S.C.C. File No. 41210

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR QUEBEC)

BETWEEN:

ATTORNEY GENERAL OF QUEBEC

APPELLANT
(Appellant/Incidental Respondent)

and

BIJOU CIBUABUA KANYINDA

RESPONDENT
(Respondent/Incidental Appellant)

and

COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE

RESPONDENT
(Mise en cause / Incidental Appellant)

and

WOMEN'S LEGAL EDUCATION AND ACTION FUND INC.

Intervener

- and-

Style of Cause Continued on Next Page

FACTUM OF THE INTERVENER
WOMEN'S LEGAL EDUCATION AND ACTION FUND INC.
(Rules 37 and 42 of the *Rules of the Supreme Court of Canada,* SOR/2002-156, as amended)

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TABLE OF CONTENTS

PARTS I & II: OVERVIEW, STATEMENT OF POSITION, AND FACTS

A. Overview and Statement of Position

1. Can a statutory benefit intended to improve the circumstances of a protected group legally exclude the most marginalized members of that group from its ambit? This appeal asks whether s. 3 of the *Reduced Contribution Regulation*[1] ("***Regulation***"), which excludes asylum seekers (including those with work permits) from accessing subsidized childcare in Quebec, infringes s. 15(1) of the *Canadian Charter of Rights and Freedoms* ("***Charter***"). In this context, the appeal raises key questions about the implementation of the s. 15(1) analytical framework. The Women's Legal Education and Action Fund ("**LEAF**") intervenes to make two submissions.

2. First, the two parts of the s. 15(1) test are not and should not be treated as watertight compartments. In cases where an adverse impact discrimination claim is advanced, a certain degree of overlap between both steps is not only expected but necessary to fully account for the claimant group's experience. In particular, consideration of intersecting sources of pre-existing disadvantage that shape a claimant's experience, such as the disproportionate burden of childcare responsibilities that women bear, is necessary to appreciate the full impact of the impugned provision and thus to determine if the provision has an adverse impact.

3. Second, remedial legislation, such as the *Regulation*, must abide by the same substantive equality standard animating s. 15(1) as any other type of legislation. When governments enact legislation that confers a social benefit, they have a constitutional obligation to ensure that it does not leave behind the most vulnerable among the legislation's targeted population. At the second step of the s. 15(1) test, the focus must be on the effect of the impugned legislation on the claimant group, considering all the group's characteristics and circumstances. The remedial intent of the legislation may be relevant to a s. 1 justification analysis, but it cannot bear on whether the impugned provision is discriminatory.

B. Facts

4. LEAF takes no position on the facts of the case.

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[1] CQLR, c S-4.1.1, r 1.

PART III: STATEMENT OF ARGUMENT

A. *Overlap Between the Two Steps of the s. 15(1) Test is Often Inevitable in Adverse Impact Discrimination Claims*

5. It is uncontroversial that at the first stage of the s. 15(1) analysis, the process of establishing a distinction based on a provision's adverse effects on a claimant group must take **all** of a claimant's circumstances into consideration.[2] This requires courts to inquire how disadvantage affecting some but not all members of the claimant group can be caused by intersecting sources of marginalization.[3] This may result in impugned legislation having a qualitatively different impact on those members of the group. But it is equally incontestable today that a distinction can exist even if impugned legislation only affects *some* members of a claimant group.[4]

6. In other words, accounting for "all context relevant to the claim at hand"[5] at the first stage of s. 15(1) requires courts to consider evidence about how intersecting sources of inequality *within and across* recognized categories of discrimination operate to create unique disadvantages for some members of the claimant group, and how the impugned provision in turn creates differential impact connected to those disadvantages for those members.[6]

7. Examining the specific circumstances of the claimant, including any existing or historical sources of disadvantage they face, can result in a certain degree of overlap between the elements of proof that are relevant to establishing the presence of an effects-based distinction, and those that are relevant to determining whether the distinction is discriminatory. This is because "the same facts that illustrate a distinction may also illustrate [that distinction's] discriminatory character."[7]

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[2] *R. v. Sharma*, 2022 SCC 39, at para. 192 per Karakatsanis J. [***Sharma***]; *Fraser v. Canada (Attorney General)*, 2020 SCC 28, at paras. 56-57 [***Fraser***].

[3] *Sharma*, at para. 196, per Karakatsanis J. citing *Withler v. Canada (Attorney General)*, 2011 SCC 12, at para. 58 [***Withler***].

[4] *Fraser* at paras. 74-75; *Quebec (Attorney General) v. A.*, 2013 SCC 5, at para. 354 [***Quebec v. A***]; *Nova Scotia (Workers' Compensation Board) v. Martin*, 2003 SCC 54, at para. 76; Jonnette Watson Hamilton and Jennifer Koshan, "Adverse Impact: The Supreme Court's Approach to Adverse Effects Discrimination under Section 15 of the *Charter*" (2015), 19 Rev. Const. Stud. 191, at pp. 197-198 [**Watson Hamilton and Koshan**].

[5] *Withler*, at para. 58, at para. 43.

[6] *Egan v. Canada*, 1995 CanLII 98 (SCC), [1995] 2 SCR 513, at para. 53 per L'Heureux Dubé J. [***Egan***].

[7] *Sharma*, at para. 194 (Karakatsanis J. dissenting but citing the majority judgment in *Law v. Canada (Minister of Employment and Immigration)*, 1999 CanLII 675 (SCC), [1999] 1 SCR 497,

Far from being problematic, such overlap is necessary for a full appreciation of a claimant group's circumstances, allowing courts to understand the qualitative impact of the impugned legislation and thus whether that legislation in fact adversely affects the claimant group.

8. This is what the Court of Appeal did in the present case by focusing on contextual factors – i.e., women's historic pre-existing disadvantage in relation to childcare responsibilities – at each stage of the s. 15(1) test.[8] In so doing, the Court of Appeal did not misconstrue the two steps of the analysis.[9] To the contrary: considering the pre-existing disadvantage suffered by certain members of the claimant group at the first step of the test is the only approach that respects s. 15's focus on substantive equality in assessing differential impact.

9. This focus on substantive equality was emphasized by this Court as early as in *Andrews*, where McIntyre J. observed that s. 15 of the *Charter* was designed to address the deficiencies of jurisprudence under the *Canadian Bill of Rights*'[10] formal conception of equality.[11] Prior to the adoption of the *Charter*, for instance, this Court upheld the denial of unemployment insurance benefits to pregnant women on the basis that it was not inappropriate for Parliament to have adopted provisions that singled out pregnant women for disadvantageous treatment relative to non-pregnant women or men. The Court reasoned that any inequality between the sexes in access to such statutory benefits was "not created by legislation but by nature"[12] and therefore did not violate the *Bill of Rights'* guarantee of equality before the law. Under the *Bill of Rights*, the impact of a protected group's existing circumstances was simply not seen as relevant to assessing the effect of impugned legislation. This was, of course, deeply problematic.

10. The enactment of s. 15, and its judicial interpretation, were intended to put that formalistic notion of equality to rest. This deliberate shift was underscored by the inclusion of the right to "equal benefit of the law" under s. 15(1) and further reinforced through the adoption of a substantive understanding of equality that not only permits but *requires* courts to consider a law's

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at para. 85 [***Law***]; *Fraser*, at para. 82; see also Colleen Sheppard, *Inclusive Equality: The Relational Dimensions of Systemic Discrimination in Canada* (Montréal: McGill-Queen's University Press, 2010) at p. 21.

[8] *Procureur général du Québec v. Kanyinda*, 2024 QCCA 144, at paras. 89-100; see also: *Fraser*, at paras. 101-105.

[9] See Appellant's factum, at paras. 70 and 126 and following.

[10] SC 1960, c. 44.

[11] See *Andrews* , *v. Law Society of British Columbia*, 1989 CanLII 2 (SCC), [1989] 1 SCR 143, at p. 170 (emphasis added) (McIntyre J.) [***Andrews***].

[12] *Bliss v. Attorney General of Canada*, 1978 CanLII 25 (SCC), [1979] 1 SCR 183, at p. 190.

"impact upon those to whom it applies, and also upon those whom it excludes from its application."[13]

11. As the "animating norm"[14] of the s. 15(1) framework, substantive equality informs both stages of the test. Thus, at the first stage of the analysis in a claim of adverse effects discrimination, courts must ascertain the nature of the impugned law's impact on the claimant group, including subgroup members.[15] This "can usually only be fully appreciated through a broad, contextual analysis"[16] that considers *all* of that group's circumstances.[17] In particular, a court must take account of the fact "that membership in the claimant group is associated with certain characteristics that have disadvantaged members of the group."[18]

12. Importantly, a claimant's characteristics should not each be considered separately; instead, they should be treated as an interwoven, complex context in which the claimant is situated. Here, the Appellant isolates each of the Respondent's characteristics – her sex, her immigration status, and her citizenship – to argue that a distinction cannot be established based on any single one of these grounds independently.[19] This approach risks failing to account for a claimant's real experience[20] and may obscure the qualitatively different impact of the *Regulation* on subgroup members.

13. Specifically, such an approach fails to assess the reality of claimants whose personal circumstances are composed of "intersecting sources of inequality"[21] such as sex, family or parental status,[22] gender, race, religion, age, sexual orientation, national or ethnic origin, immigration status and citizenship, and disability. Identifying these sources helps determine whether "membership in the claimant group is associated with certain characteristics that have

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[13] *Andrews*, at p. 168 (emphasis added) [***Andrews***]; see also *Fraser*, at para. 41.
[14] *Fraser*, at para. 42.
[15] *Fraser*, at para. 50.
[16] Watson Hamilton and Koshan, at p. 197.
[17] *Fraser*, at paras. 56-57; *Withler*, at para. 43
[18] *Fraser*, at para. 57, citing *Homer v. Chief Constable of West Yorkshire Police*, [2012] 3 All ER 1287 (SC), at para. 14; *Ont. Human Rights Comm. v. Simpsons-Sears*, 1985 CanLII 18 (SCC), [1985] 2 SCR 536; *British Columbia (Public Service Employee Relations Commission) v. BCGSEU*, 1999 CanLII 652 (SCC), [1999] 3 SCR 3 , at para. 11.
[19] Appellant's factum, at paras. 63-125.
[20] *Egan*, at para. 53 per L'Heureux Dubé J.; see also: *Withler*, at para. 58.
[21] Colleen Sheppard, "Grounds-Based Distinctions: Contested Starting Points in Equality Law" (2023) 35 CJWL/RFD 1, at p. 25 [**Sheppard**].
[22] *Fraser*, at para. 116.

disadvantaged [its] members."[23] That is, at the first step of the s. 15(1) test, courts must consider not only a claimant's circumstances in a general sense, but, in particular, evidence of *other barriers that distinctly burden the claimant group*.

14. To be clear, taking note of intersecting sources of inequality does not require courts to hold that an impugned law has a disproportionate or differential impact based on each pre-existing disadvantage, although, depending on the case, it might be appropriate to do so. But neither does the presence of a pre-existing disadvantage affecting the claimant group preclude an adverse effect discrimination claim from success, as the Appellant seems to suggest.

15. To the contrary: in adverse effect discrimination claims, considering such disadvantage at the first step of the test may reveal how seemingly neutral laws and policies can be ill-designed for members of the claimant subgroup.[24] As this Court explained in *Withler*, "[h]istorical or sociological disadvantage may assist in demonstrating that the law imposes a burden or denies a benefit to the claimant that is not imposed on or denied to others."[25] The claimant need not establish that "the law itself was responsible for creating the background social or physical barriers which made a particular rule, requirement or criterion disadvantageous for the claimant group."[26]

16. Because pre-existing disadvantage can manifest in various forms, statistical evidence should not be required to establish a distinction in every case.[27] For example, in claims of adverse effect discrimination rooted in failure to accommodate, where the distinction in question is alleged to result from the *qualitative impact* of a provision on a claimant, statistical evidence demonstrating that impact might not only be impossible to obtain but will often be irrelevant.[28] In such cases, the focus is on the fact that the claimant group or subgroup is *differently* affected by the impugned legislation, an element that statistics might simply not be able to capture.[29] In contrast, in adverse effect claims rooted in disproportionate impact (e.g., where one group or subgroup is *more frequently* affected by the impugned provisions),[30] statistical evidence may be

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[23] *Fraser*, at para. 57.
[24] *Fraser*, at para. 57.
[25] *Withler*, at para. 64 [emphasis added].
[26] *Fraser*, at para. 71.
[27] *Sharma*, at para. 49 (a); *Fraser*, at para. 59; on the need for flexibility in assessing s. 15 (1) claims, see also: *Quebec v. A*, at para. 331; *Andrews*, at p. 168.
[28] *Fraser*, at paras. 34 and 54.
[29] Jonnette Watson Hamilton and Jennifer Koshan, "Sharma: The Erasure of Both Group-Based Disadvantage and the Individual Impact" (2024) 115 SCLR (2d) 113, at p. 135.
[30] *Fraser*, at paras. 46 and 53.

relevant to establishing that disproportionate impact, but courts should remain mindful that issues that disproportionately affect certain populations may be under-documented or insufficiently captured by statistics[31] – a particular risk for the most marginalized members of a protected group.

17. In such situations, qualitative, systemic, and contextual evidence may be the only means of assessing the impact of a law on a claimant group;[32] this Court has also encouraged openness to applying logical reasoning and making appropriate use of judicial notice.[33] In all cases, a flexible approach to the evidence at the first stage of the analysis is the only approach that allows for a comprehensive assessment of disadvantage, ensuring that equality-seeking groups are not excluded from protection simply because their experiences are not fully reflected in statistical data.

18. Here, it is ultimately only in considering all the Respondent's circumstances (i.e., the fact that she is not only a woman but a Black woman claiming refugee status who holds a work permit but requires childcare to work) that the Court can appreciate the full impact that being excluded from accessing affordable childcare had on Ms. Kanyinda. To the extent this entails considering existing disadvantage that might stem from the Respondent belonging to *a particular subgroup of women*, doing so is appropriate. Indeed, it is a necessary aspect of determining whether the *Regulation* has a qualitatively different impact on, at the very least, a certain subset of women.

B. *Remedial Legislation Must Abide by the Same Animating Norm of Substantive Equality*

19. The remedial nature of legislation does not shield it from scrutiny under s. 15(1); nor does its remedial character create a higher bar for a claimant at the second stage of the s. 15(1) test.[34] The state cannot hide behind a challenged program's remedial aims, particularly when that program intentionally excludes the most marginalized individuals within a protected group. When the state takes action to redress a social inequality, it must do so in a non-discriminatory way.[35]

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[31] *Sharma*, at para. 49 (c); *Fraser*, at para. 57.
[32] *Fraser*, at paras. 61 and 66. *Contra*: *Sharma*, at para. 71.
[33] *Fraser* at para. 56; *Law*, at paras. 77-79, citing to *Andrews*, at p. 152.
[34] *Fraser*, at para. 69; *Quebec (Attorney General) v. Alliance du personnel professionnel et technique de la santé et des services sociaux*, 2018 SCC 17, at para. 42 [***Alliance***]; *Centrale des syndicats du Québec v. Québec (Procureure générale)*, 2018 SCC 18, at paras. 31-36 [***Centrale***]; *Canada (Attorney General) v. Hislop*, 2007 SCC 10, at para. 39.
[35] *Alliance*, at para. 42; *Eldridge v. British Columbia (Attorney General)*, 1997 CanLII 327 (SCC), [1997] 3 SCR 624, at para. 73 [***Eldridge***] citing *Tétreault-Gadoury v. Canada (Employment and Immigration Commission)*, 1991 CanLII 12 (SCC), [1991] 2 SCR 22 [***Tétreault-Gadoury***], *Haig*

20. At the second step of the s. 15(1) test, the Court must ask whether the impugned legislation has the effect of reinforcing, perpetuating, or exacerbating disadvantage.[36] While there is no "rigid template" of factors relevant to this inquiry,[37] intersectionality remains central to the analysis. A full appreciation of the impact of impugned legislation demands an examination of a claimant's entire context, including any intersecting sources of marginalization. This is because when legislation purports to benefit a protected group but excludes those within the group who face additional layers of disadvantage, it exacerbates the harms the law claims to address, or, at the very least, reinforces and perpetuates the disadvantageous situation *for that subset of the group*.[38]

21. This mechanism or mode of inequality is exactly what this Court recognized in *Alliance.* That case involved a challenge to pay equity legislation that attacked an existing social problem – a gender-based pay gap – but simultaneously tolerated a certain degree of pay discrimination by limiting the relief that women could seek when pay inequity was discovered. This Court held that, by providing only partial redress for pay inequity, the legislation codified the very problem it was attempting to remedy.[39] The fact that the legislation sought to remedy a social inequality did not prevent the Court from rightly recognizing that, for some women, it perpetuated an existing disadvantage. The holding in *Alliance* thus recognizes that substantive equality may require expanding the scope of an underinclusive benefit or protection[40] or taking proactive steps to accommodate the needs of a smaller subgroup of members within a protected group, "for example by extending the scope of a benefit to a previously excluded class of persons."[41]

22. Moreover, remedial legislation is often designed to enable fuller participation in society by its intended beneficiaries,[42] consistent with the core principles of substantive equality, which seeks

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v. Canada (Chief Electoral Officer), 1993 CanLII 57 (SCC), [1993] 2 SCR 995, at pp. 1041-42, *Native Women's Assn. of Canada v. Canada*, 1994 CanLII 27 (SCC), [1994] 3 SCR 627, at p. 655, and *Miron v. Trudel*, 1995 CanLII 97 (SCC), [1995] 2 SCR 418 [***Miron***].

[36] *Fraser*, at para. 76, *Alliance*, at para. 25.

[37] *Quebec v. A*, at para. 331; *Withler*, at para. 66.

[38] *Alliance*, at paras. 37-38; See, e.g., *Vriend v. Alberta*, 1998 CanLII 816 (SCC), [1998] 1 SCR 493 [***Vriend***]; *Tétreault-Gadoury*; *Eldridge*, at para. 73; *Schachter v. Canada*, 1992 CanLII 74 (SCC), [1992] 2 SCR 679 [***Schachter***].

[39] *Alliance*, at paras. 37-38.

[40] See e.g. *Vriend*; *Tétreault-Gadoury*; *Schachter*.

[41] *Eldridge*, at para. 73.

[42] E.g., in *Fraser*, the job-sharing program was designed to accommodate employees' personal and

not only to address disadvantage, but to empower individuals and affirm their ability to shape their own lives.[43] In this context, a statutory exclusion from the benefits of remedial legislation can itself act as a barrier to social inclusion and reinforce the marginalization of the most vulnerable members of the target group, thus perpetuating and exacerbating their inequality.

23. In the present case, the relationship between subsidized childcare and women's social inclusion cannot be ignored. The *Regulation* supports women's participation in the workforce[44] by providing access to subsidized childcare. In other words, it is part of a program designed to enforce and promote women's socioeconomic participation.

24. This measure is essential given that in Canada, "women bear a disproportionate share of the child care burden."[45] The uneven distribution of childcare responsibilities "is one of the 'persistent systemic disadvantages [that] have operated to limit the opportunities available' to women in Canadian society,"[46] as women who assume primary responsibility for childcare see their career opportunities and earning capacity diminish relative to men.

25. But not all women are equally affected by this systemic burden. The economic impact of barriers to workplace participation due to childcare responsibilities can be especially acute for women whose identity and experiences encompass "intersecting sources of inequality".[47]

26. In particular, for the "highly racialized population"[48] of women seeking asylum, access to affordable childcare helps alleviate that burden and encourages these women's full and equal participation not only in the workforce but more generally in all aspects of Canadian and Quebec

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family circumstances that would have otherwise forced them to take leave without pay: para. 91.

[43] See Martha Jackman, "Giving Real Effect to Equality: *Eldridge v. British Columbia (Attorney General)* and *Vriend v. Alberta*" (1998) 4 Rev Const Stud 352 at 371; see also: *Gosselin v. Québec (Attorney General)*, 2002 SCC 84, at para. 20; *Law*, at para. 53.
[44] Appellant's factum, at para. 129; see also *Educational Childcare Act*, CQLR, c. S-4.1.1, s. 1.
[45] *Symes v. Canada*, 1993 CanLII 55 (SCC), [1993] 4 SCR 695, at pp. 762-63; see also: *Young v. Young*, 1993 CanLII 34 (SCC), [1993] 4 SCR 3, at pp. 49-50; *Fraser*, at paras. 103-104; see also: *Brooks v. Canada Safeway Ltd*, 1989 CanLII 96 (SCC), [1989] 1 SCR 1219, at para. 32.
[46] *Fraser*, at para. 116, citing *Kahkewistahaw First Nation v. Taypotat*, 2015 SCC 30, at para. 17; see also *Moge v. Moge*, 1992 CanLII 25 (SCC), [1992] 3 SCR 813, at p. 861.
[47] Sheppard, at p. 25.
[48] Report from Dr. Jill Hanley, November 4, 2020, A.R., vol. 2, at p. 87.

society.[49] In other words, access to affordable childcare is not just a critical step toward labour market entry – it is also a key pathway to social and economic integration in their new country.[50]

27. Accordingly, while it has become clear since the implementation of the *Regulation* that providing access to subsidized childcare has significantly improved the participation of Quebec women in the labour market,[51] refusing women seeking asylum who have been granted work permits access to this service has a different effect: it undermines these women's integration into the workforce and delays their integration into Quebec society.[52] Ironically, in excluding one of the subgroups arguably most in need of the benefit in question,[53] the *Regulation* crystallizes a denial of social participation and equality to these women.

28. A statutory exclusion that acts as a barrier to integration and a confirmation of the marginalization of the most vulnerable members of a target group has the effect of exacerbating or, at the very least, reinforcing and perpetuating inequality. In other words, tolerating a situation of inequality for some members of a group by excluding them from the ambit of remedial legislation while improving this situation for other members of the same group is still discriminatory, in that it perpetuates existing inequality for the *some*.

29. Again, the remedial goals pursued by the legislature in adopting the impugned provisions cannot prevent a determination – based on evidence – that the provision is discriminatory. To the extent that courts owe deference to the legislature when crafting "multi-faceted remedial regimes",[54] such deference is principally a factor under s. 1 and should not be used to *de facto* subject ameliorative legislation to less stringent constitutional review.

30. At the second step of the section 15(1) analysis, the focus must remain squarely on the actual impact of the legislation on the claimant group, including all its subsets, and not on the legislation's aims, no matter how well-meaning. The equality guarantee under s. 15 is concerned

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[49] Royal Commission on Equality in Employment, *Report of the Commission on Equality in Employment*, (Ottawa: Supply and Service Canada, 1984), chapter 5, pp. 177 and following cited, notably, in *Fraser*, at para. 101.
[50] Report from Dr. Jill Hanley, November 4, 2020, A.R., vol. 2, at pp. 86-87.
[51] Report from Dr. Jill Hanley, November 4, 2020, A.R., vol. 2, at pp. 75 and following.
[52] Report from Dr. Jill Hanley, November 4, 2020, A.R., vol. 2, at pp. 86-87.
[53] Sheppard, at p. 23.
[54] *Alliance*, at para. 46 citing *RJR-MacDonald Inc. v. Canada (Attorney General)*, 1995 CanLII 64 (SCC), [1995] 3 SCR 199, at para. 135; *Irwin Toy Ltd. v. Quebec (Attorney General)*, 1989 CanLII 87 (SCC), [1989] 1 SCR 927, at pp. 993-94.

with effects, not motives.[55] Shifting the focus to legislative purpose at this stage risks diluting the rigorous scrutiny required to uncover discriminatory impact and "reducing the inquiry to a search for a 'rational basis' for the impugned law."[56]

31. In any event, any doubt as to the relevance of governmental objectives was resolved in *Fraser*, which this Court did not overturn in *Sharma*.[57] In *Fraser*, this Court made clear that "the perpetuation of disadvantage […] does not become less serious under s. 15(1) simply because it was relevant to a legitimate state objective."[58] Evaluating the legitimacy of government objectives belongs under s. 1, where the state bears the burden of justification – not under s. 15, which is designed to centre the experiences of those alleging discrimination.

32. Likewise, while this Court in *Withler* acknowledged that where the impugned law forms part of a broader benefits scheme, the ameliorative effects on others and the multiplicity of interests at play may "colour the discrimination analysis",[59] this consideration cannot overshadow the core inquiry at the second step of the section 15 test. The focus must remain firmly on the circumstances of the claimant group and the actual impact of the law on them. Legislative context might assist with understanding the impact of an impugned provision *on the claimant*.[60] However, the fact that the legislation might improve the circumstances of some other individuals will not help that legislation pass the second step of s. 15(1) if it nevertheless perpetuates a claimant group's disadvantage.

PART IV & V: COSTS AND ORDER SOUGHT

33. LEAF takes no position on the disposition of this appeal, seeks no order as to costs, and asks that no award of costs be made against it.

ALL OF WHICH IS RESPECTFULLY SUBMITTED, April 24, 2025.

IMK s.e.n.c.r.l

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[55] *Fraser*, at para. 41; *Centrale*, at para. 35; *Quebec v. A*, at para. 328; *Andrews*, at p. 174.
[56] *Fraser*, at para. 79.
[57] *Sharma*, at para. 34.
[58] *Fraser*, at para. 79.
[59] *Withler*, at para. 38.
[60] See e.g.: *R. v. C.P.*, 2021 SCC 19, at paras. 152-159 per Wagner C.J.

PART VI: TABLE OF AUTHORITIES

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