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## Ontario Government Drastically Cuts Legal Aid and Ends Aid for Refugee and Immigration Matters

by Edward C. Corrigan and Selvin Mejia / May 29th, 2019

There are some important changes that are going to impact refugees and even Permanent Residents in Canada. In the Ontario budget, released on April 11, 2019, Legal Aid Ontario's funding was \$133 million less in fiscal year 2019-2020 than the \$456 million it had anticipated.<sup>1</sup> In 2020 Legal Aid Ontario will somehow have to operate on further reduction of another \$31 million.<sup>2</sup>

As the *Toronto Star* has pointed out in an editorial, "The fact is refugee claimants who are represented by lawyers have an acceptance rate of 57 per cent. Only 15 per cent of those representing themselves get in, though they may be in just as much danger."

Doug Ford's Conservative government insists that Ottawa will pick up the cost of legal help for refugee claimants. Ontario is the primary destination of asylum seekers in Canada. Up until now Ontario had the most generous Legal Aid program for refugee claimants. However, lawyers complained that it barely covered the administrative costs of a law office.

Legal Aid Ontario says the annual cost of helping refugees is about \$45 million per year. The federal government contributes only \$16 million.<sup>3</sup>

Legal Aid CEO David Field says in a memo to staff dated March 17, 2019 that the province has told the agency it can only use federal funding to cover new immigration and refugee services this year.

That federal funding totals between \$13 million and \$16.5 million, short of Legal Aid Ontario's projected costs of between \$30 million to \$34 million on the services for the year.

Field says Ontario Legal Aid will honour clients who are already being served and will help some additional clients in limited circumstances.

Ontario Attorney General Caroline Mulroney outlined the funding changes in a letter to Field dated March 15, 2019 stating that the province expects the federal government to fully fund immigration and refugee law services for cases before federal tribunals or in federal court.

Mulroney said, after announcing the budget cuts, that "her ministry was eager to work with Legal Aid to modernize the way these services are provided within federal funding levels". She added: "We are amenable to LAO utilizing

current provincial resources to transition to a system that is sustainable solely on federal funding.”<sup>4</sup>

It is clear that the cuts to Legal Aid will affect thousands of refugee claimants. They will have to rely on their own resources, family and community support. However, many who have fled their homes on an urgent basis will not have access to their resources.

The Ontario government has a point. Refugee and Immigration law is clearly an areas of Federal responsibility and the Federal Government has not been covering the cost of refugees for many years. However, criminal law is also Federal responsibility and the province is funding Legal Aid for this area of law.

Hopefully the Federal Government will step up and cover the costs of refugees and other Immigration matters. If the funding is not provided it will create chaos in the Immigration and refugee system. This lack of legal representation will increase costs and create delays and increase administration costs substantially.

Refugee and Immigration law is a highly specialized area of law. Most refugees have little or no idea how to properly present their cases. Without legal assistance it means that many legitimate refugees will have their claims rejected and be deported from Canada to countries where they are at risk of being put in prison, tortured and even killed. Many refugees are fleeing violence and rampant criminal activity. However, there is some abuse of the system in not all refugee claims are legitimate.

Some asylum seekers are economic refugees and who want to give their children a better life but are not Convention refugees. Refugees who qualify for the protection of Canada must prove that they have a genuine fear of persecution on the following grounds:

They must show by reason of a well-founded fear of persecution because of race, religion, nationality, membership in a particular social group or political opinion, and is (a) outside each of their countries of their nationality and is unable or, by reason of that fear, unwilling to avail themselves of the protection of each of those countries or (b) the same for their country of habitual residence.<sup>5</sup>

That being said most Canadians do not want to send refugees back to countries where they are at risk. We must remember that Canada turned away Jewish refugees back in the 1930's and they were forced to return to Nazi Germany where they faced persecution and even death. Canada should take in those who have a genuine fear of persecution and reject those who are not genuine refugees.

In British Columbia lawyers threatened to go on strike and won an additional \$7.9 million to cover their costs. If the Ontario lawyers were to go on strike it would create chaos and vastly increase costs in administrating the legal system.

Lawyers who represent clients who cannot afford to pay privately are an important part of making the legal system work. Access to justice is an important part of Canada's and Ontario's legal system. Budget cuts will affect the most vulnerable and in the end cost a great deal and hurt Canada's reputation as a fair and humane country.

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1. “Despite budget cuts, Ford ‘guarantees’ anyone who needs legal aid will get it,” by Alan Carter, *Global News*, April 22, 2019. [[🔗](#)]

2. “Ontario’s cuts to legal aid will hurt the poorest,” Star Editorial Board, *Toronto Star*, April 19, 2019. [[🔗](#)]

3. “Ontario asks federal government for \$45-million to fund legal aid for refugees, immigrants,” by Laura Stone, *Globe and Mail*, March 17, 2019. [[🔗](#)]

4. Ibid. [[🔗](#)]

5. s. 96 Immigration and Refugee Protection Act. [[🔗](#)]

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