

October 4, 2006

Rt. Hon. Stephen Harper  
Prime Minister of Canada  
80 Wellington Street, Ottawa,  
K1A 0A2

Dear Prime Minister,

We write today to ask you to reinstate the Court Challenges Program. Only by reinstating the Program can you demonstrate that your government intends to respect the human rights of Canada's people.

The Canadian Constitution establishes important constitutional rights, including the rights of official language minority groups to education and government services in their primary language and the rights of everyone to equality before and under the law and to equal protection and equal benefit of the law without discrimination. However, these rights are empty unless the individuals and groups they are designed to protect can exercise and enforce them.

Since the Charter was adopted 25 years ago, successive federal governments have recognized that they have a responsibility to ensure that disadvantaged minorities have funding to take Charter cases forward.

The Court Challenges Program, by providing modest contributions to the cost of important test cases dealing with language and equality rights, has made these constitutional rights accessible to Canadians. Without the Court Challenges Program, Canada's constitutional rights are real only for the wealthy. This is unfair. And it does not comply with the rule of law, which is a fundamental principle of our Constitution.

The Honourable John Baird has been quoted in the press as saying that it does not make sense "for the government to subsidize lawyers to challenge the government's own laws in court." This statement implies that: 1) lawyers are the prime beneficiaries of the Program and 2) the government should not support challenges to its own laws. On both counts, deeper analysis is needed.

First, the beneficiaries of the CCP are individuals and groups who believe that laws and policies discriminate against them or deny them their language rights. They cannot go forward without lawyers to represent them, since constitutional challenges are legally complex. Secondly, when a country like Canada enacts constitutional rights it takes for granted that residents, when they believe the government is violating their rights, can and will challenge the offending law or policy. If residents cannot use their rights because of financial barriers, then Canada's constitutional democracy is hollow. Governments must care that the rights they embrace are not meaningless, and the CCP has provided a simple and modest way of ensuring that they are not. We should emphasize that what the CCP provides is far from universal access to the exercise of constitutional equality and language rights. The CCP provides only limited funds for selected test cases.

Critics of the CCP dislike some of the cases that it has supported: cases related to same sex marriage, voting rights for federal prisoners, criminal law provisions regarding hitting children. The fact that some individuals or groups do not agree with some of the test cases funded by the Program is not a reason to cancel it. No one among us is likely to agree with every single test case that appears. The point of a constitutional human rights regime is to ensure that diverse claims, perspectives and life experiences are respected and taken into account in the design of laws and policies. The equality guarantee and the language rights in the Constitution were designed to help minorities, whose views and needs may not be reflected by governments, to be heard on issues that affect them closely. Cancelling the Court Challenges Program mutes their voices further, and makes Canada a meaner, less tolerant society.

The Minister of Justice, the Honourable Vic Toews, has questioned the accountability of the Court Challenges Program. This is not a sustainable objection. The Court Challenges Program has an established track record as an effective and accountable institution that promotes access to justice. It provides quarterly reports on its activities to the government and publishes an annual report with statistics on the number and types of cases that it has funded. The annual reports are public documents and are available on the CCP's website: [www.ccppcj.ca](http://www.ccppcj.ca). It has been evaluated on three separate occasions by independent evaluators, most recently in 2003-2004, and received an extremely positive report each time.

The CCP is subject to some legal restrictions on disclosing information about cases that are before the courts. This information is protected by solicitor-client privilege and cannot be released by CCP, in the same way that legal aid organizations cannot divulge information about their clients. The CCP's responsibility to protect this information was affirmed by a Federal Court ruling in 2000 (*L'Hirondelle v. The Queen*).

In short, Prime Minister, criticisms of the Court Challenges Program are feeble, and the need for the Program is strong. It is disturbing that your Government, in a budget-cutting exercise, would take the step of cancelling this Program that is considered by many Canadians a cornerstone of our justice system.

Commitment to the protection of the Charter rights of disadvantaged individuals and groups is one of Canada's core values. Prime Minister, you recognized this commitment in the last election campaign, when you stated that if elected, a Conservative government would "articulate Canada's core values on the world stage," including "the rule of law", "human rights" and "compassion for the less fortunate."

In May, 2006, your Government appeared before a UN Committee in Geneva to defend its commitment to human rights in Canada, and described the Court Challenges Program as evidence of this commitment. Your Government wrote to the UN Committee:

The Court Challenges Program (CCP) provides funding for test cases of national significance in order to clarify the understanding of the rights of official language minority communities and the equality rights of disadvantaged groups. ...

It is not possible for the government to support all court challenges, but this uniquely Canadian program has been successful in supporting a number of important court cases that have had direct impacts on the implementation of linguistic and equality rights in Canada. A recent evaluation found that there remain dimensions of the constitutional provisions currently covered by the CCP that still require clarification and the current program was extended to March 2009.

The cancellation of the Program stands in contradiction to the position that you and your Government have taken publicly on the Charter and human rights.

Finally, cancelling the Program shows profound disrespect for the francophones who live in provinces outside of Quebec, the anglophones in Quebec, and for all Canadian residents who may need the protection of equality rights, including women, Aboriginal peoples, people with disabilities, members of racialized minorities, immigrants, refugees, lesbians and gay men, children and seniors.

The laws of Canada are never perfect. Those who need to point out the imperfections in our laws, in order that they may live on an equal footing with others, deserve to be heard. By cancelling the Court Challenges Program, your Government has indicated that they will not be and do not deserve to be.

Please reverse this decision and give us back a Canada that supports human rights.

Sincerely,

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On behalf of

**Action Canada for Population and Development**

**Action ontarienne contre la violence faite aux femmes (AOcVF)**

**African Canadian Legal Clinic**

**Alberta Association for Community Living**

**Alliance for Equality of Blind Canadians / L'Alliance pour l'Égalité des Personnes**

**Aveugles du Canada (AEBC)**

**ARCH Disability Law Centre/ ARCH Centre du droit des personnes handicapées**

**Association des juristes d'expression française de la Colombie-Britannique**

**Association des juristes d'expression française du Nouveau-Brunswick - AJEFNB**

**Association of Chinese Canadian Lawyers of Ontario**

**B.C. Human Rights Coalition**

**BC Coalition of People with Disabilities**

**Brain Injury Association Network (B.I.A.N.)**

**Breast Cancer Action Montreal**

**Canadian Arab Federation**

**Canadian Association for Community Living**

**Canadian Association of Elizabeth Fry Societies (CAEFS)**

**Canadian Association of Law Teachers (CALT)**

**Canadian Association of the Deaf / L'Association des Sourds du Canada**

**Canadian Auto Workers Union CAW-TCA CANADA**

**Canadian Bar Association/ L'Association du Barreau Canadien**

**Canadian Council for Refugees/ Conseil canadien pour les réfugiés**

**Canadian Council of Muslim Women**

**Canadian Federation of Students/Fédération canadienne des étudiantes et étudiants**

**Canadian Feminist Alliance for International Action**

**Canadian Hard of Hearing Association**

**Canadian Health Coalition**

**Canadian Internet Policy and Public Interest Clinic (CIPPIC) University of Ottawa,  
Faculty of Law**

**Canadian Research Institute for the Advancement of Women (CRIA W)/**

**Canadian Union of Public Employees / Syndicat canadien de la fonction publique**

**Canadian Union of Public Employees Local 2204**

**Canadian Union of Public Employees Local 3260**

**Canadian Women's Health Network**

**Canadians for Equal Families**

**Canadians for Equal Marriage / Canadiens et Canadiennes pour le droit égal au mariage**

**Centre d'aide et de lutte contre les agressions à caractère sexuel (Calacs) région Côte-Nord**

**Centre d'aide et de lutte contre les agressions à caractère sexuel (CALACS) de Rimouski**

**Centre de Communication Adaptée (CCA)**

**Centre de femmes l'Éclaircie**

**Centre d'éducation des femmes**

**Centre Entre-Femmes de Rouyn-Noranda**

**Centre québécois de la déficience auditive / Quebec Centre for the Hearing Impaired**

**CFT French Legal Aid Services/Services d'aide juridique du CFT**

**Charter Committee on Poverty Issues**

**Child Care Advocacy Association of Canada**

**Child Care Workers of Eastern Ontario**

**Chinese Canadian National Council, Ottawa Chapter**

**Coalition of Persons with Disabilities (COD) - NL**

**Community Advocates Network**

**Community Business and Professional Association of Canada**

**Confédération des organismes de personnes handicapées du Québec (COPHAN)**

**Congress of Black Women of Canada, Manitoba Chapter**

**Council of Canadians with Disabilities (CCD)/ Conseil des Canadiens avec  
Déficiences**

**Cross-Disabilities, Genders, and Sexualities Working Group**

**Dalhousie Legal Aid Service**

**DisAbled Women's Network (DAWN) Ontario/Le Réseau des femmes handicapées  
de l'Ontario**

**DisAbled Women's Network Canada (DAWN Canada)**

**Disabled Workers' Complex Case Network Inc.**

**Dundurn Community Legal Services**

**East Toronto Community Legal Services Inc.**

**Egale Canada**

**Elementary Teachers' Federation of Ontario - Bluewater Local**

**Elizabeth Fry Society of Manitoba**

**Ethno Racial People with Disabilities Coalition of Ontario (ERDCO)**

**Excalibur Learning Resource Centre Canada Corp**

**Family Alliance Ontario**

**Fédération des communautés francophones et acadienne du Canada (FCFA)**

**Fédération des associations de juristes d'expression française de common law inc.**

**Fédération des femmes du Québec**

**Federation of Post-Secondary Educators of BC**

**Feminist Coalition of Newfoundland and Labrador**

**Feminists for Just and Equitable Public Policy (FemJEPP)**

**Front d'action populaire en réaménagement urbain (FRAPRU)**

**Greater Vancouver Association of the Deaf**

**Grey-Bruce Community Legal Clinic**

**Halton Community Legal Services**

**Hamilton Mountain Legal & Community Services**

**Income Security Advocacy Centre**

**Institut Canadien De Recherches Sur Le Femmes (ICREF)**

**Jamaican Canadian Association, Toronto**

**Jesuit Centre for Social Faith and Justice**

**John Howard Society of Manitoba Inc.**

**Justice for Girls**

**Kamloops and District Elizabeth Fry Society**

**Kelowna Women's Resource Centre**

**Kenora Community Legal Clinic Suite**

**Kensington Bellwoods Community Legal Services**

**Kitchen Table Collective (KTC)**

**La Table Régionale des Organismes Volontaires d'Éducation Populaire de la Montérégie (TROVEPM)**

**L'Association multi-ethnique pour l'intégration des personnes handicapées**

**Law Office of Mary Eberts**

**Law Union of Ontario**

**Le Centre francophone de Toronto**

**Le Comité des langues officielles de l'Association du Barreau de l'Ontario /The Official Languages Committee of the Ontario Bar Association**

**Le Front commun des personnes assistées sociales du Québec**

**Le Mouvement Action Chômage Pabok Inc**

**Le Regroupement des comités logement et associations de locataires du Québec (RCLALQ)**

**Les Centres d'Accueil Héritage, Toronto**

**Les Frères et Soeurs d'Émile-Nelligan**

**Let's Teach About Women**

**LIFT - Low Income Families Together**

**Ligue des droits et libertés du Québec**

**Mad Student's Society**

**Maison l'Océane**

**Malaspina Faculty Association**

**MATCH International**

**Metro Toronto Chinese & Southeast Asian Legal Clinic**

**Mokami Status of Women Council**

**Mouvement d'éducation populaire autonome de Lanaudière (MÉPAL)**

**Mouvement d'éducation populaire et d'action communautaire du Québec**

**National Action Committee on the Status of Women(NAC)/Le Comité Canadien D'Action Sur le Statut de la Femme(CCA)**

**National Association of Women and the Law/Association nationale Femmes et droit**

**National Council of Women of Canada/Le Conseil national des femmes du Canada**

**National Eating Disorder Information Centre**

**Newfoundland and Labrador Provincial Advisory Council on the Status of Women**

**Nipissing Community Legal Clinic/La Clinique Juridique Communautaire de Nipissing**

**North Bay & District Labour Council**

**North Bay Network for Social Action**

**Northern Society for Domestic Peace**

**Nouveau Départ National**

**Okanagan Advocacy and Resource Society (OARS)**

**Ontario Council of Agencies Serving Immigrants (OCASI)**

**Osgoode Hall Law Union**

**Pacific DisAbled Women's Network (Pacific DAWN)**

**Parkdale Community Legal Services**

**PEI Council of the Disabled**

**PRAXIS Conflict Consulting**

**Promotion handicap Estrie Inc.**

**Provincial Association of Transition Houses and Services of Saskatchewan**

**Provincial Council of Women of Manitoba, Inc.**

**Public Service Alliance of Canada/Alliance de la Fonction publique du Canada  
Quebec Community Groups Network**

**Quebec English School Boards Association (Association des commissions scolaires anglophones du Québec)**

**Quebec Native Women/Femmes Autochtones du Québec**

**Refugee Law Office, Toronto**

**Registered Nurses' Association of Ontario**

**Regroupement des centres de femmes du Québec**

**Regroupement de femmes de l'Abitibi-Témiscamingue**

**Regroupement des associations de personnes traumatisées cranio-cérébrales du Québec (RAPTCCQ)**

**Regroupement provincial des maisons d'hébergement et de transition pour femmes victimes de violence conjugale**

**Regroupement québécois des Centres d'aide et de lutte contre les agressions à caractère sexuel (RQCALACS)**

**Response: A Thousand Voices**

**Roach, Schwartz and Associates**

**Saskatchewan Voice of People with Disabilities**

**Selkirk College Faculty Association**

**Smith & Hughes Law Firm**

**Social Planning and Research Council of British Columbia (SPARC BC Society)**

**Société Logique**

**South Ottawa Community Legal Services**

**South-East Ottawa Centre for a Healthy Community /Centre du sud-est d'Ottawa pour une communauté en santé**

**Students, Recent Graduates, and Legal Workers working group (Law Union of Ontario)**

**The Canadian Hearing Society/ La Société Canadienne de l' Ouïe**

**The North Shore Women's Centre**

**Toronto Disaster Relief Committee**

**Toronto Women for a Just and Healthy Planet**

**Toronto Women's Call to Action**

**Transportation Action Now**

**United in Marriage (a program of the United Church of Canada)**

**University of Victoria Association for Women**

**University of Western Ontario Faculty Association**

**Urban Alliance on Race Relation**

**Vancouver Rape Relief and Women's Shelter**

**Victoria Youth Empowerment Society**

**West Coast Women's Legal Education & Action Fund (LEAF)**

**Women Elders in Action (WE\*ACT)**

**Women for a Just and Healthy Planet**

**Women of Halton Action Movement, WHAM**

**Women's Legal Education and Action Fund (LEAF), Toronto Chapter**

**Women's Legal Education and Action Fund Inc. (LEAF)**

**Women's Health Clinic, Winnipeg**

**Womenspace**

**Yukon Status of Women Council**