law reform work if we are to build on the ground breaking work for which we are internationally recognized.

It is with much gratitude and excitement that we ask you to join us in the celebration. Without you, LEAF’s work would not be possible. For more on our celebrations, all that is planned for this year, and how you can get involved, please visit our website at www.leaf.ca.

Lieutenant Governor Events

The Lieutenant Governors of Manitoba, Ontario and Saskatchewan hosted a reception on Tuesday April 13th, to celebrate the 25th Anniversary of LEAF. In May the Lieutenant Governor of PEI will also host a reception.

LEAF - the Women's Legal Education and Action Fund - is a national charitable organization that works toward ensuring the law guarantees substantive equality for all women in Canada.

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