

LEAF to emphasize women's equality rights in extreme intoxication cases before Supreme Court

May 17, 2021 - Courts must carefully balance women's equality rights and the rights of the accused in criminal cases, says the Women's Legal Education and Action Fund (LEAF).

Last week, the Supreme Court of Canada decided that LEAF will be able to make submissions to the Court as an intervener when it hears the cases of *R. v. Sullivan* and *R. v. Chan* later this year. These cases will examine the defence of "self-induced extreme intoxication" under Canadian criminal law. The *Criminal Code* says that where a person is accused of certain violent offences, including sexual assault, they are not allowed to use their own extreme intoxication as a defence. Last year, the Court of Appeal for Ontario held that this rule violates the *Charter* rights of accused persons. The Supreme Court will soon decide whether it agrees.

"In making its decision, it is critical that the Supreme Court meaningfully consider the equality rights of women and children," says Pam Hrick, LEAF Executive Director & General Counsel. "We know that these groups face disproportionate levels of violence, and that drugs and alcohol are often a factor in gender-based violence."

LEAF will focus on the need to balance *Charter* rights in deciding whether accused persons should have access to this defence – including women's equality rights and rights to security of the person, as well as the rights of the accused. LEAF will also examine the role of Parliament in enacting laws to hold people accountable, including for their actions while extremely intoxicated.

If the Supreme Court finds that accused persons should have access to the defence, there is a danger that sexual assault survivors will see this as yet another way the justice system has failed them. For this reason, it is particularly important that those writing about and commenting on this case provide accurate information about the limited availability of the defence, so that survivors who want to report do not see this as a barrier to reporting. To help break down the complicated issues in these cases, LEAF has prepared [a fact sheet](#).

"The criminal system is too often inaccessible to survivors who wish to report sexual violence," said Hrick. "We must avoid spreading misinformation about this case and causing further harm to survivors of gender-based violence."

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

The Women's Legal Education and Action Fund (LEAF) is a national not-for-profit that works to advance gender equality in Canada through litigation, law reform, and public legal education.

Since 1985, LEAF has intervened in more than 100 cases that have helped shape the *Canadian Charter of Rights and Freedoms*, responded to violence against women and gender diverse people, pushed back against discrimination in the workplace, allowed access to reproductive freedoms, and provided improved maternity benefits, spousal support, and the right to pay equity.

LEAF understands that women and gender diverse individuals in Canada experience discrimination in different ways, and builds partnerships across communities to inform our understanding of how race, gender identity, sexual orientation, (dis)ability, class, and other intersectional identities underlie legal structures that perpetuate inequality, discrimination, and harm.