



West Coast LEAF NEWS ALERT January 20, 2009

When will women have access to justice in British Columbia? Even the United Nations is concerned.

January 14, 2009 - West Coast LEAF is extremely concerned about further cuts to family law legal aid announced yesterday by the Legal Services Society. In the publication *Legal Aid Denied*, West Coast LEAF documented the inequality women have faced in family law because of past legal aid cuts.

In November 2008, the United Nations Committee on the Elimination of Discrimination Against Women stated in a report, "The Committee is concerned at reports that financial support for civil legal aid has diminished and that access to it has become increasingly restricted, in particular in British Columbia, consequently denying low-income women access to legal representation and legal services."

"This news is devastating. Our family law system is in crisis and the demand for help is higher than ever -- this is not a solution from the Legal Services Society," Alison Brewin, author of *Legal Aid Denied* and Executive Director of West Coast LEAF, says. "We're disappointed that the government has failed to respond to the UN committee's report, and in fact has made the situation worse."

Imagine this:

- a woman is dropping her children off for an access visit with her ex-spouse;
- the woman sees he is drunk and has two choices: leave her children, or take them home;
- earning \$40,000 a year, she is ineligible for legal aid and can't afford a lawyer, so she tries to call the LAWLINE for legal advice, but with only two lawyers on staff, the wait is at minimum four hours;
- she takes the kids home again;
- the husband, who earns \$75,000 per year, has a private lawyer who argues for and gets full custody of the kids on the basis that the wife is refusing him access.

This is the kind of scenario that advocates and family service providers around the province have been witnessing since the first round of Legal Services cuts. The newly announced cuts to legal aid not only compromise and deny access to justice for women, but they threaten the constitutional values of equality enshrined under our *Charter of Rights and Freedoms*.

"Equality rights, the rule of law and international treaty obligations oblige those responsible for the administration of justice to stem this flow," concludes Brewin.

Excerpt of letter to Attorney General regarding legal aid cuts

Dear Mr. Oppal,

I am writing to express West Coast Legal Education and Action Fund's profound concern about the recently announced cuts to family law legal aid.

Women's need for legal aid services is overwhelmingly in the area of family law; this means that cuts to family law legal aid directly impair women's equality. In light of the continued erosion of legal aid in immigration and minor criminal law matters and the nonexistence of poverty law legal aid, there can be no argument that all women, particularly women marginalized by race and poverty, are suffering. This is contrary to the *Charter of Rights and Freedoms* which creates a positive obligation on governments in Canada to change historical patterns of disadvantage, not exacerbate them.

In our publication *Legal Aid Denied* and in our Family Law Project, West Coast LEAF has documented how the 2002 legal aid cuts increased women's experiences of inequality in family law. The harm is particularly acute when women are forced to represent themselves before the courts on (often complex) family law matters. We believe that women's equality rights will be further diminished by the new cuts to legal aid services.

In November 2008, the United Nations Committee on the Elimination of Discrimination Against Women stated in its concluding observations on Canada, "The Committee is concerned at reports that financial support for civil legal aid has diminished and that access to it has become increasingly restricted, in particular in British Columbia, consequently denying low-income women access to legal representation and legal services." Not only has the provincial government failed to address the Committee's concern, it has now introduced further reductions in service.

In early February, Canada will be on the hot seat again as the United Nations Human Rights Council undertakes Canada's first Universal Periodic Review. The concerns of women in British Columbia regarding access to justice will be aired in Geneva before the international community once more.

Has the provincial government consulted with its federal counterparts to ensure that the access to justice provided through legal aid services will ensure compliance with constitutional and international standards (to which Canada has legally committed itself) for equality, human rights and access to justice?

Constitutional and internationally protected rights have little significance for women who have neither meaningful access to courts nor the legal advice necessary to enforce their rights. The "epidemic" of self-representation identified by the Chief Justice of Canada will only get worse under the new cuts to legal aid. Women continue to lose custody, settle for less in asset division, accommodate unsafe access orders and decide not to pursue spousal support because they do not have access to legal advice or representation. The newly announced cuts to legal aid not only compromise and deny access to justice for women, but they threaten the constitutional values of equality enshrined in our *Charter of Rights and Freedoms*.

While the most recent cuts will undoubtedly compound earlier barriers to access to justice and worsen inequality for women, the entire legal aid system is in distress and has been for some time. West Coast LEAF strongly urges you as the Attorney General to increase funding for legal aid, and family law legal aid in particular, but we also note that a bandaid solution will not suffice. The longstanding crisis in legal aid in this province must not be underestimated. The current cuts provide an important opportunity for the province to examine the efficacy, adequacy and equity of the legal aid system as a whole.

Access to justice in this province should not depend on fluctuating interest rates; it is the responsibility of government to protect and promote our fundamental human rights.

About [West Coast LEAF](#)

Our mission 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.

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