



**LEAF JANUARY EMAIL UPDATE: TABLE OF CONTENTS**

- 1. LEGAL UPDATE: ARBITRATION ACT
- 2. PAY EQUITY COALITION
- 3. LEAF REPORT: PROVOCATION IN CRIMINAL LAW
- 4. BRANCH UPDATES
- 5. IN MEMORIAM: PROFESSOR DIANNE MARTIN
- 6. WELCOME TO NEW NLC MEMBERS
- 7. DO YOU KNOW A WONDERFUL LEAF VOLUNTEER?
- 8. REASON TO GIVE

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**1. LEGAL UPDATE: ARBITRATION ACT**

**INTRODUCTION AND BACKGROUND**

On December 20, 2004 former Ontario Attorney General Marion Boyd released her report titled "Dispute Resolution in Family Law: Protecting Choice, Promoting Inclusion". The Boyd Report includes 46 recommendations relating to changes to the Arbitration Act and the Family Law Act. The report was delivered to Ontario's Attorney General Michael Bryant and the Minister Responsible for Women's Issues, Sandra Pupatello.

The Report was a result of the public's response to the launch of the Islamic Institute of Civil Justice, whose purpose is to train arbitrators to apply Islamic principles to family law arbitrations. Boyd was asked to review the existing practice of using arbitration under the Ontario Arbitration Act, rather than the Courts, to provide a legal framework for resolving family law disputes. Because the Arbitration Act allows parties to apply any law they choose to their legal dispute, Boyd was also asked to consider the appropriateness of providing arbitrations using religious principles (Christian, Jewish, Muslim, etc).

Over the strong objections of feminist organizations, including LEAF, the Boyd Report supports the continuing use of religious law, even where it conflicts with Ontario and Canadian family and inheritance law.

**LEAF'S RECOMMENDATIONS TO THE BOYD REPORT**

LEAF met with and made written submissions to Marion Boyd during her review. LEAF supported the continued use of arbitration, where it is freely chosen, in the family law context, because of the importance of alternative forms of dispute resolution to women who often experience the Court system as hostile and inaccessible. As a condition of continued use of arbitration, LEAF strongly advocated that Ontario and Canadian family law, not religious law, be the required law applied to arbitration.

LEAF did suggest that religious principles could also be used in arbitration, but only where those principles were not in conflict with Ontario and Canadian family law, and in particular where they are not in conflict with the equality advances that women have achieved in family law.

LEAF also made a number of recommendations relating to specific procedural protections that should be in place for family law arbitrations, particularly to address lack of informed consent to arbitration and the particular needs of women made vulnerable by domestic abuse. LEAF recommended the need for all arbitrations decisions to be submitted to a public research body.

## LEAF'S POSITION ON THE FINAL BOYD REPORT

LEAF is disappointed and deeply concerned with the recommendations in the Boyd report. LEAF believes that all women in Canada are entitled to have family disputes decided in accordance with established legal principles that promote women's equality. LEAF also believes that the state has no business enabling and enforcing family law decisions that are potentially immune from Charter review. Marion Boyd's recommendations would potentially allow arbitrators to ignore rights that Canadian women have achieved through years of fighting for fairer family law standards.

It is LEAF's position that the Boyd Report sets a dangerous precedent in locating the appropriate balance between women's equality rights and religious or cultural freedom. The Boyd Report finding that the "[r]eview did not find any evidence to suggest that women are being systematically discriminated against as a result of family law issues"<sup>1</sup> is simply not credible, in light of what we have heard from women concerned about the application of conservative religious values to the rights of women within their own communities.

LEAF is continuing its networking and consultation work on this important issue for women at the intersection of multiple forms of discrimination. LEAF is currently in the process of considering next steps with respect to this issue in general, and specifically the recommendations made by the Boyd Report. We will provide updates relating to this work through our regular communication channels.

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## 2. PAY EQUITY COALITION

LEAF is a member of the Pay Equity Network, advocating in support of new federal pay equity legislation. The Pay Equity Call for Action was distributed through various networks, and has received approximately 80 endorsements thus far. Please encourage your networks to sign onto the Call for Action before the end of January at <http://www.nawl.ca/lob-pay.htm>. Law reform initiatives in support of a new federal pay equity legislation will likely start in earnest in February. We'll keep you posted!

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## 3. LEAF REPORT: PROVOCATION IN CRIMINAL LAW

LEAF's paper entitled "A Feminist Perspective on Provocation in Criminal Law: Further Steps Towards the Implementation of Equality Rights in Criminal Law" is now available on our web site at <http://www.leaf.ca/legal-pdfs/ProvocationPaper99.PDF>

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## 4. BRANCH UPDATES

### WEST COAST LEAF:

#### a) Women's Rights & Freedoms: 20 Years (In) Equality.

Registration details for the 20th anniversary equality conference being jointly hosted by West Coast LEAF and the National Association of Women and the Law (NAWL) are now available. To register, please visit the conference website at <http://www.equalityconference.com>

b) West Coast LEAF's 18th Annual Equality Breakfast will be held on Friday, March 4th at the Hyatt Regency Hotel in Vancouver. Roberta Jamieson is this year's featured speaker. Ms. Jamieson has earned national and international acclaim for her passion, her willingness to take risks and her promotion of non-adversarial methods of conflict resolution and has enjoyed a distinguished career of "firsts." She was the first Aboriginal woman in Canada to obtain a law degree; the first woman to be appointed Ombudsman for the Province of Ontario, a position she held for 10 years; the first non-parliamentarian appointed to a House of Commons; and the first woman elected Chief of her home reserve and largest First Nations community in Canada, the Six Nations Band in Ontario. Tickets and information about the breakfast can be obtained by emailing <mailto:breakfast@westcoastleaf.org>

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## 5. IN MEMORIAM: PROFESSOR DIANNE MARTIN

On December 21, 2004, a special friend to LEAF passed away suddenly. Professor Dianne Martin (Osgoode Law School, York University) made a tremendous contribution to the cause of social justice including LEAF over her 30-year career. Professor Martin's contribution to LEAF's legal work through sub-committee participation was hugely valued and respected and she will be sorely missed.

Family, friends and colleagues gathered to pay tribute to Professor Martin in January 5, 2005 at Osgoode Law School; the school is also establishing a Dianne Martin Bursary to assist students in financial need who have a demonstrated interest in social justice. Those wishing to honour Dianne's memory may contribute to the Bursary by sending a cheque payable to Osgoode Hall Law School (Re: Dianne Martin Bursary) to the Dean's Office, or by going online to our Online Donation Form <https://osgoode.yorku.ca/alumniforms.nsf/giving?OpenForm> and typing in "Dianne Martin Bursary" under the heading "Please Direct my contribution to:"

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## 6. WELCOME JANINE BENEDET AND LORNA TURNBULL TO THE NLC

Janine Benedet has been a Professor at Osgoode Hall Law School's faculty since 1999. She has published articles on the criminal offence of indecency, the regulation of pornography, and sexual harassment in employment. Her current research projects include an historical critique of law school examinations and a study of the criminal law's response to the sexual assault of women with mental disabilities.

Lorna Turnbull has been an Assistant Professor at the University of Manitoba, Faculty of Law since 2001. Before that she held positions at Osgoode Hall Law School, Glendon College and Columbia University School of Law. Lorna teaches Income Tax Law and Policy; Law, Gender, Equality; and Les Femmes et La Loi. A recognized expert in the relationship between mothering, law, and policy, Lorna recently published a book titled "Double Jeopardy: Motherwork and the Law".

We are thrilled to have Janine and Lorna joining the NLC and look forward to working with them over the next two years.

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## 7. DO YOU KNOW A WONDERFUL LEAF VOLUNTEER?

The LEAFLines newsletter will be distributed this April. The focus of this year's newsletter is profiling and celebrating the special individuals who give so much of their time, energy, and financial support to LEAF. The Development Office is currently seeking nominations for recognition in this newsletter that is sent to over 3,000 LEAF supporters across the country. If you know someone who should be profiled, please contact Angela Ryan-Rappaport by email at <mailto:a.ryan-rappaport@leaf.ca> or call (416) 595-7170 x225.

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## 8. REASON TO GIVE:

In our last email update we told you about how the pressures, prejudices and pain that still disproportionately affect women's lives limit the potential of thousands of women in Canada. Here is what LEAF is doing to address some of these critical issues:

Violence

- \* Spousal violence has wrought a huge toll: almost one million women have been victims of domestic violence in the past 5 years.
- \* Every year, more than 95,000 women and children seek emergency shelter.

LEAF is doing development work for several upcoming appeals at the Supreme Court. The issues LEAF will be researching include the state's responsibility to respond to spousal violence.

#### Aboriginal Women

- \* Aboriginal women bear huge poverty rates and related health and emotional effects.

LEAF is considering an intervention in a case at the Supreme Court this spring that deals with securing compensation for survivors of abuse at residential schools. Residential school abuse has a gendered impact on Aboriginal women that must be considered by the courts.

#### Human Rights

LEAF is conducting crucial and under-funded research to determine the proper test for discrimination in the human rights context. This has important implications for substantive equality, and for access to human rights remedies for women and other disadvantaged groups.

All of this critical work is currently unfunded or under-funded. Please donate today and make a difference in the lives of women and girls for years to come.

For more information, or to make a tax-deductible donation to LEAF:

Call (416) 595-7170 x 234

Email <mailto:donate@leaf.ca>

Mail your donation to LEAF, 2 Carlton St., Suite 1307, Toronto, ON, M5B 1J3

Donate online through CanadaHelps.org at

<http://www.canadahelps.org/CharityProfilePage.aspx?CharityID=s12490>

THANK YOU!

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