

MEMORANDUM OF ARGUMENT FOR LEAVE TO INTERVENE OF THE PROPOSED INTERVENER, WEST COAST WOMEN'S LEGAL EDUCATION AND ACTION FUND

PART I - CONCISE STATEMENT OF FACTS

A. The Proposed Intervener

1. West Coast Women's Legal Education and Action Fund ("**West Coast LEAF**") has been a non-profit society incorporated in British Columbia ("**BC**") and registered as a federal charity since 1985. The mission of West Coast LEAF is to achieve equality by changing historic patterns of systemic discrimination against women through BC-based equality rights litigation, law reform and public legal education. West Coast LEAF defines substantive equality for women in accordance with s.15 of the *Canadian Charter of Rights and Freedoms*¹ (the "**Charter**") and the United Nations *Convention on the Elimination of all forms of Discrimination Against Women*.^{2,3}

PART II – CONCISE STATEMENT OF THE QUESTIONS IN ISSUE

2. The question in issue in this motion is whether West Coast LEAF should be granted leave to intervene in this appeal.

PART III – CONCISE STATEMENT OF ARGUMENT

B. West Coast LEAF's Involvement in Public Interest and *Charter* Litigation

3. West Coast LEAF has extensive experience in bringing the lived experiences of women before the Court and applying this expertise to arguments concerning constitutional law matters, with a particular focus on the equality guarantee under s.15 of the *Charter*.⁴ West Coast LEAF, through litigation work on its own and under the name of the national affiliate LEAF, has contributed to the development of constitutional law and equality rights

¹ Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11.

² UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: <http://www.refworld.org/docid/3ae6b3970.htm>.

³ Affidavit of Robyn Trask, sworn October 14, 2015 ("**Trask Affidavit**"), Motion Record, Tab 2, paras. 6-10.

⁴ Trask Affidavit, Motion Record, Tab 2, paras. 11-16.

jurisprudence including the definition of substantive equality in Canada and in BC, especially in reference to women's equality.⁵

4. West Coast LEAF has intervened, or is intervening, in its own name in nine legal proceedings: *SWUAV v. Canada*, 2010 BCCA 439 and 2012 SCC 45; *Reference re: Criminal Code of Canada (B.C.)*, 2011 BCSC 1588 (the Polygamy Reference); *British Columbia (Ministry of Education) v. Moore*, 2012 SCC 61; *Friedmann v. MacGarvie*, 2012 BCCA 445; *Inglis v. Ministry of Public Safety and Solicitor General of BC*, 2013 BCSC 2309; *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59 (and *Vilardell v. Dunham*, 2013 BCCA 65); *British Columbia Public School Employers' Association v. British Columbia Teachers' Federation*, 2014 SCC 59; *Vancouver Area Network of Drug Users v. Downtown Vancouver Business Improvement Association*, 2015 BCSC 534 (intervened in court of first instance, as well as before the BCCA); and *Trinity Western University and Wolkenant v. Law Society of British Columbia* (in progress before the BC Supreme Court).⁶

5. Together with LEAF, West Coast LEAF has intervened in many more cases, including at the BC and Ontario Courts of Appeal and the Supreme Court of Canada.⁷

6. West Coast LEAF provided general information and support to LEAF, which had primary conduct of the intervention, in the following cases: *Little Sisters Book and Art Emporium v. Canada (Minister of Justice)*, [2000] 2 S.C.R. 1120; *Falkiner v. Ontario (Ministry of Community and Social Services, Income Maintenance Branch)*, [2002] O.J. No. 1771 (C.A.); *Miller v. Canada (Attorney General)*, 2002 FCA 370; *R. v. Shearing*, [2002] 3 S.C.R. 33; *Canada (Attorney General) v. Lesiuk* (C.A.), [2003] 2 F.C. 697 (C.A.); *Newfoundland (Treasury Board) v. Newfoundland and Labrador Assn. of Public and Private Employees (N.A.P.E.)*, [2004] 3 S.C.R. 381; *Brooks v. Canada Safeway Ltd.*, [1989] 1 S.C.R. 1219; and *Blackwater v. Plint*, [2005] 3 S.C.R. 3.⁸

7. West Coast LEAF took the leading role in the following cases in which LEAF intervened: *BC (Public Service Employee Relations Commission) v. BCGSEU (Meiorin*

⁵ Trask Affidavit, Motion Record, Tab 2, paras. 11-16.

⁶ Trask Affidavit, Motion Record, Tab 2, para. 12.

⁷ Trask Affidavit, Motion Record, Tab 2, para. 13.

⁸ Trask Affidavit, Motion Record, Tab 2, para. 14.

Grievance), [1999] 3 S.C.R. 3; *Blencoe v. British Columbia (Human Rights Commission)*, [2000] 2 S.C.R. 307; *Smith (Guardian ad litem of) v. Funk*, 2003 BCCA 449; *R. v. Demers*, 2003 BCCA 28; *R. v. Watson*, 2008 BCCA 340; and *Rick v. Brandsema*, 2009 SCC 10.⁹

C. West Coast LEAF has a clear and demonstrated interest in the subject matter of the Appeal

8. The underlying issue in this appeal is the constitutionality of s. 5(3)(a)(i)(D) of the *Controlled Drugs and Substances Act*¹⁰ (the “**impugned provision**”), which creates a mandatory minimum sentence of one year imprisonment for the possession of drugs for the purpose of trafficking in specific situations. In determining this issue, the Court will interpret and apply ss. 7 and 12 of the *Charter* in the context of mandatory minimum sentences. In doing so, the Court will consider the impact of the impugned provision, not only on the appellant, but on a broad range of offenders in Canada, including female offenders and offenders from marginalized communities.

9. In this appeal, West Coast LEAF is uniquely positioned to assist this Honourable Court in interpreting and applying ss. 7 and 12 in the context of mandatory minimum sentences in a manner consistent with the equality guarantee in s. 15 of the *Charter*. In addition, West Coast LEAF is uniquely positioned to assist the Court in understanding how some mandatory minimum sentences, and in particular the impugned provision, have a differential and adverse impact on female offenders.

10. In this appeal, West Coast LEAF’s proposed submissions will be both useful and distinct from those of the parties to this dispute and of any other proposed interveners.

Interest in the Rights of Criminalized and/or Incarcerated Women

11. As detailed in the affidavit of West Coast LEAF’s President, Robyn Trask, West Coast LEAF has extensive experience in advocating for the rights of criminalized and/or incarcerated women. They also have extensive experience in working to assist courts in interpreting and applying constitutional law principles in a manner that takes account of the lived experiences of women. West Coast LEAF has a demonstrated interest in ensuring

⁹ Trask Affidavit, Motion Record, Tab 2, para. 15.

¹⁰ *Controlled Drugs and Substances Act*, SC 1996, c 19, s. 5(3)(a)(i)(D).

that determination of constitutional law issues in the criminal law context is consistent with the equality guarantee in the *Charter*.¹¹

12. Importantly, West Coast LEAF also has a demonstrated interest in advocating on behalf of women on the issue of mandatory minimum sentences. In 2012, West Coast LEAF and LEAF made submissions to the Senate Committee on Legal and Constitutional Affairs regarding the bill that resulted in the impugned provision in issue in this appeal (*Bill C-10: The Safe Streets and Communities Act*), calling on the Minister to delay passage pending consideration the impacts of the proposed legislation on women and Aboriginal peoples, with particular consideration to *Charter* obligations.¹²

Relevant Procedural History

13. The appellant situates this appeal in the context of the proliferation of mandatory minimum sentences in recent years, and submits that the impugned provision violates both ss. 7 and 12 of the *Charter*, and that these violations are not saved by s. 1. With respect to s. 12, the appellant argues that the impugned provision is grossly disproportionate when applied to reasonably foreseeable circumstances. With respect to s. 7, he argues that the impugned provision is arbitrary and therefore fails to accord with the principles of fundamental justice. Finally, he appeals the sentence imposed by the Court of Appeal, and the Court of Appeal's holding regarding the scope of the Provincial Court's remedial authority where legislation is found to be unconstitutional.¹³

14. The trial judge held that while the impugned provision was not grossly disproportionate in Mr. Lloyd's circumstances, it was nonetheless grossly disproportionate for a hypothetical offender, and therefore constituted cruel and unusual punishment, contrary to s. 12. The trial judge found the violation was not saved by s. 1. At trial Mr. Lloyd also argued that the impugned provision violated ss. 7 and 9, however both arguments were dismissed. The trial judge ultimately imposed a one year sentence on Mr. Lloyd, and declared the impugned provision of no force and effect.¹⁴

¹¹ Trask Affidavit, Motion Record, Tab 2, para. 21-25.

¹² Trask Affidavit, Motion Record, Tab 2, para. 24.

¹³ Appellant's Factum, at paras. 1-8, 15, 19-34.

¹⁴ *R. v. Lloyd*, 2014 BCPC 8 and *R. v. Lloyd*, 2014 BCPC 11.

15. The Crown appealed, arguing that the trial judge erred in finding that the impugned provision was unconstitutional, acted beyond its jurisdiction in declaring it to be of no force and effect, and ultimately imposed an unfit sentence. The Court of Appeal held that the impugned provision had no impact on Mr. Lloyd personally, and that it would be “unnecessary and unwise” to address the issue of the provision’s constitutionality in the appeal. Accordingly, no consideration was given to the issue of the impugned provision’s constitutionality. The Court of Appeal held that the trial judge erred in finding that he had jurisdiction to issue a declaration, and that a one year sentence was unfit and should be substituted with a sentence of 18 months.¹⁵

16. Mr. Lloyd sought leave to appeal to this Court. The Court granted leave and subsequently stated four constitutional questions, namely whether the impugned provision violates ss. 7 and/or 12 of the *Charter*, and if so, whether it is saved by s.1.

West Coast LEAF’s Proposed Submissions

17. West Coast LEAF seeks leave to intervene with respect to the issues of whether the impugned provision violates ss. 7 and/or 12 of the *Charter*. West Coast LEAF takes no position on the remainder of the issues in the appeal.

18. If West Coast LEAF is granted leave to intervene, its underlying submission will be that ss. 7 and 12 the *Charter* must be interpreted and applied in a manner consistent with the equality guarantee in s. 15 of the *Charter*,¹⁶ and that the impugned provision has a disproportionate and discriminatory impact on women.

19. In particular, if granted leave to intervene, West Coast LEAF intends to make the following submissions:

- (a) The hallmark of criminal sentencing is proportionality. That is, in determining an appropriate sentence, the Court examines the circumstances of the offence and the offender to determine the appropriate sentence, proportionate to the gravity of the offence and the moral blameworthiness of the offender. It is a highly individualized

¹⁵ *R. v. Lloyd*, 2014 BCCA 224.

¹⁶ *New Brunswick (Minister of Health and Community Services) v. G.(J)*, [1999] 3 SCR 46 (per Justices McLachlin (as she then was) and L’Heureux-Dube, at para. 112, and the cases cited therein including *Andrews v. Law Society of British Columbia*, [1989] 1 SCR 143, at p. 185 (per McIntyre J.) (“**Andrews**”).

and contextualized analysis, fundamental to Canadian criminal and constitutional law;

- (b) This individualized and contextualized analysis is critical to promoting the principles of substantive equality in the criminal justice system, and to honouring the equality guarantee in section 15 of the *Charter*. A sentencing analysis that carefully considers the circumstances of the offence and the offender, allows consideration to be given to the needs, capacities and circumstances of the offender, and the impact of the sentence on the offender. Such an analysis is responsive to the historic disadvantage experienced by marginalized groups, including women;
- (c) Through the imposition of a mandatory minimum sentence and removal of judicial discretion in the sentencing process, the impugned provision eliminates the individualized and contextualized analysis that is critical to promoting substantive equality. Rather, the impugned provision risks perpetuating the historic disadvantage experienced by marginalized groups, particularly women. As a result, the purpose and effect of the impugned provision, is fundamentally at odds with the values and principles enshrined in the *Charter's* equality guarantee;
- (d) This is seriously problematic, as this Court's jurisprudence regarding the scope and application of ss. 7 and 12 of the *Charter* ought to be informed by, and consistent with, the equality guarantee in s. 15 of the *Charter*. This mandates a contextual analysis of the actual impact of the impugned provision, including consideration of the following whether the impugned provision perpetuates disadvantage for a historically marginalized group and whether the impugned provision corresponds to offenders' needs, capacities, and circumstances¹⁷;
- (e) Taking the above factors into consideration, it is evident that the impugned provision has the potential to impose a grossly disproportionate sentence in reasonably foreseeable applications of the law, and thereby violates s. 12;

¹⁷ See, for example. *Withler v. Canada (Attorney General)*, [2011] 1 SCR 396, at paras. 32, 27, and 39 ("*Withler*"); *Andrews; R. v. Kapp*, [2008] 2 SCR 483, at para 18.

- (f) Moreover, the impugned provision violates the principles of fundamental justice, in that it is both overbroad and arbitrary, and thereby violates s. 7. While the law may formally pursue a legitimate purpose such as deterrence, a lengthy period of incarceration for a foreseeable subset of female offenders is arbitrary, in that, *inter alia*, mandatory incarceration for such offenders achieves no deterrent effect. The impugned provision is also overbroad, in that, *inter alia*, the law applies to all offenders regardless of individual culpability and circumstances, and because a one year term of imprisonment will be excessive and unnecessary in their specific cases.

20. In addition, West Coast LEAF will bring to the Court's attention relevant academic literature, reports, and commissions, as well as reported sentencing decisions, in support of the following submissions:

- (a) The impugned provision has the potential to have a disproportionate and adverse effect on women, in effect perpetuating discrimination and historical disadvantage.¹⁸ These adverse effects are exacerbated for women experiencing intersecting forms of discrimination as a result of race, class, disability, addiction, and other factors. In particular:
- (i) Mandatory minimum sentences for non-violent crimes, including the impugned provision, have a significant impact on women because women in the criminal justice system are more likely to have committed non-violent crimes and, prior to mandatory minimum sentences, were more likely to be sentenced at the lower ends of sentencing spectrums, often with community sentencing orders;¹⁹

¹⁸ See, for example: Elizabeth Sheehy, "The Discriminatory Effects of Bill C-15's Mandatory Minimum Sentences" (2010) 70 C.R. (6th) 320, at 315-317 ("**Sheehy (2010)**"); Elizabeth Sheehy, "Battered Women and Mandatory Minimum Sentences" (2001) 39 *Osgoode Hall L.J.* 529; Fiona Sampson, "Mandatory Minimum Sentences and Women with Disabilities" (2001), 39 *Osgoode Hall L.J.* 589; Gabor & Crutcher, *Mandatory Minimum Penalties: Their Effects on Crime, Sentencing Disparities and Justice System Expenditures* (2002), Department of Justice Canada (Research and Statistics Division).

¹⁹ *Inglis v British Columbia (Minister of Public Safety)*, 2013 BCSC 2309, at para. 324 ("**Inglis v. B.C.**").

- (ii) Removal of judicial discretion at the low end of the sentencing spectrum has the potential to result in significant growth in female incarceration in Canada;²⁰
- (iii) Female offenders in British B.C. will be disproportionately affected by the impugned provision, given the limited number of provincial jails for women in B.C. (there are only two, in Prince George and Maple Ridge, with a third to be opened in the future).²¹ Compared to male offenders (for whom more facilities are available), female offenders are more likely to be moved further from their communities, thereby losing in-person contact with family and community, which risks undermining their rehabilitative prospects;
- (iv) The impugned provision has the potential to have a disproportionate impact on women as a result of their caregiving responsibilities. In contrast to men in prison, far more women in prison are primary or sole caregivers for their children, making it more likely that incarceration will disrupt her relationship with her child(ren), and increase the likelihood in the state apprehending her child(ren).²² Sentencing judges in Canada have long had the discretion to respond to family circumstances, and serious risk of creating further instability in marginalized communities. The impugned provision, however, deprive judges of taking relevant and important considerations into account in fashioning a proportionate sentence. The effects of this are amplified for women experiencing intersecting forms of marginalization, such as Indigenous women offenders; and
- (v) Certain sub-groups of women are more likely to be dramatically and adversely affected by the impugned provision, in particular Indigenous women and African-Canadian women.²³

²⁰ Lisa Kerr, "Tough Sentencing: Women and Children First" in *In Due Course: Building the Republic of Letters One Key Stroke at a time*: <http://induecourse.ca/tough-sentencing-women-and-children-first/> ("Kerr (2014)"); Sheehy (2010) at 315-317.

²¹ *Inglis v. B.C.*

²² Dorothy E. Roberts, "The Meaning of Gender Equality in Criminal Law" *Journal of Criminal Law and Criminology* (85:1); Summer 1994; Kerr (2014) citing Candace Kruttschnitt, "The paradox of women's imprisonment." *Daedalus* (2010) Vol. 139, No. 3 at 32-42; Sheehy (2010), at 315.

²³ Sheehy (2010), at 315-317.

(b) Further to this Court's recent decision in *R. v. Nur*, 2015 SCC 15, West Coast LEAF will assist the Court by providing "reasonably foreseeable applications" of the impugned provision, to illustrate that in reasonably foreseeable circumstances, the impugned provision would be grossly disproportionate to the proportionate sentence that a court would otherwise impose. The reasonably foreseeable applications provided by West Coast LEAF will emphasize the potential adverse effects on women offenders, and will illustrate that:

- (i) Many women charged with drug-related offences are involved in the drug trade at the low level (where visibility to law enforcement is high), where they have had minimal involvement with the crime;²⁴
- (ii) In many cases, women's involvement with drug-related offences arises from social and/or cultural factors, including the fact that criminal activity is often an uninvited and unforeseen consequence of an intimate relationship;²⁵
- (iii) Mitigating factors associated with many female offenders include, but not limited to, the following: the impact of victimization, abuse and addiction on criminal behaviour; caregiving obligations and the impact of incarceration on child custody, children the family unit, and society; the likelihood that prisons are geographically distant from female offenders' homes and the resulting acute impact of incarceration on female offenders; minimal prior criminal history; the non-violent nature of their crimes;²⁶ and
- (iv) West Coast LEAF will submit that it is imperative that women's experiences and circumstances as offenders be considered by the Court in determining the constitutionality of the impugned provision.

21. West Coast LEAF will ensure that it provides the Court with useful and unique submissions on the constitutional issues before it, and that it does not duplicate the submissions of another party or intervener.

²⁴ Shimica Gaskins, "Women of Circumstance: The Effects of Mandatory Minimum Sentencing on Women Minimally Involved in Drug Crimes" (2004) 41 Am. Crim. L.Rev. 1533 ("**Gaskins (2004)**") and Canadian HIV/AIDS Legal Network, "Mandatory Minimum Sentences for Drug Offences: Why Everyone Loses" (2006), as cited in Sheehy (2010).

²⁵ Gaskins (2004), as cited in Sheehy (2010).

²⁶ Sheehy (2010), at 315.

22. West Coast LEAF respectfully submits that the participation of interveners is particularly important in appeals where, as here, the record before the Court is limited by the fact that the Court below declined to rule on the key issue.

PART IV – SUBMISSIONS ON COSTS

23. West Coast LEAF does not seek costs in this motion and would not seek costs in its intervention if granted leave to intervene. If granted leave to intervene, West Coast LEAF will not raise new legal issues not raised by the parties. Its intervention therefore should not materially increase the costs of the parties. West Coast LEAF will ask that costs not be awarded against it, on this application or on the appeal.

PART V - ORDER REQUESTED

24. West Coast LEAF respectfully requests an order granting it leave to intervene for the purposes of presenting arguments by way of a factum and oral submissions on the following terms:

- a. The proposed intervener will accept the record as is and will not file any additional evidence;
- b. The proposed intervener will serve and file a factum of no more than 10 pages;
- c. The proposed intervener will make oral submissions at the hearing of this appeal of such length as this Court deems appropriate; and
- d. West Coast LEAF does not seek its costs of this motion or of its intervention if granted leave, and requests that no costs be ordered against it.

All of which is respectfully submitted this 15th day of October, 2015.

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VI. LIST OF AUTHORITIES

Cases	Para
<i>Andrews v. Law Society of British Columbia</i> , [1989] 1 SCR 143	18, 19
<i>Inglis v British Columbia (Minister of Public Safety)</i> , 2013 BCSC 2309	4, 20
<i>New Brunswick (Minister of Health and Community Services) v. G.(J)</i> , [1999] 3 SCR 46, at para. 112	18
<i>R. v. Kapp</i> , [2008] 2 SCR 483	19
<i>R. v. Lloyd</i> , 2014 BCPC 8	14
<i>R. v. Lloyd</i> , 2014 BCPC 11	14
<i>R. v. Lloyd</i> , 2014 BCCA 224	14
<i>R. v. Nur</i> , 2015 SCC 15	20
<i>Withler v. Canada (Attorney General)</i> , [2011] 1 SCR 396	19

Other Authorities	Para
Canadian HIV/AIDS Legal Network, "Mandatory Minimum Sentences for Drug Offences: Why Everyone Loses" (2006)	20
Candace Kruttschnitt, "The paradox of women's imprisonment." <i>Daedalus</i> (2010) Vol. 139, No. 3 at 32-42	20
Dorothy E. Roberts, "The Meaning of Gender Equality in Criminal Law" <i>Journal of Criminal Law and Criminology</i> (85:1); Summer 1994	20
Elizabeth Sheehy, "Battered Women and Mandatory Minimum Sentences" (2001) 39 <i>Osgoode Hall L.J.</i> 529	20
Elizabeth Sheehy, "The Discriminatory Effects of Bill C-15's Mandatory Minimum Sentences" (2010) 70 <i>C.R.</i> , (6 th) 320, at 315-317	20
Fiona Sampson, "Mandatory Minimum Sentences and Women with Disabilities" (2001), 39 <i>Osgoode Hall L.J.</i> 589	20
Gabor & Crutcher, <i>Mandatory Minimum Penalties: Their Effects on Crime, Sentencing Disparities and Justice System Expenditures</i> (2002), Department of Justice Canada (Research and Statistics Division)	20

<p>Lisa Kerr, "Tough Sentencing: Women and Children First" in <i>In Due Course: Building the Republic of Letters One Key Stroke at a time</i>: http://induecourse.ca/tough-sentencing-women-and-children-first/</p>	20
<p>Shimica Gaskins, "'Women of Circumstances': The Effects of Mandatory Minimum Sentencing on Women Minimally Involved in Drug Crimes" (2004) 41 <i>Am. Crim. L.Rev.</i> 1533</p>	20
<p><i>UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women</i>, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: http://www.refworld.org/docid/3ae6b3970.htm</p>	1

VII. LEGISLATION

<p><i>Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, ss. 1, 7, 12, and 15.</i></p>	<p><i>Loi constitutionnelle de 1982 (R-U), constituant l'annexe B de la Loi de 1982 sur le Canada (R-U), 1982, c 11, art. 1, 7, 12 et 15.</i></p>
<p>Guarantee of Rights and Freedoms</p> <p>Rights and freedoms in Canada</p> <p>1. The <i>Canadian Charter of Rights and Freedoms</i> guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.</p>	<p>Garantie des droits et libertés</p> <p>Droits et libertés au Canada</p> <p>1. La <i>Charte canadienne des droits et libertés</i> garantit les droits et libertés qui y sont énoncés. Ils ne peuvent être restreints que par une règle de droit, dans des limites qui soient raisonnables et dont la justification puisse se démontrer dans le cadre d'une société libre et démocratique.</p>
<p>Legal Rights</p> <p>Life, liberty and security of person</p> <p>7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.</p>	<p>Garanties juridiques</p> <p>Vie, liberté et sécurité</p> <p>7. Chacun a droit à la vie, à la liberté et à la sécurité de sa personne; il ne peut être porté atteinte à ce droit qu'en conformité avec les principes de justice fondamentale.</p>
<p>Treatment or punishment</p> <p>12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.</p>	<p>Cruauté</p> <p>12. Chacun a droit à la protection contre tous traitements ou peines cruels et inusités.</p>
<p>Equality Rights</p> <p>Equality before and under law and equal protection and benefit of law</p> <p>15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.</p>	<p>Droits à l'égalité</p> <p>Égalité devant la loi, égalité de bénéfice et protection égale de la loi</p> <p>15. (1) La loi ne fait acception de personne et s'applique également à tous, et tous ont droit à la même protection et au même bénéfice de la loi, indépendamment de toute discrimination, notamment des discriminations fondées sur la race, l'origine nationale ou ethnique, la</p>

	couleur, la religion, le sexe, l'âge ou les déficiences mentales ou physiques.
<i>Controlled Drugs and Substances Act, S.C. 1996, c. 19.</i>	<i>Loi réglementant certaines drogues et autres substances, L.C. 1996, ch. 19.</i>
Trafficking in substance Punishment 5. (3) Every person who contravenes subsection (1) or (2) <ul style="list-style-type: none"> (a) subject to paragraph (a.1), if the subject matter of the offence is a substance included in Schedule I or II, is guilty of an indictable offence and liable to imprisonment for life, and <ul style="list-style-type: none"> (i) to a minimum punishment of imprisonment for a term of one year if <ul style="list-style-type: none"> (D) the person was convicted of a designated substance offence, or had served a term of imprisonment for a designated substance offence, within the previous 10 years, 	Trafic de substances Peine 5. (3) Quiconque contrevient aux paragraphes (1) ou (2) commet : <ul style="list-style-type: none"> a) dans le cas de substances inscrites aux annexes I ou II, mais sous réserve de l'alinéa a.1), un acte criminel passible de l'emprisonnement à perpétuité, la durée de l'emprisonnement ne pouvant être inférieure : <ul style="list-style-type: none"> (i) à un an, si la personne, selon le cas : <ul style="list-style-type: none"> (D) a, au cours des dix dernières années, été reconnue coupable d'une infraction désignée ou purgé une peine d'emprisonnement relativement à une telle infraction