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WOMEN'S LEGAL
EDUCATION & ACTION FUND
FONDS D'ACTION ET D'ÉDUCATION
JURIDIQUE POUR LES FEMMES

Submission to the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities on Bill C-22, *An Act to reduce poverty and to support the financial security of persons with disabilities by establishing the Canada disability benefit and making a consequential amendment to the Income Tax Act*

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Prepared by the Women's Legal Education and Action Fund (LEAF)¹

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I. INTRODUCTION

Approximately 1 in 4 disabled women in Canada live below the poverty line, compared to 1 in 10 non-disabled women or men.² With the cost of living on the rise for all Canadians, the need to act on disability poverty is more urgent than ever.

LEAF is heartened that this government is taking important steps to address the poverty crisis facing many disabled people across Canada, especially disabled women, trans, and non-binary people.

LEAF strongly supports Bill C-22 in principle and echoes the calls of disability rights organizations across Canada to pass the bill as quickly as possible through both the House and the Senate. However, LEAF's support of Bill C-22 and the development of a Canada Disability Benefit is contingent on a robust, inclusive, and intersectional consultation process.

II. SUMMARY OF RECOMMENDATIONS

1. Pass Bill C-22 as quickly as possible.
2. Consult members of disabled communities at every stage of rolling out the benefit, including design, implementation, and evaluation.
3. Review Bill C-22 considering Canada's international obligations under the United Nations *Convention on the Rights of Persons with Disabilities*.
4. Recognize the authority of Indigenous governments to create and implement their own models of income security.

III. DISABILITY POVERTY IS A SUBSTANTIVE EQUALITY ISSUE FOR WOMEN, TRANS, AND NON-BINARY PEOPLE

Disability poverty is an intersectional feminist issue.³

Disabled people are among the poorest living in Canada. Disabled women are significantly poorer than disabled men,⁴ and are twice as likely to be living alone than non-disabled women. Disabled women are twice as likely to be working part-time as disabled men, and they earn

² "Low income among persons with a disability in Canada" (August 2017), online: Government of Canada <<https://www150.statcan.gc.ca/n1/pub/75-006-x/2017001/article/54854-eng.htm>>.

³ Sally A Kimpson, "Basic Income, Gender and Disability" (2021) at 17 online (pdf): *LEAF National* <Basic-Income-Gender-Disability-Full-Report-Final.pdf (leaf.ca)>. "Intersectionality reminds those concerned with the lives of disabled women and gender-diverse disabled people that their lives cannot be reduced to single (or "common") characteristics, and that their experiences cannot be properly understood by prioritizing any one single factor." The term "intersectionality" was coined by Black feminist and law professor Kimberlé Crenshaw in 1989.

⁴ See "Factsheet: Women with Disabilities and Poverty" (2014) at 1, online (pdf): DisAbled Women's Network of Canada <<https://www.dawncanada.net/main/wp-content/uploads/2014/03/English-Poverty-January-2014.pdf>>.

significantly less than disabled men.⁵ Disabled women who are single, single-parenting, Indigenous, working class, racialized, and/or newcomers live in the deepest poverty.⁶ Although there is little hard data on transgender disabled people, given the high rates of poverty among trans people⁷ and disability rates in Canada, we can assume that a significant proportion of disabled trans people are living in poverty.

Living in poverty contributes to the substantive inequality of disabled women, trans, and non-binary people. Because they experience both poverty and ableism, they have unequal access to resources and opportunities like education and employment. Vulnerability to violence is linked to poverty in disabled women's lives. Poverty also limits disabled women, trans, and non-binary people's civic participation and social inclusion. Their social well-being is compromised, affecting their health, and limiting their ability to achieve the equality of outcomes substantive equality promises.

The current state of disability benefits provision keeps women, trans, and non-binary people poor. It therefore contributes to substantive gender inequality. Provincial and territorial disability benefits are painfully inadequate and overly complex to access. Work disincentives

⁵ Among disabled people in Canada aged 20-54, "significantly fewer women (76%) than men (88%)" are employed full-time, and "double the proportion of women (24%) as men (12%)" are employed part-time. In 2015, the median before-tax earnings of disabled women in this same age bracket were "significantly lower" than those of disabled men (\$31,100 compared to \$43,300): see Christoph Schimmele, Sung-Hee Jeon & Rubab Arim, "Work experiences of women with disabilities" (27 October 2021) at 6, online (pdf): *Statistics Canada* <<https://www150.statcan.gc.ca/pub/36-28-0001/2021010/article/00004-eng.pdf>>.

⁶ See Sally A Kimpson, "Living Poorly: Disabled Women on Income Support" in Diane Driedger, ed, *Still Living the Edges: A Disabled Women's Reader*, 2nd ed (Toronto: Inanna Press, forthcoming); Statistics Canada, "Canadian Income Survey, 2019" (March 2021), online: Government of Canada <<https://www23.statcan.gc.ca/imdb/p2SV.pl?Function=getSurvey&SDDS=5200>>; Dennis Raphael, *Poverty and Policy in Canada: Implications for Health and Quality of Life* (Toronto: Canadian Scholars' Press, 2007) at 136-37. In term of Indigenous people in particular, Indigenous women living off reserve are 1.5 times more likely to report disabilities than non-Indigenous women, and in 2012, 22% of Indigenous women versus 14.6% of Indigenous men reported living with disabling conditions: see Amanda Burlock, "Women with Disabilities" (2017) at 6-7, online (pdf): *Statistics Canada* <<https://www150.statcan.gc.ca/n1/en/pub/89-503-x/2015001/article/14695-eng.pdf?st=f9lBHcGw>>. Poverty in Indigenous peoples' lives is directly related to low annual incomes (less than half that earned by non-Indigenous people), compromised access to quality health care, intact housing, affordable and nutritious food, potable water, education, and gainful employment.

⁷ A 2012 study showed that of over 400 transgender people surveyed, "34% were living below the official low-income cut-off for Ontario [at the time], and 49% reported an income in 2009-2010 of below \$15,000." See Aaron Devor Knowledge Services, "Poverty Reduction in Trans, Non-Binary, and Two-Spirit Communities: A Summary Report for the British Columbia Ministry of Social Development and Poverty Reduction" (2020) at 3, online (pdf): *British Columbia, Ministry of Social Development and Poverty Reduction*, <<https://www2.gov.bc.ca/assets/gov/british-columbians-ourgovernments/initiatives-plans-strategies/poverty-reduction-strategy/2020-trans-plus-report.pdf>>, citing Greta R Bauer et al, "High Heterogeneity of HIV-Related Sexual Risk among Transgender People in Ontario, Canada: A Province-Wide Respondent-Driven Sampling Survey" (2012) 12 *BMC Public Health* 292 at 5.

that make it difficult for people to enter the paid workforce because of restrictive allowable earnings amounts that do not increase incomes substantially.

It is LEAF's position that a federal Canada Disability Benefit designed, implemented, and evaluated in close consultation with disability communities has the potential to substantially improve the lives of disabled women, trans, and non-binary people.

IV. RECOMMENDATIONS

Recommendation #1: Pass Bill C-22 as quickly as possible.

LEAF amplifies the demands of disability rights organizations and coalitions across Canada for this government to prioritize implementing the Canada Disability Benefit as soon as possible. The proposed Canada Disability Benefit has the potential to improve the lives of disabled women, trans, and non-binary people substantially and tangibly.

Recommendation #2: Consult members of disabled communities at every stage of rolling out the benefit, including design, implementation, and evaluation.

The design, implementation, and evaluation of the disability benefit must be led by members of the disability community. Consultations should be robust, and meaningfully consider the intersecting oppressions facing many disabled people.

Consultation should include women (both cis and trans), Two-Spirit, transgender, and non-binary people who are disabled, Black, First Nations (both on- and off-reserve), Métis, Inuit, otherwise racialized, on social assistance, precariously housed, lone parents, and/or those who have precarious immigration status (and/or by advocates for those women and gender-diverse people who have precarious immigration status, such as migrant justice advocates).

Recommendation #3: Review Bill C-22 considering Canada's international obligations under the UN *Convention on the Rights of Persons with Disabilities*.

It is essential that the Canada Disability Benefit be designed and implemented in a way that respects Canada's obligations under the United Nations *Convention on the Rights of Persons with Disabilities* (CRPD).⁸

While Bill C-22 recognizes these obligations in the preamble, LEAF recommends that the preamble be amended to expressly commit to the CRPD's key principles of accessibility, equality, and individual autonomy.⁹ Foregrounding these principles will increase the likelihood that the legislation and regulations are administered in conformity with the CRPD.

⁸ *Convention on the Rights of Persons with Disabilities*, GA Res 61/106 UNGAOR, 61st Sess, Supp No 49, UN Doc Annex: Convention on the Rights of Persons with Disabilities A/Res 61/106(2007) 2 [CRPD].

⁹ *Ibid* art 3.

To further ensure that Canada's obligations under the *CRPD* are being met in the design and implementation of the Canada Disability Benefit, LEAF recommends that section 12 of Bill C-22 be amended to require that the Bill and its regulations (if applicable) be reviewed considering Canada's international obligations under the *CRPD*.

Recommendation #4: Recognize the authority of Indigenous governments, such as First Nations communities and Inuit regional governments, to create and implement their own models of income security.

Self-governing Indigenous nations should determine their own approach to social protection and whether a disability benefit fits within it. The government should support self-governing Indigenous nations in whatever approach they choose to take.

Where appropriate, the government should work with First Nations, Métis, and Inuit governments to develop a disability benefit program that meets the needs of their communities. Members of First Nations, Métis, and Inuit communities must be full participants in the design of programs and services.

V. ORGANIZATIONAL BACKGROUND

LEAF is a national, charitable, non-profit organization that works towards advancing the substantive equality of all women, girls, trans, and non-binary people through litigation, law reform, and public education. Since 1985, LEAF has intervened in over 130 cases – many of them before the Supreme Court of Canada – that have advanced gender equality in Canada.

LEAF has considerable expertise in articulating how laws and policies advance or undermine substantive equality for women and girls, especially for those who experience discrimination on multiple and intersecting grounds like sex, gender, marital or family status, race, sexual orientation, disability, Indigenous ancestry, and socio-economic status.

LEAF has also developed unique expertise in the economic disadvantages faced by women perpetuated by structural and systemic discrimination, or the “feminization of poverty”. Most recently, LEAF has been involved in efforts to advocate for both a Canada Disability Benefit and a basic income to address longstanding issues of gender and racial socioeconomic inequality in Canada. In September 2021, LEAF released a report titled [Basic Income, Gender & Disability](#) authored by Dr. Sally A. Kimpson, RN, PhD. This report set out what a Canada Disability Benefit should look like to ensure that such a benefit could foster economic independence and provide access to opportunities for disabled women and gender-diverse disabled people to choose how they want to live.