



# **LEGAL AID : IT'S TIME FOR A CHANGE**

## **NOT EVEN THE POOR HAVE ACCESS TO LEGAL AID!**

Did you know that people making minimum wage, as well as the elderly living only on their old age security pensions, are not eligible for legal aid? Despite their poverty, they are refused this right.

The situation is unacceptable and it's time for an immediate change.

In 2005 the government changed the conditions for eligibility to supposedly offer "a more accessible justice". This reform cut off 900 000 people who had previously been eligible for legal aid benefits. The program reform extends over a 5-year period from 2006 to 2010.

### **A Preliminary Evaluation**

After two years, one conclusion may be made with certainty: the reform has completely failed.

To date, there has been absolutely **no increase** in the number of individuals who benefit from legal aid services, as had been predicted (*at the time of the re-*

*form*). Many people in dire need of legal aid are not eligible because their incomes, though extremely low, still surpass the maximum income allowed. The Minister of Justice must face the facts: *the rigorous standards for eligibility to legal aid exclude people in need from benefiting from the service.*

How can the Minister stay the course with a reform that offers no results and that clearly does not do what it set out to accomplish? And moreover, where are the funds that were promised to improve this indispensable program?

### **A Necessary Change**

The Minister of Justice has the power to act.

**We therefore demand that Minister Jacques P. Dupuis modify the legal aid criteria so that as of January 1<sup>st</sup> 2008, those making minimum wage or living on an income equivalent to minimum wage are allowed full access to legal aid benefits.**

The reforms of 2005 were accompanied by a commitment to increase funding for an improved legal aid program. According to statistics, these funds have not yet been used. The government therefore has (not only the responsibility but) the resources to act.

Far too many individuals and families are excluded from legal aid, unable to defend their rights or forced to pay rates that far exceed their means. Access to justice is a right!

Changes to improve our legal aid program are currently being promised... but affirming a desire to "offer a more accessible justice" is *meaningless if it is not followed by concrete action.*

1. Press conference held by the Minister of Justice in 2005, Yvon Marcoux, 21/10/2005.

2. Promised additional spending should be in the order of 30 million dollars.

## **We demand that the MINISTER OF JUSTICE take immediate action so that:**

- Individuals making minimum wage and working a 40-hour week have full, free access to legal aid;
- The income cutoff for eligibility into other categories of legal aid (including the "financial eligibility with contribution" stream) is consequently increased;
- Eligibility for legal aid be based on a *monthly* calculation of income;
- The annual indexation of legal aid benefits be maintained.

## LEGAL AID IS 35 YEARS OLD!

The law on legal aid was established in 1972 to offer poor people access to legal services, so that they might be able to defend and assert their rights. At this time, all legal services were covered and were available to individuals whose income was equivalent to that of someone working full-time at minimum wage.

Access to legal aid was recognised as a RIGHT.

### A Step Backwards

In 1996, under the pretence of improving the legal aid program, major changes were introduced that ultimately resulted in sizeable cutbacks in *access to legal aid services*.

The number of those covered by legal aid was reduced *as conditions for eligibility became tougher*, income was calculated on an annual (rather than a monthly) basis, and a “financial eligibility with contribution” stream was introduced for those whose income slightly surpassed the requirements for free legal aid.

The government predicted that introducing an “eligibility with contribution” stream to the legal aid program

would improve recipients’ access to justice. It did not. Instead, less than 3% of recipients fall into this category, because in the end the targeted individuals simply do not have the means to pay the necessary contributions. *Ultimately, they are forced to go without legal aid of any kind.* These individuals’ right to access to justice is fundamentally denied.



In all, the reforms of 1996 have resulted in a 30% decrease in the volume of cases treated by legal aid: a direct result of reduced access to these services. The government had promised greater access to legal aid through the reforms of '96, but in actual fact access to legal aid services has decreased significantly: a major

step back for the population.

### Access to justice

Understanding laws, knowing our rights and being able to defend them in our everyday lives, obtaining legal advice, being represented by a lawyer in court – these are all different facets of “access to justice”.

And, in our society replete with rules and regulations, it's essential. The right to a lawyer is one of the fundamental rights recognized by the Quebec and Canadian charters, as well as other international declarations for the protection of human rights.

Currently, in Quebec, access to legal aid -- one important aspect of access to justice -- seems to have become a privilege. Too many people are excluded, unable to access this basic service.

We hereby reaffirm that access to legal aid is a right. We must immediately review the underlying principles of the program, and subsequently increase benefits and broaden criteria for eligibility.

## 2005: THE MOREAU REPORT

Over the years there have been a number of studies and reports that focus on our legal aid program.

All concluded that the Quebec program is adequate should be maintained, but that the eligibility criteria are much too stringent.

The last such report dates from June 2005 and is the product of the “Moreau Committee,” named after the MP responsible for the enquiry.

The main recommendation<sup>1</sup> surfacing from this report is that: “the conditions for admissibility should be subject to a substantial increase, so that the legal aid program may re-centre itself on the goals laid out at its inception. These goals remain very much relevant today and are shared by a large majority of Quebecers.

This increase must allow poor people to access legal aid, whether they are single, elderly or members of a family.” [translated from French report]

In response to the Moreau report, the government announced a reform in 2005, expanding the criteria for eligibility to legal aid to ostensibly improve accessibility. A gradual increase was introduced, spanning a 5-year period from 2006 to 2010.

The reform was denounced by many social actors because the proposed changes barely corresponded to the recommendations of the Moreau report, which proposed an immediate increase based on 2005 estimations of basic living expenses. Not only were these increases rejected in the first year of the government’s reform – they will not even be met by 2010.

By 2010, cost of living will have increased significantly. This means that the initial distance between the Moreau recommendation and the 2005 reform increase each year. By 2010, the discrepancy between Moreau’s recommendations (that eligibility to legal aid be paralleled with minimum wage) and the resulting reform will be drastically different.

Despite these obvious shortcomings, the Minister made no changes to the program, claiming that access to legal aid would be greatly increased. This, however, is clearly not the case.

<sup>1</sup> To consult the Moreau report: [www.justice.gouv.qc.ca/francais/publications/rapports/aide-jur0505.htm](http://www.justice.gouv.qc.ca/francais/publications/rapports/aide-jur0505.htm) (in French)

## THREE TROUBLING CASES, AMONG MANY OTHERS...

**Name: Clara**

**Occupation:** Making minimum wage in retail sales and single mother.

**Problem:** She received notice from her ex-partner for the cancellation of her child support payments.

**Income:** When assessing eligibility for legal aid, child support is included in one's annual income. Clara is therefore considered to make \$20 250 a year.

**Eligibility for legal aid:** Yes, but she is only partially covered by legal aid and must contribute \$600 towards her legal services.

**Clara:** "Why is the child support that I receive included as part of my income? Those benefits belong to my children and besides, I'm at risk of losing that income! I don't have \$600 to spare – I'm already in debt and I can't make ends meet."



**Name: Irene and Paul** **Occupation:** Retired

**Problem:** Irene and Paul's apartment is being repossessed by their landlord. He says that he wants his son to live there, but the couple doubts that he is acting in good faith.

**Income:** Pension payments (approximately \$21 500 annually)

**Eligibility for legal aid:** No.

**Irene & Paul:** "With our pensions as our only income, we aren't eligible for legal aid because we make "too much money". But we definitely don't have the money to pay for legal services on the private market. The restrictions are much too stringent! They don't take our real situation into account!"



**Name: Alex**

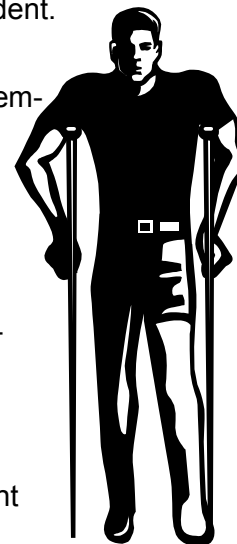
**Occupation:** On leave from work following a car accident.

**Problem:** Alex was a victim in a car accident. His recovery is predicted to be long and drawn-out... The SAA (Society for Automobile Insurance) of Quebec has refused him indemnity. Alex wishes to contest this decision.

**Income:** None at this time. Alex has not accumulated enough work hours to qualify for Employment Insurance. His eligibility for legal aid is calculated according to his annual income rather than his monthly income. Alex made \$16,000 this year. At the time of the accident (September), he had already surpassed the allowed maximum income of \$10,504 for free legal aid and \$14,968 for partially covered legal aid with a maximum contribution of \$800 from a single individual.

**Eligibility for legal aid:** No.

**Alex:** "But I don't have any income right now! I have no savings! Why not take into account my monthly income, which represents my present situation much more accurately?"



## LEGAL AID IN NUMBERS:

Current Program <sup>1</sup>	2007		2010	
	Gratuitous Services	Services With Contribution	Gratuitous Services	Services With Contribution
<i>Individual</i>	\$10 504	\$14 968	\$12 093	\$17 233
<i>Couple with two or more children</i>	\$19 042	\$27 135	\$19 829	\$28 257
Our Demands	<i>From January 1st, 2008</i>			
	<i>Gratuitous Services</i>		<i>Services With Contribution</i>	
<i>Individual (Minimum wage<sup>2</sup>)</i>	\$1 387/month or \$16 640/year		\$1 953/month or \$23 440/year	
<i>Couple with two or more children</i>	\$2 208/month or \$26 495/year		\$3 146/month or \$37 755/year	

<sup>1</sup> Consult [www.servicesjuridiques.org](http://www.servicesjuridiques.org) for more information.

<sup>2</sup> \$8.00/hour x 40 hours/week

**Coalition for Access to Legal Aid**  
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People's needs for legal aid services are keenly felt and remain unmet.

Community organizations from a wide diversity of sectors, associations, unions and individuals recognize the need for urgent collective action to bring about immediate change.

### Join the campaign!

- ☞ **By writing the Minister of Justice Jacques P. Dupuis** (fax: 514.873.7174 (Montreal) or 418.646.0027 (Quebec); [ministre@justice.gouv.qc.ca](mailto:ministre@justice.gouv.qc.ca));
- ☞ **By becoming a member of the coalition;**
- ☞ **By writing an open letter to your local newspaper;**
- ☞ **By contacting your member of Parliament, etc.**

Most of all, **don't hesitate to get in touch or to visit our website** to keep us informed of the steps you take, to get more information about the coalition, or to become a member.

**THE COALITION FOR ACCESS TO LEGAL AID:  
FOR MORE JUSTICE!**