

LEAFlet

The newsletter of West Coast LEAF
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A reason to be proud

The Supreme Court of Canada has two new judges this fall, and they are both women. Four out of nine judges are now women in the top court in our land, an extraordinary statistic. We should be proud that we live in a country that supports and promotes this achievement. When Madam Justices Rosalie Abella and Louise Charron joined Chief Justice Beverly McLachlin and Madam Justice Marie Deschamps in October to form this remarkable foursome, they made history for our Canadian legal system, and for women generally.

Look at other top courts similar to ours. In Britain, the House of Lords, aptly named, appointed its first woman judge just one year ago. In the United States, two out of nine justices are women, Ruth Ginsberg and Sandra Day O'Connor.

Indeed, where else in the halls of power does one see women present in almost equal numbers to men? Take a look around you, in the boardrooms and executive ranks of corporate North America, in politics, or in the professions. Women are not present and participating in anything like equal numbers with men.

Only seventy-five years ago, women couldn't vote. And just over twenty years ago, the Supreme Court of Canada was still an exclusive male domain. Since then, we have had the likes of Judges Bertha Wilson, Claire L'Heureux Dube and Louise Arbour, all retired now from the Supreme Court, offer leadership and vision on key legal issues.

Both Bertha Wilson and Claire L'Heureux Dube were attacked for being feminists, activists, and dissenters, much like our two new appointments, particularly Rosalie Abella, who have attracted this label even before they had begun.

Protesters outside the Ottawa court building on October 4, 2004 carried placards denigrating them as radical feminists with an alleged history of biased judgments against men in divorce proceedings and stressing the importance of a "No" vote to same-sex marriage. I haven't made an exhaustive search of the archives, but I suspect that this was the first time protesters ever gathered at any Supreme Court appointment, and the media paid attention.

Simply by being present in the upper echelons of decision-making and law-making, women do change the world.

Justice L'Heureux Dube said it best, at her retirement speech, when answering the question, is the court being hijacked by feminists. She said, if so, it started a long time ago, and with male judges, not the women. She reviewed a line of decisions going back to Chief Justice Laskin's dissent in Murdoch, which turned into the majority decision in Rathwell five years later, and then mentioned many of Chief Justice Brian Dickson's famous Reasons following that.

I return to the pride we should take in the women who have achieved these lofty heights, though. With Justice Arbour now the United Nations High Commissioner for Human Rights, a powerful position on the world stage, she advises the UN on critical human rights

issues in places such as the Sudan and Iraq. In November, she had the passion and courage to speak out against the Bush Administration and question the use of



Jennifer Conkie

unnecessary violence against unarmed civilians in the current Iraq conflict.

Another woman lawyer from our province, Senator Mobina Jaffer, is representing Canada in international work in the Sudan, where genocide and systemic rape are occurring.

These women have made it to the top through their brilliance, determination and commitment. These women will change the world. Simply by being present in the upper echelons of decision-making and law-making, they do change the world.

The truth is, the brilliance and balance and frontier-breaking spirit of our Supreme Court is gender neutral. The weightiness of the Court's decisions, and the wisdom therein, come from the consolidation of nine great thinkers sharing and co-creating a body of work. The animus or guiding spirit of the Charter assists them, and the values and experiences of each judge informs them. The Court's decisions themselves stand or fall, and evolve over time, because of the cohesion and the dynamic of the entire group and each

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This article is based on remarks made at a talk given by Jennifer Conkie at the Langley Person's Day event held in October 2004.

THE 10TH ANNUAL VICTORIA PERSON'S DAY BREAKFAST held in October was a resounding success attended by over 200 guests. Thanks to all the sponsors, silent auction contributors and those who contributed in-kind services. A special thanks to all the volunteers whose hard work enabled the event to happen, especially the students and faculty at UVic Law School and the staff of Woodward and Company law firm. Most of all we thank the guests for coming and hope you enjoyed the event. We greatly appreciate your support and look forward to seeing you all again next year!

MANY THANKS TO JILLIAN ROUSSELLE, an SFU student who recently completed a four month practicum with West Coast LEAF. We greatly appreciate the work she did with us and will miss having her in the office on a daily basis. Jillian took a moment to share a few words about her experience.

"I came to West Coast LEAF in September on a Criminology field placement. My title was "Bountiful Consultation Coordinator," and the majority of my duties were focused around the consultation on Women's Equality and Religious Freedoms, which turned out to be a great success. We had participants from across Canada take part, and discussed important issues such as the polygamous situation in Bountiful, BC and the implications of Shari'a law on different groups of Canadian women. Overall, the consultation was very informative and I believe that the information that came out of it will be a useful tool in helping West Coast LEAF decide what position it should take on the various issues that were discussed.

"My experience with West Coast LEAF was positive in many respects. It gave me the opportunity to work with the amazing staff. It allowed me the chance to get involved in many of the important initiatives of West Coast LEAF. Finally, it helped solidify my decision to go on to law school. In fact, I enjoyed my time at West Coast LEAF so much that despite the fact that my practicum has come to an end, I have decided to continue volunteering with West Coast LEAF on a weekly basis. I believe that the organization is involved in some very important work and I feel grateful for having been able to be a part of it."

West Coast LEAF hosts Consultation on Women's Equality & Religious Freedom

Is sexual equality threatened by freedom of religion? On December 2-5, 2004, West Coast LEAF hosted 40 participants who included women from different communities of faith, community activists, lawyers and scholars in a Consultation on Women and Freedom of Religion.

The three day event started with Debbie Palmer, a former member of the polygamous Mormon community in Creston B.C. called Bountiful, describing her experiences of abuse and violence in the community. It ended on Sunday afternoon with a West Coast LEAF post-consultation roundtable at which members discussed an action plan.

The Consultation focused on the potential impact that the accommodation of religious minorities will have on women's equality. Two issues were focal: the experiences of women in Bountiful, and the potential introduction of Shari'a law in private arbitration in Ontario.

Both issues proved to be more complex as the discussion progressed through the weekend. On one hand, the accommodation of religious freedom is a recognized means by which all people, including women of faith, are treated with equal respect in Canadian society. So denying religious freedom by curtailing the rights of women to practice their faith, may be a form of religious discrimination and may display less than full respect for the agency to women of faith.

At the same time, there is no

doubt that women throughout the world are victimized by male-dominated religious practices. As participants from Bountiful and those representing the Canadian Council of Muslim Women and Mouvement Ontarien des Femmes Immigrantes Francophones (MOFIF) stated, women within these communities are certainly no exception. Women are made more vulnerable by religious accommodation laws that have the effect of placing power in the hands of a male elite and that rely on the facile notion that women can just leave their communities if they don't like its practices.

Participants came to understand that the discussion of Shari'a law's application in the broader legal system is also affected by the post 9/11 atmosphere in Canada, which has the effect of isolating and threatening the

Muslim community. In addition, the wide diversity of views passionately held within Canada's Muslim community about Shari'a and about cultural accommodation more generally also influences the discourse.

A different set of confounding issues make the situation of Bountiful complex. Though polygamy as it is practiced in communities like Bountiful creates abusive and dangerous situations for women and children, the polygamy laws in the Criminal Code were written long before the existence of the Charter and there is great debate as to their enforceability. However, the federal government

Until recently the province has refused to enforce sexual assault laws, claiming the men of Bountiful may have a religious freedom defense.

Women in Canada have worked for the better part of a century for equality, but not until the Canadian Charter of Rights and Freedoms was passed in 1982 did women finally achieve full political and economic equality with men. Still, it would take three more years before section 15 of the Canadian Charter of Rights and Freedoms, which formally entrenched women's equality within the Canadian Constitution, would become law in 1985.

To celebrate the 20th anniversary of the equality requirements, West Coast LEAF and the National Association of Women and the Law (NAWL) are hosting a national conference in Vancouver from April 28 to May 1, 2005 at the Hilton Vancouver Metrotown Hotel.

The focus of the Conference is the 20th anniversary of the equality rights provision (section 15) of the Charter. Section 15,



which is part of the supreme law of Canada, prohibits discrimination by any level of government on the basis of race, national or ethnic origin, colour, religion, gender, age, disability, sexual orientation, and other grounds.

Much has changed for women in Canada, yet there are many inequities that still need to be remedied. This Conference will provide a forum for discussions on how the Charter affects

women's rights. While providing information on the law, equality and discrimination, the Conference will offer a unique opportunity to meet, strategize and share information with lawyers, community workers, activists and others from across the country. But beyond the discussion, action plans will be developed to further advance women's rights.

For sponsorship, registration or general information on this exciting event, visit www.equalityconference.com or email info@equalityconference.com.



Women's Rights & Freedoms

20 Years (In) Equality

20TH ANNIVERSARY EQUALITY CONFERENCE

Jennifer Conkie on equality accomplishments *continued from page 1*

member of the group's part.

It is critical that these judges must be independent. They must not be heckled or placarded so as to interfere with the essence of what they do best. They must be free to perform their responsibilities without intimidation, and the public, in turn, has to know that the courts function independently and impartially. That is a hallmark of democracy as we know it.

Because LEAF does its work on the leading edges of the main body of the law, we care deeply about this issue. LEAF pushes the margins, thinks outside the box, and asks the Court to join it in this forward thrust. Judicial independence, courage and creativity are important to us. We want the Court to think expansively and in evolving ways about human rights, about what is fair and just for the more marginalized members of our nation. Those who experience dis-

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crimination, abuse, intimidation and fear are distinct, usually, from those who run our nation and our government. We need to feel confident that our judges are free to interpret and apply our laws in the most purposeful and broad way possible, to ameliorate the inequalities that still exist for the disenfranchised and silenced members of our society.

We at LEAF are a voice for those who cannot find their voice, fear they lack a voice, for those whose shouts have gone

unheard. Therefore, with our particular interest in representing the interests and values of women, it is encouraging and empowering for us to know that almost half the bench of the Supreme Court of Canada is women. Not because we expect a better reception from women than from men, let's be clear. We are not simplistic about this. We know full well that a male judge could be a better listener and more empathic and wise than a female judge.

Why do we take comfort from this new statistic, then? Because our nation has created the conditions that have allowed this to happen. It's that simple. Whatever you may think of Prime Minister Paul Martin and the Liberal Party, they have had the courage, in the face of a potential backlash and conservative criticism, to appoint two women to fill two vacancies. Our expectations are high.



EQUALITY BREAKFAST 2005

ROBERTA JAMIESON, former Chief of the Six Nations Band in Ontario, an internationally recognized expert in conflict resolution, and the first aboriginal woman in Canada to achieve a law degree will be the guest speaker at West Coast LEAF's 18th Annual Equality Breakfast, Friday March 4 at the Hyatt Regency Hotel.

As part of our 20th anniversary celebrations the 2005 Equality Breakfast will showcase the contributions of West Coast LEAF and LEAF to women's equality in Canada. Mark your calendar and start rounding up your friends and colleagues to book a table early. Sponsorship information packages are now available. Watch for further ticket details in January 2005.

Thank you!

Special thanks to those donors who give to West Coast LEAF every month. Your contributions increase the sustainability of our work.

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Transforming Our Future workshop in Victoria

On October 27th and 28th, West Coast LEAF was in Victoria to present our two day workshop *Transforming Our Future: Legal Strategies in the 'New Era'*. There were 16 registrants from a variety of organizations including anti-poverty groups, a disability resource centre, a transition house in Tofino, and a staff representative from the BC Government and Service Employees Union, which generously donated their classroom space.

Transforming Our Future was

designed to provide frontline workers, advocates and others with an opportunity to learn about West Coast LEAF and LEAF's work, get a crash course in equality rights theory and law, and explore the legal strategies available when an equality rights issue is identified. The final day of the workshop is a highly participatory exercise in building legal strategies.

West Coast LEAF hopes to take the workshop to Surrey and Nanaimo in the new year.

Equality & religious freedom *continued from page 2*

remains convinced that the Criminal Code prohibitions relating to polygamy are in accordance with the Charter. Until recently, however, the province has refused to enforce these laws, or any of our sexual assault laws in Bountiful, claiming the men of Bountiful may have a religious freedom defense. The B.C. government's position has remained the same since 1993.

In the consultation, West Coast LEAF recognized the complexities of the criminalization of polygamy – the legal arguments that might be made to help the

people in Bountiful need to be consistent with LEAF's commitment to a diverse understanding of family. A subcommittee has been struck to continue the development of legal arguments that might be presented if criminal charges are laid, and in the context of a case presently before the BC Human Rights Tribunal against some government ministries regarding their inaction on Bountiful.

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rights for women. West Coast LEAF is supported by:

