



Dalhousie Legal Aid Service
A Community Service of
Dalhousie University



Women's Legal Education and Action Fund
Fonds d'action et d'éducation juridiques pour les femmes

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FOR IMMEDIATE RELEASE

The Nova Scotia Court of Appeal today released a [decision](#) overturning a decision of the Nova Scotia Supreme Court and allowing an appeal finding that a mother and her three children should not have been disqualified from receiving social assistance because of the so-called 'sins of the father.'

In December 2014 the Province's Department of Community Services cut off social assistance to an entire family, with immediate disastrous economic consequences for the family over the holiday season, based on the father's earlier failure to attend an appointment with his employment counsellor. The Court found that the Province acted unjustly in cutting off the entire family, including the female spouse and children, and that the father alone, as the 'defaulting party' should have lost his entitlement to social assistance.

The Court found that the government's actions, in disqualifying a mother and her three children who were dependent on social assistance for their survival, had the effect of punishing people living in poverty.

"The Department's decision to cut off our social assistance in December had a terrible effect on our children - we had no money for heat and eventually had to move. I could not afford to buy the food and other simple things children should have, and this hurt my health and my children's wellbeing." Rosemary Sparks, Intervener and litigation guardian for her three children.

The Court of Appeal described the government's defence of its position, and by implication, its implementation of the social assistance scheme in Nova Scotia for the last almost two decades since the legislation's introduction, as "unjust". Prior to the Court's decision, thousands of Nova Scotians, including many hundreds of children, lost their basic means of survival in the form of social assistance over that same time period.

"Simply put, denying innocent people, living in poverty, the funds they need for financial survival cannot be sustained by any reasonable interpretation of the governing legislation." (Decision, Para 17)

"It is highly significant that the Court of Appeal adopted an interpretation that respects the equality rights of women under the *Charter*, especially in light of their economic disadvantage based on what is known as the 'feminisation of poverty' in Canada." Kim Stanton, Women's Legal Education and Action Fund ([LEAF](#)) Legal Director.

"The role played by LEAF as an intervener in this appeal both reflects the importance of the equality interests at stake, and LEAF's key role in protecting and promoting the interests of women and their children in Canada." Vince Calderhead, counsel for the Appellant.

The racialised nature of poverty in Nova Scotia, and in particular the disproportionate impact of poverty on African Nova Scotian and Indigenous communities, was an important factor in the Court's consideration in fulfilling its equality rights obligations. The Court cited the intervenor's submissions that poverty rates for racialised families are three times higher than other households.

In addition, the Court of Appeal highlighted the importance of Nova Scotia's international obligations – including a right to an adequate standard of living and social security in a non-discriminatory manner – in interpreting Nova Scotia's social assistance legislation.

The Court of Appeal decision requires the Provincial Department of Community Services to change the way it treats people receiving social assistance, including spouses and children, in order to respect their human rights – their right to non discrimination, an adequate standard of living, and social security.

“As a result of the Court's decision, the Department must now act in a way that respects and protects the social and economic rights of spouses and children and avoids unjustly terminating social assistance to children and other poor people.” Claire McNeil, counsel for the intervenors, Rosemary Sparks and LEAF.

LEAF is grateful to *pro bono* counsel Claire McNeil of Dalhousie Legal Aid Service for her representation in this case.

About Women's Legal Education and Action Fund (LEAF)

Since April 17, 1985, when equality rights were enshrined in sections 15 and 28 of the *Charter of Rights and Freedoms*, LEAF has worked toward equality for women and girls. LEAF intervenes in key cases to ensure that when courts interpret equality rights, there will be a systemic improvement in women's lives. For more information about LEAF, visit www.leaf.ca.

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