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Abstract

The purpose of this Article is to give a brief overview of citizen access to justice and legal information in France, both before and after the implementation of the reform. This Article will primarily focus on the work of non-governmental organizations in this field, especially the work of Droits d'Urgence, the NGO of which I am a founder and President. Droits d'Urgence deals primarily with access to legal information for the most marginalized sectors of the population. It is a humanitarian organization of legal professionals involved in the promotion of rights for those suffering from exclusion.

DROITS D'URGENCE: ACCESS OF CITIZENS TO LEGAL INFORMATION IN FRANCE

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INTRODUCTION

Until the beginning of the 1990s, the issue of citizen access to legal information was rarely raised in France. There was no state-funded system and private initiative was not very significant. However, public demand was high. It was not rare to hear people complain about the lack of knowledge they possessed as to their “rights,” whether in personal circumstances, such as divorce and inheritance matters, or in dealing with their landlord, employer, or administration.

The state gradually became aware of the needs of the public, which led to a major reform in 1991. Passed on July 10, 1991, and subsequently reinforced on December 18, 1998, a new law facilitated access to justice and legal information. However, whilst the law worked fairly well in regards to access to justice, it still had major shortcomings in the field of access to legal information in general. Public pressure, as well as the work of non-governmental organizations (or “NGOs”), led to the adoption of a second series of legislative measures which were finalized in March, 2000.

The purpose of this Article is to give a brief overview of citizen access to justice and legal information in France, both before and after the implementation of the reform. This Article will primarily focus on the work of non-governmental organizations in this field, especially the work of Droits d’Urgence, the NGO of which I am a founder and President. Droits d’Urgence deals primarily with access to legal information for the most marginalized sectors of the population. It is a humanitarian organization of legal professionals involved in the promotion of rights for those suffering from exclusion.

I. THE SITUATION BEFORE 1991

It is important to bear in mind the place from which we started. Most of the facilities allowing access to information ex-

isting prior to 1991 still exist today. Access to legal information, however, was scarce and conceived mainly as access to justice.

In place for decades, France has a legal aid system. The state also facilitated citizens' access to justice in the fields of employment by means of simplified procedures, and in their dealings with the administration by means of the institution of the mediator, and ombudsman. Private initiative, mainly that of institutions such as the Bar, remedied the shortcomings of the systems, albeit to a lesser extent.

A. *Legal Aid*

Legal aid was restricted to access to justice. Citizens who wanted to start a legal action, or had to defend themselves against one, could turn to the state and request the appointment of a lawyer. But only if their income did not allow them to pay for one out of their own pocket. The low income requirement, however, did not apply to criminal cases where every citizen had the legal right to be defended by a lawyer.

The problems, however, were numerous. First, the income requirement was so low that very few people actually qualified for legal aid. Legal aid was also quite complicated to apply for. The paperwork was heavy and the information available to citizens was limited. As a result, the poorest sectors of the population, lacking education and information, did not use legal aid; they feared the complexity of the system.

There was also some concern about the quality of legal services rendered by professionals appointed through legal aid. Indeed, lawyers received nominal fees and sometimes were not as motivated as they should have been. Furthermore, the system failed to provide for any legal advice in non-contentious situations. It was strictly reserved for litigation. The legal system, highly criticised both by the public and by professionals working in the legal field, was not satisfactory.

B. *Facilitated Access to Certain Fields of the Law*

The legislation made minor corrections in the two areas which were deemed critical to the public: employment and administrative matters. Labor courts, made more accessible, were improved upon to deal with employment disputes more cheaply and efficiently, but industrial tribunals are overburdened and

are therefore very slow. They are, however, easily accessible; no legal representation is necessary and the procedure is extremely simple (it is not necessary to produce written pleadings of fact or law). Most tribunals have advisers who can assist people with their claims from the outset. Employees can also be represented by trade union representatives for free.

In dealing with the state and its administration, citizens can appeal to the office of the mediator. The institution is very much inspired by the ombudsman of Northern European countries. People can register any complaint against the administration with the ombudsman, whose office directs people to the right persons in the administration and provides legal advice as to how to deal with the complaint.

C. *Private Initiative*

Prior to 1991, social workers working for city administrations or for the Ministry of Social Affairs provided some access to legal information. However, a lot was left to private initiative providing insignificant access. The only initiative worth mentioning is that of the Bar, especially the Paris Bar which holds advice sessions. Most of the sessions take place in a court of law every week. The Bar appoints a number of lawyers (usually up to five) to meet with people and provide them with free legal advice. The Bar entered into an agreement with the city of Paris, among other cities, whereby lawyers hold weekly sessions in each town hall to meet with the public and provide free legal advice.

Before 1991, free legal advice sessions were in fact the only way for citizens to access legal information outside litigation. As for legal aid, however, this required a certain degree of sophistication on the part of the common people and left the poorest sectors of the public untouched. This unsatisfactory situation led the legislature to modify the system in 1991.

II. *THE 1991 REFORMS AND THEIR CONSEQUENCES*

A. *Legal Aid*

The law passed on July 10, 1991 substantially modified legal aid. This law, introducing for the first time the concept of Access to Legal Information (*Accès au Droit*), was reinforced by the law of December 18, 1998. With the passing of the new law came an increase in the income requirement. Legal aid became avail-

able to applicants whose monthly income was below Fr6600. The law further provided for an increase in legal aid if the applicant had children or other dependants.

A certain degree of control over the merits of the case is exercised before legal aid is granted and the procedure was simplified. There is a central legal office before each court of first instance which independently deals with applications regardless of the court which will ultimately hear the case. The lawyers' fees were also increased. Other modifications resulting from the new law include the possibility of obtaining legal aid in order to settle a case. Lawyers will be compensated equally for settlement negotiations, regardless of their success, provided that they prove the extent of their efforts. Today it can be said that the system is generally working better; the budget for legal aid went from Fr400,000,000 to Fr1,200,000,000 in 1998 with 710,000 people benefiting from legal aid in 1997.

B. *Access to Legal Information*

The Law of 1991 introduced access to legal advice in non-contentious situations relating to "fundamental rights and basic conditions of life" of citizens. It defined legal advice as advice on the extent of citizens' rights and the way to exercise those rights. The Law further created a Council for Access to Legal Information in each department (basic administrative subdivision), the task of which was to determine which policies should be implemented, as well as the necessary funds needed for the implementation of such policies.

The mission to provide access to legal information was entrusted to the departments. In 1997, however, the budget devoted to access to legal information was only Fr2,700,000.¹ As a result, in 1998, the government decided to modify the 1991 law in order to encourage increased access to legal information.

The access mission remains with the councils. The new law better defined the councils' mission. The councils were looked to for the provision of general information to citizens about their rights and duties and to direct those individuals to institutions which could help them exercise their rights. The new councils also helped citizens carry out the formalities necessary

1. As of today, only 20 councils have been created, most of which are inactive.

to exercise their rights; they provided general legal advice, assisted people in drafting legal documents, and encouraged alternative dispute resolution.

Many lessons were learned from NGO experiences dating back to the early 1990s, particularly from the *Droits d'Urgence*. It was these lessons that were the reason why the government decided to involve NGOs in the councils. They provided access to legal information in order to make the system function better. A member of an NGO working in the legal field must now sit on each council, together with representatives of the state, the region, and the local Bar. The new law also reinforces the councils' mission to prevent litigation through the alternative dispute resolution processes. Special mediators (approximately 400 of them) are being recruited for this exact purpose.

The new law, the inspiration for which is derived from the practice of NGOs, also provides for the creation of the "Houses of Justice." The Houses of Justice (*Maison du Droit et de la Justice*²), which operate on a local level under the control of the council and the President of the local court, are staffed by the mediators and other employees working in conjunction with NGOs. They are conceived as "Points of Access to the Law" for citizens. Their primary purpose will be to organize criminal and civil mediation for minor offences and minor civil cases.

III. *DROITS D'URGENCE*

Paris-based lawyers and civil servants founded *Droits d'Urgence* in the summer of 1995. The goal of *Droits d'Urgence* is to do everything possible to promote and protect the rights of people in deep deprivation. The primary purpose of the organization is to provide free legal advice and legal assistance to the poorest and most marginalized sectors of the public which previously had no access to the law, such as homeless people, those who do not qualify for welfare, foreigners, drug addicts, and prostitutes.

Reaching out to and helping those sectors of the public which traditional systems of legal aid could not reach was crucial. Unfortunately, these sectors rarely had a presence in the

2. These are local points of access to the law for citizens. It organizes criminal and civil mediation for minor offenses and minor civil cases under the control of the council and President of the local court.

institutional legal structures of the court or town hall. The idea was to meet with the public and offer them the help of a legal adviser if they needed it. *Droits d'Urgence* encouraged co-operation amongst existing NGOs which were already working with these people. Through contacts with the NGOs, *Droits d'Urgence* organizes weekly sessions offering free legal advice in various locations around Paris and Toulouse, such as in shelters or medical centers run by these organizations.

The first of these sessions was organized in November 1995. Currently there are forty-one monthly sessions operating in twenty different centers. Barristers, solicitors, judges, and various law professors specifically trained to deal with these specific sectors of the public now give free legal advice and legal assistance. Social workers and doctors who work in the centers where the sessions are held help direct the public to the appropriate legal professional. The legal advice sessions of *Droits d'Urgence* differ from those of traditional institutional sessions in that each case is followed right through to its conclusion. If a visiting barrister cannot take on a case due to lack of time or complexity, the case is passed on to another member of the association.

The second purpose of the organization is to make the legal professionals, and those studying the law, aware of the specific nature of the legal matters associated with those sectors of society suffering from exclusion. Law students are assigned to a center to follow the cases and to act as a liaison between the client and the barristers. Some pre-trainee barristers are also assigned to a center for one-month sessions to provide legal information and direction and to prepare the free legal advice sessions. *Droits d'Urgence* also organizes two additional training programs for trainee barristers. The first program, now in its fourth year, is theoretical in nature and consists of a one-week program at the *École de Formation du Barreau* (the professional body responsible for qualification for practice and permanent education).

Rather than teaching pure theory, the aim of this first training program is to instill into the daily professional practice of the barristers an understanding of the specific nature of those sectors of society touched by deep exclusion. The aim is also to show the extent of the problem these individuals have in gaining access to their rights. The training program uses the testimonies

of active social workers and doctors to encourage a better understanding of marginalized people and the more technical advice of practicing lawyers on how best to deal with their specific legal problems.

The second training program is more practical; the trainee-barristers attend one *Droits d'Urgence*, free, legal session per month for twelve months. It is important to recognize that the majority of these trainees actually become members of the association and continue to attend the free, legal advice sessions even after having completed their obligatory one-year attendance. It is with the same ethos that *Droits d'Urgence* created another training program for practicing judges. The goal of this program was to encourage the legal, medical, and social worlds to meet and share their experience in order to learn from each other.

The third purpose of the organization is to use its experience and expertise to participate in the debate on exclusion and access to rights, in partnership with other humanitarian associations and the state. *Droits d'Urgence* is actively involved in making proposals to the government in order to encourage public access to the law in France. Currently, *Droits d'Urgence* is working with the Paris Council for Access to the Law in order to create "Points of Access to the Law" in each of the twenty districts of Paris. Although these points of access are primarily focused on the poor, this project is in line with the government's efforts to improve access to the law.

Forty "access agents" are employed. These agents split their time between the city social institutions of Paris, the judicial institutions such as the legal aid office, and other humanitarian associations. *Droits d'Urgence* is responsible for advising these agents and integrating them into various associations.

Droits d'Urgence is also active in addressing the imperfections of the law of December 18, 1998, in particular, the difficulties of applying the law to cases of minimum revenue protection. *Droits d'Urgence* also undertook the development of an alternative way to solve legal conflicts by the appointment of a mediator. The organization is soon to present a project to the judicial authorities and will organize a conference in November 2000, about "Mediation and Exclusion." Moreover, the possibility to turn to a mediator, as a way to solve the conflict, will be posted

during the sessions organized by Droits d'Urgence and the Points of Access to the Law.

CONCLUSION

During the 1990's, legal reforms, including the laws of 1991 and 1998, and public and private initiatives raised the issue of citizen access to legal information in France. No longer strictly limited to access to justice, the french legal aid system now includes access to legal information (*accès au droit*). The experiences of NGOs, particularly Droits d'Urgence, participated in this evolution.

Founded in 1995 by a group of Paris based lawyers and civil servants, Droits d'Urgence's main purpose is to promote and protect the rights of the poorest and most marginalized sectors of the population by providing free legal advice and assistance. Droits d'Urgence wants to sensitize France's legal professionals to the specific nature of the legal matters associated with those sectors of society suffering from exclusion.