

Women's Legal Education and Action Fund (LEAF)

Impact Case Studies
Volume 2: LEAF and PEI Abortion Access



LEAF FAEJ





**LEAF
FAEJ**

LEAF is a national, charitable, non-profit organization, founded in 1985. LEAF works to advance the substantive equality rights of women and girls in Canada through litigation, law reform and public education using the Canadian Charter of Rights and Freedoms. For more information, visit [our website](#).

This publication was created as part of LEAF's Feminist Strategic Litigation (FSL) Project. The FSL Project examines the use and impact of feminist strategic litigation to help LEAF, feminists, and gender equality advocates more effectively combat systemic discrimination and oppression.

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Why Measure Impact?

Choosing how we measure impact helps us identify our goals and examine our value judgments about who and what we prioritize

Measuring impact helps us to figure out whether litigation has achieved our goals, and what additional work needs to be done

Measuring impact can help us make strategic decisions moving forward, thinking about whether litigation is appropriate in a particular case and how to increase the effectiveness of our efforts

Looking for Impact

Below are five key levels of impact for feminist strategic litigation, and potential sources of impact to consider. When looking at these levels of impact, it is important to keep in mind that:

- Impact can be found in the process and the outcome of the case
- Impact can be positive, negative, or neutral
- Impact can change over time
- Litigation is rarely the only form of advocacy in play, so identify other forms of advocacy being used - both by your organization and by other actors - and think about their impact



Impact On Individuals and Broader Communities

Impact of the remedy

Impact of any policy changes

Impact of the process and being involved

Impact on communities involved or facing similar challenges

Impact on communities not immediately involved



Legal Impact

Outcome of the case

Precedent set

Feminist or equality arguments adopted

Impact on legal culture



Impact on Legislation, Regulations, and Policy

Reversal or removal of policy

Enforcement of existing policy

Creation of new policy



Impact on Public Discourse and Perception

Framing or reframing of issues

Media coverage

Social media engagement

Academic commentary

Other engagement

Backlash



Impact on Social Movements

New supporters or relationships

Connections with movement actors

Connections with influential actors

Impact on organizational capacity or credibility

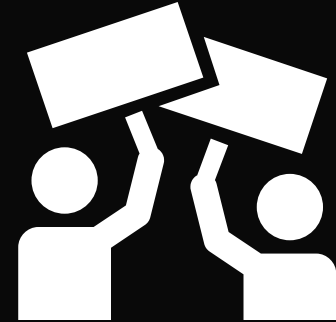
Abortion Access in PEI: Key Context

For almost 30 years, women in Prince Edward Island engaged in grassroots organizing to push for abortion access on the Island. Examples of activism in the lead-up to the legal case include:

01

PEI Reproductive Rights Organization (PRRO)

A group of young PEI feminists formed the PRRO, and then organized the first pro-choice rally to be held on PEI in 20 years



02

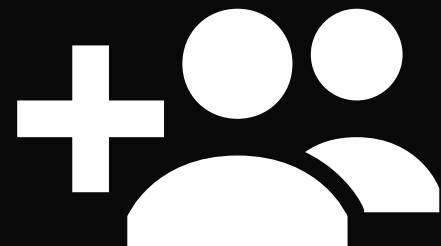
Community Based Collaborative Action Research (CBCAR)

CBCAR conducted community-based research on the impact of the abortion policy on women's health, which led to an international conference on abortion scholarship

03

Abortion Rights Network (ARN)

Community members and reproductive justice organizations formed the ARN, which built solidarity, held rallies, and organized events



AANPEI v. Government of PEI (2016)

Facts: After abortion was decriminalized in Canada in 1988, the government of Prince Edward Island (PEI) introduced a policy so that no induced abortions would be performed on the Island. As a result, PEI women could only safely and legally access the procedure by travelling to Nova Scotia or New Brunswick, making abortion unavailable to many residents. Limited information existed about how to access abortion services, and a high degree of stigma surrounded the procedure.

Main issue: Did the PEI government's abortion policy - which meant that no abortions can be performed on PEI - violate equality rights under the Charter?

LEAF Support for Test Case

Advocacy: Abortion Access Now PEI (AANPEI), with LEAF's legal support, filed a constitutional challenge to the abortion policy. They argued that the abortion policy violated the right of PEI women to equal access to health care services under s. 15 of the Charter.

Outcome: Less than three months after AANPEI announced its legal challenge, the PEI government announced it would not fight the case. The Premier of PEI acknowledged that the courts would have likely found that the policy violated the Charter. The government ended its abortion policy, and took steps to open a women's health clinic to provide access to abortions on PEI.



Impact On Individuals and Broader Communities

Many women now have access to the procedure on PEI and have the cost covered

Those without healthcare coverage, such as those without status, still face barriers to access such as cost

Individuals who require later term abortions must still leave the Island

Fear and stigma surrounding abortion decreased



Legal Impact

No documented legal impact



Impact on Legislation, Regulations, and Policy

The PEI government ended the abortion policy

They consulted with feminists prior to making the announcement

They worked to create and fund the Women's Wellness Program in Summerside, PEI, which provides medical and surgical abortions as well as other reproductive health services



Impact on Public Discourse and Perception

The case amplified the issue at a national level and helped grassroots movements keep fanning the flames locally

It generated local and national media coverage

It generated engagement on social media - shaping public discourse and awareness to support access



Impact on Social Movements

The case built on and reinforced existing social movements

Local activists played a key role in laying the ground work for the legal challenge, as well as starting and directing it

LEAF mobilized the legal community and helped provide national support

Moving Forward



Positive Takeaways

Not only did the PEI government end its abortion policy, it took active steps to create and fund sexual and reproductive healthcare services at the Women's Wellness Centre

Grassroots organizing, community-based research, media engagement, social media campaigns, community dialogues, and a legal challenge worked together effectively

Community members and organizations had a deep understanding of the issues and the ongoing injustices, and the legal challenge drew on their expertise and engagement



Remaining Challenges

Individuals without healthcare coverage still face barriers to access, such as cost

Individuals requiring later term abortions still have to travel off the Island for the procedure



Key Lessons

Using a multi-pronged approach, with different advocacy and activism tactics, can lead to success

Community involvement and direction can increase the effectiveness of legal advocacy

Legal advocacy can contribute to positive outcomes even when a case never sees the inside of a courtroom

Resources Consulted

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- Rachael Johnstone, "Explaining Abortion Policy Developments in New Brunswick and Prince Edward Island" (2018) 52:3 Journal of Canadian Studies 765
- Interviews with Ann Wheatley, Colleen MacQuarrie, and Kim Stanton