

Meeting Immediate Legal Needs Via the Brazilian Public Defender's Office: An Exemplary Case

This paper will present a Brazilian case which secured an immediate and effective public access to rights and justice through the intervention of the Public Defender's Office (PDO). This case will be examined from a legal needs' perspective, using a methodology centered on bibliographic research on studies related to the perspective of legal needs in the provision of legal aid services, as well as a descriptive report of a specific case. The application of this perspective to a case is considered unique. The focus of legal needs approaches tend to be from the perspective of those who face them – commonly referred as a 'bottom-up' perspective – rather than from that of justice professionals and institutions which, in a more traditional view, is also referred to as a 'top-down' perspective. This perspective focuses mainly on the effective legal needs of those targeted by legal aid services. The case in discussion demonstrates that this perspective has proven successful.

In 2013, construction began on a new highway connecting the city of Rio de Janeiro with Petropolis, a historic tourist town situated in a mountainous region 60 kilometers away. One of the milestones of this project would be the construction of a continuous 4.64-km tunnel. The work should have been completed before the Olympic Games in 2016 but it was halted in 2015 and has since been abandoned. On November 7, 2017, a massive disaster occurred due to the abandonment of the road's construction. Flooding of the interior of the unfinished tunnel caused a rupture of the upper vault, resulting in the ground sinking and a huge crater opening. In the surrounding area, one house was engulfed and dozens of other houses were destroyed. Ninety-five families were rendered homeless.

Given this scenario, the Public Defender's Office (PDO) – a Brazilian state institution constitutionally charged with the obligation to provide legal aid in all civil and criminal matters (both judicial-

ly and extrajudicially) to those who cannot afford a lawyer – was called in. The PDO promptly took initiatives to address the civil legal needs of all those affected by the accident. In addition to individual needs (housing, food, and clothing), a community concern to ensure the continuity of the activities of the primary public school (whose building was closed because it was in an at-risk area) had to be met. The day after the accident (November 8th), the PDO held a meeting with representatives of the local government (the mayor and city council representatives), the Federal Public Prosecutor's Office, the company CONCOR (responsible for the administration of the highway), and the representatives of the families affected by the accident. They attempted to identify any material needs arising from the disaster and to ensure, in a friendly and consensual manner, the immediate and adequate arrangements to meet those needs. The purpose was to avoid litigation as the filing of a case and the implementation of any decisions rendered by the Judiciary could not produce speedy results.

The initiatives of the PDO on behalf of the victims was successful and, within 24 hours after the accident, an agreement was signed. The company CONCOR (without legally taking the blame for an accident which they claimed would depend on using complex technical expertise to rule out company fault) committed itself to covering the immediate material and financial assistance of the victims. Resulting from this agreement, each family was given a choice between two alternatives: a temporary stay in hotels whose accommodation expenses would be borne by the company or an immediate sum of money to be used to pay in advance for a month's rent of a place to live with a further commitment for future monthly payments until their housing situations could be definitively resolved. Furthermore, all families received a "basic food basket" and a kit with toiletries. The company also committed itself to pro-

viding furniture and appliances for use in rental homes.

The agreement even addressed the situation of the families' pets by stipulating that the company was to bear the cost of the animals' daily care in shelter. The company also pledged to rent a building for the community primary school's "provisional operation" and to purchase all furnishings and necessary school supplies. CONCER also agreed to take the responsibility for transporting students from their new places of residence to the school's new location. All those obligations were fulfilled within the period of just a week after the accident, allowing the students to return to regular classes.

This case demonstrates the practical aptitude of a state legal aid service which utilizes a staff model through salaried lawyers (who in Brazil are called public defenders in both criminal or civil cases) for an effective, emergency response to civil, legal needs, thus providing a greater access to justice.

KEYWORDS: *Legal needs studies; Meeting immediate legal needs; Public defenders; Legal aid and access to justice.*