



Report on the Barreau du Québec's Missions
to Aboriginal Communities in Québec's Far North



Justice in the Far North



ACKNOWLEDGEMENTS

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Members of the the Barreau's delegations :

- › Mr. Bernard Synnott, *bâtonnier du Québec*
- › Mr. Nicolas Plourde, Ad. E. (*bâtonnier du Québec* 2012-2013)
- › Mrs. Johanne Brodeur, Ad. E. (*bâtonnière du Québec* 2013-2014)
- › Mrs. Peggy Corbel Warolin, *bâtonnière* of Abitibi-Témiscamingue
- › Mr. Hubert Besnier, former *bâtonnier* of Côte-Nord
- › Mrs. Johanne McNeil, president of the *Comité consultatif du Barreau en regard du droit des peuples autochtones*

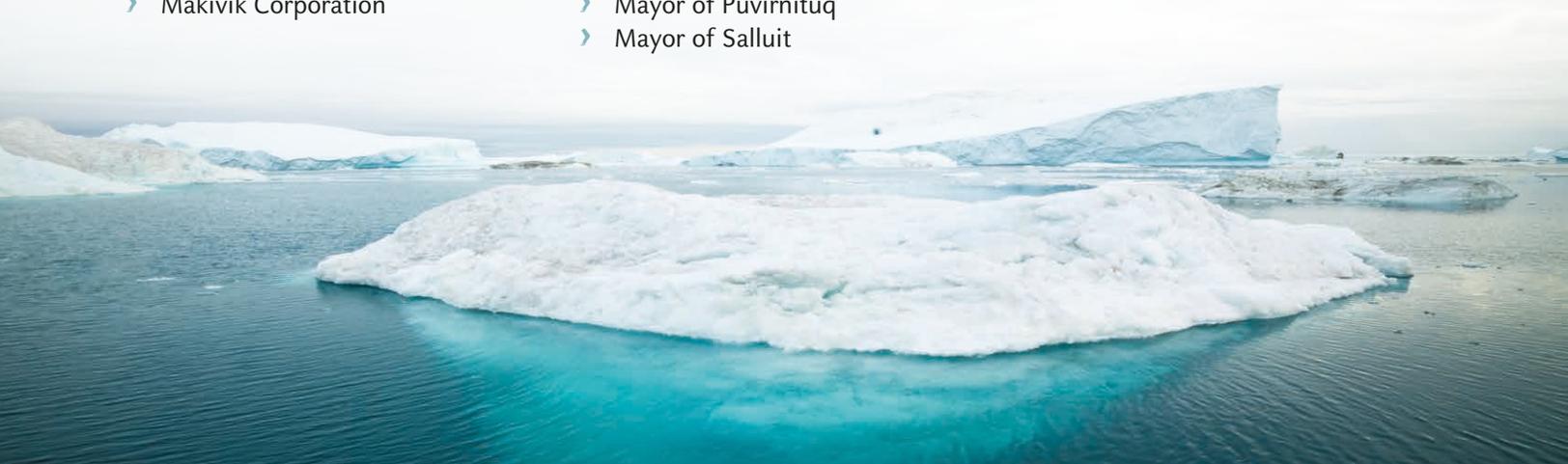
Ministère de la Justice du Québec and the Court of Québec

Judges of the itinerant Court, Court of Québec

- › Mrs. Danielle Côté, Assistant Chief Justice
- › Mr. Daniel Bédard, Coordinating Judge, Abitibi-Témiscamingue-Nord-du-Québec Region
- › Mr. Richard Côté, Coordinating Judge, Bas-Saint-Laurent-Côte-Nord-Gaspésie-Îles-de-la-Madeleine Region
- › Mr. Marc Ouimette, Judge, Abitibi-Témiscamingue-Nord-du-Québec Region, former *bâtonnier* of Abitibi-Témiscamingue

Representatives or organizations met

- › Kativik Regional Government
- › Legal Aid Bureau
- › C L S C Naskapi
- › Inuit Community Reintegration Officers
- › CAVAC Côte Nord, Crime Victims Assistance Centre
- › Community Legal Centres
- › Schefferville Youth Centre
- › Youth Justice Committee
- › Conseil de la Nation Atikamekw
- › Manawan Atikamekw Council
- › Conseil de la Première Nation des Innus Matimekush-Lac John
- › Naskapi Nation of Kawawachikamach Council
- › Town Council of the Nordic Village of Inukjuak
- › Northern Village of Puvirnituk Council
- › Council of Elders of Manawan
- › Makivik Corporation
- › Corps de police Amérindien / Matimekush-Schefferville
- › Corps de police de Kawawachikamach
- › Naskapi Police Service
- › Kativik Regional Police Force (KRPF)
- › Directeur des poursuites criminelles et pénales (DPCP)
- › Direction de la Nation Atikamekw pour femmes autochtones du Québec
- › École secondaire de Kawawachikamach
- › École secondaire Otapi de Manawan
- › Groupe de travail sur la justice au Nunavik-Représentants Inuit
- › Justice Alternative Côte-Nord Inc.
- › Mayor of Inukjuak
- › Mayor of Puvirnituk
- › Mayor of Salluit
- › Maire et membre du Conseil du Village Naskapi de Kawawachikamach
- › Poste de police de la Sécurité du Québec à Schefferville
- › Protection de la jeunesse Côte-Nord
- › Protection de la jeunesse de la Baie d'Hudson
- › Représentante des Jeunes Atikamekw de Manawan
- › Probation Services
- › Correctional Services
- › Native Para-Judicial Services of Quebec
- › Taïga Vision
- › The Naskapi Justice Healing Committee
- › Unaaq Men's Association of Inukjuak



OUR MISSION

To ensure the protection of the public, the Barreau du Québec oversees professional legal practice, promotes the rule of law, enhances the image of the profession and supports members in their practice.

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INTRODUCTION

In 2011, the Québec government announced its *Plan Nord*—an ambitious program to develop Northern Québec.

This 25-year program revolves around five 5-year plans and outlines the challenges of economic, social and economic development of Northern Québec.

Concerned and worried about the issues of justice in the development of the Far North, the Barreau du Québec has mobilized resources to take stock of the present situation and to highlight the directions to follow in this regard.

In June 2012, representatives of the Superior Court, the Court of Québec and the *Ministère de la Justice du Québec* were therefore invited to get together with the members of the Barreau du Québec's General Council in Baie-Comeau.

With *Justice North of the 49th Parallel* as the topic of discussion, the reality of the challenges of the itinerant Court and the various players in the judicial system as well as the difficulties faced by the aboriginal communities to access justice were brought to the attention of the Barreau du Québec's administrators.

The Barreau du Québec's absence in Northern Québec, emphasized by various parties concerned, forms part of the initial observations. Due to its mission to protect the public, the Barreau must make sure that people living in Northern Québec have access to justice and that the legal services available to them are improved.

To meet these objectives, it was necessary to go there for a visit. The Barreau's authorities reached the decision to organize missions to the Far North, in cooperation with the itinerant Court. The objectives of these missions were to better understand the reality of the aboriginal and non-aboriginal communities and the members of the itinerant Court and to establish relations between the Barreau du Québec, the population and the various players in the judicial system located in Northern Québec.

Since the spring of 2013, four missions and meetings have taken place: the first in Puvirnituq, the second in Kawawachikamach and Matimekush–Lac John, the third in Manawan and the last in Inukjuak. The members of the Barreau's delegation were also supposed to go to Salluit; however, the weather conditions prevented them from doing so.

The Barreau's delegations were made up of the President or Vice-President at the time, the President of the Regional Bar where the mission took place and Mtre Johanne McNeil, who chairs the Committee on aboriginal law. On two occasions, representatives of the *Ministère de la Justice du Québec*—including Mtre Nathalie G. Drouin, Ad. E., Deputy Minister of Justice—joined the members of the Barreau du Québec's delegation.

On each of the missions, the representatives of the Barreau du Québec followed the members of the itinerant Court and attended criminal or youth protection hearings. Moreover, during these missions, they met not only with the local people, but also with the local police force, the employees of the *Ministère de la Justice*, Legal Aid lawyers and those in private practice, but also with certain community groups and local media. On each mission, a meeting was organized with the Mayor or Band Chief to give the members of the delegation an opportunity to introduce themselves and explain the reason for the Barreau du Québec's visit to their region, but above all, to understand their vision of the justice issues and listen to their recommendations for improving the justice system in their community. To date, representatives of the Inuit, Atikamekw, Innu and Naskapie communities have been met.

At the conclusion of these missions and meetings, an initial portrait has emerged and expresses the whole complexity of the current realities. There is a great misunderstanding of the justice system, and particularly by the aboriginals. However, the justice system must take root in Northern Quebec, while respecting the communities' culture. Great expectations, costly missions and, to date, the initiatives aren't always achieving the results anticipated.

Moreover, the Barreau recognizes and hails the efforts made by the *Ministère de la Justice du Québec* and the Court of Québec to improve the administration of justice offered to aboriginal communities.

Since numerous reports on the topic of justice in Northern Québec have already been written, the Barreau du Québec decided to prepare its own on the observations it has made, in light of which concrete changes are proposed.

It is encouraging to note that constructive actions have already been contemplated or are now in place since the first missions, thanks to the dialogue and efforts of the various players, such as the *Ministère de la Justice*, the Court of Québec, the Barreau du Québec, and other organizations active on the territory. For example:

- › Determination of terms exclusive to the Court of Salluit to improve the efficiency of the administration of justice
- › The addition of a schedule of hearings in the Youth Division in Kawawachikamach
- › Negotiations to obtain adequate premises to hold Court proceedings in Inukjuak
- › An increase in accessibility to video conferencing in Puvirnituk

The Barreau is convinced that the players in the justice system will take careful note of the observations made and will continue to work together to improve the administration and access to justice in Northern Québec.

« ... the justice system must take root in Northern Quebec, while respecting the communities' culture. »

OBSERVATIONS AND RECOMMENDATIONS

OBSERVATION #1 | Overload of Court cases

The schedules of Court hearings are overflowing and there are more charges laid than inhabitants. For example, in the community of Salluit, whose population totalled 1380 in 2013¹, some 2249 criminal files were opened during the ten years from 2003-2013. It should be noted that a file may contain a number of charges. For instance, the 284 files opened in 2010 gave rise to 660 charges. The police frequently lay charges for breach of conditions. A person may therefore be subject to multiple charges.

Between 2010 and 2014, in order to try and lighten the load of the schedules of Court hearings, substantial efforts were made to significantly increase the number of weeks scheduled on the Court calendar, which was desirable. In the Inuit community, the Court calendar was expanded from 36 to 47 weeks, while in the Cree community, it was extended from 18 to 29 weeks, including 12 weeks reserved exclusively for hearing youth protection cases.

Moreover, there are many hearing delays for various reasons, not only of an administrative nature, and including weather conditions. A case may therefore be postponed a number of times. The populations in these communities consequently have the perception that the lawyers benefit from the inadequacy of the justice system.

RECOMMENDATIONS

- › To lighten the load of the schedules of Court hearings, the number of judges must be increased as well as the number of Court sittings.
- › The justice system must be more efficient; however, it is necessary to work beforehand toward better support for the aboriginal populations. A possible solution would be to implement more social programs, and particularly in relation to education and prevention. These programs, like the social programs offered at Montréal's municipal Court, could be set up in partnership with specialized organizations.

OBSERVATION #2 | Insufficient number of para-legal advisors (“court workers”)

A para-legal advisor liaises between the public and the Court. For example, he reminds the person awaiting trial of the date of his hearing, he looks after his transportation, etc. The contribution of the para-legal advisor is essential to aboriginal communities, and given the importance of his role, the people who have already had trouble with the law must not be excluded.

RECOMMENDATIONS

- › Increase the number of para-legal advisors.
- › Make sure that they are from aboriginal communities.

¹ Institut de la statistique du Québec

OBSERVATION #3 | Insufficient number of interpreters

A number of trials are cancelled due to a lack of interpreters. Moreover, some people awaiting trials refuse the services of an interpreter, despite the fact that they do not have a working knowledge of English or French. As it may be recalled, the interpreters present at the hearings are paid by the clerk of the itinerant Court.

RECOMMENDATIONS

- › Create interpreter positions so that their services are available and accessible at all times.
- › Rethink the way the services of an interpreter are offered to aboriginals, and particularly by reviewing the way the question is worded. Lawyers must make sure that their client understands the impacts of declining the services of an interpreter.
- › Review certain aspects of the hearings in order to better adapt them to the aboriginals' cultural customs.

OBSERVATION #4 | Need for clarification of the roles of the players in the justice system

The roles of the players in the justice system as well as the responsibilities of the various levels of government don't seem to be clearly defined for the population.

RECOMMENDATIONS

- › Clarification of the roles of the various players in the justice system would be beneficial to the population, and particularly, the Barreau du Québec and its Syndic's office, the Ombudsman of Québec and Canada, the human rights' commission.

OBSERVATION #5 | Inadequate justice and detention facilities, and unacceptable detention conditions

In Northern Quebec, the itinerant Court holds its hearings in court houses and in Cree justice centres. In the judicial district of Abitibi-Temiscamingue, there are 19 points of service that are served on an itinerant basis. Court of Québec judges travel around to hear cases, either according to a pre-established Court calendar or to meet specific needs as they arise. The purpose of this practice is to make justice more accessible to the population.

Moreover, community centres, arenas or school gymnasiums are used as justice facilities in some villages. It is often cold there. The defense lawyers meet with their clients in unusual places that sometimes don't allow them to ensure full confidentiality of the discussions. The conditions are particularly difficult, not to say appalling, in Inukjuak. In fact, the itinerant Court no longer holds sittings there.

Sometimes, the accused are detained very far away from their place of residence. This situation may prove very difficult for the detainee and his family.

We noted that the detention conditions are often unacceptable; moreover, we wish to emphasize the dedication of the correctional services officers who work at these establishments.

The observations on detention conditions were brought to the attention of Stéphane Bergeron and Bertrand St-Arnaud—when they were Minister of Public Security and Minister of Justice of Québec respectively—by Barreau du Québec President Nicolas Plourde, Ad. E.

RECOMMENDATIONS

- › Increase the awareness of the Minister of Justice of Québec about the issues relating to the facilities where justice is rendered.
- › Once again ask the Minister of Public Security to have concrete actions taken to improve detention facilities and conditions.

OBSERVATION #6 | Lack of knowledge about the Barreau du Québec's mission by aboriginal communities

The aboriginals have little or no knowledge of the Barreau du Québec. This observation is beyond a doubt. Within aboriginal communities, the verbal communication tradition prevails and preference is given to personal contact.

RECOMMENDATIONS

- › On missions, inform aboriginal communities about the existence of the Barreau du Québec and its mission to protect the public, by taking part in the broadcast of radio shows and video capsules as well as through the use of social media.
- › Increase the awareness of the Barreau du Québec's Syndic's office of the reality of aboriginal communities.
- › Ask the Syndic's office to assign a contact person to receive inquiries from aboriginal communities.
- › Provide for training for lawyers working in Northern Québec and prepare for their replacements.
- › Pursue the broadcast of video capsules produced by Éducaloi, in cooperation with such organizations as Femmes autochtones du Québec, on community radio stations and in aboriginal schools.
- › Inform the population, and more particularly those living in Northern Québec, about lawyers' ethical duties.

OBSERVATION #7 | Membership of *Forum sociojudiciaire autochtone* in need of improvement

This means of exchanging views is both necessary and relevant. The lack of representatives of aboriginal communities is striking. Since its initial participation, the Barreau du Québec and the judiciary have been asking that representatives of aboriginal or Inuit nations be appointed to this aboriginal socio-judiciary forum. Such appointments are essential to the survival of this forum.

RECOMMENDATIONS

- › Consult Société Makivik and the Kativik Regional Government as well as the representatives of the First Nations so that an Inuit representative and a First Nations representative are duly appointed and mandated to the *Forum sociojudiciaire autochtone* (Aboriginal Socio-judiciary Forum).
- › Propose the appointment of President Peggy Warolin to replace Judge Marc Ouimette as representative of the Barreau du Québec.
- › Consolidate the role of the Forum sociojudiciaire autochtone (Aboriginal Socio-judiciary Forum) by better defining its mandate and by increasing the frequency of its meetings.

OBSERVATION #8 | Low percentage of aboriginals among the lawyers in Québec

A number of aboriginal students have graduated with a Bachelor of Laws; however, they have not started or completed the process to be granted the title of lawyer. Among the reasons for this situation, we have identified a certain discouragement on their part over the process involved

RECOMMENDATIONS

- › Offer greater assistance and guidance to aboriginal students registered in the École du Barreau. Such assistance and guidance could, for example, take the form of a mentoring program.
- › Create a scholarship for aboriginal students.
- › Provide more information on available programs of assistance, foundations and scholarships.

OBSERVATION #9 | Need to extend the project to centralize urgent requests

The project to centralize emergencies was set up following an initiative proposed by Judge Daniel Bédard. This process is currently operating in the districts of Abitibi, Rouyn-Noranda and Temiscamingue. Its objective is to hear urgent requests, mainly in criminal matters (bail hearings) and youth protection matters (motions for provisional compulsory foster care in accordance with sections 76.1 and 79 Y.P.A.). These motions are heard by a judge assigned to such centralization, and the hearings are conducted by video conferencing. The judge may therefore be in Val d'Or, while the lawyers may be in Rouyn-Noranda or Amos, for example. Given the fact that the time of the hearing is scheduled in advance, the lawyers and individuals to be tried know at exactly what time they will be heard. This process eliminates waiting time and considerably cuts down on travel for hearings that require only very little time in general. Among the 1551 hearings held from September 2013 to August 2014, 87% were held by video conferencing². This practice has proven its worth in Abitibi-Temiscamingue and is appreciated by everyone.

RECOMMENDATIONS

- › Proceed with the installation of the equipment necessary for holding these hearings by video conferencing at the various points of service.
- › Make sure that the premises can be made available at the time scheduled for the hearings and that the Court will have the necessary resources to operate the equipment.
- › Make sure that security services will be available at the hearings (security guard or agreement with the police station).
- › Extend the centralization of urgent requests to the North Shore (*Côte-Nord*).

OBSERVATION #10 | Lack of information on Legal Aid

No information brochure nor any poster has been made available to the public with regard to Legal Aid services and eligibility criteria for such services. Having no access to the Internet before the hearings, the Legal Aid lawyers are therefore not able to calculate, on site, whether a person is eligible. We note a big loss of time and efficiency in this regard.

RECOMMENDATIONS

- › Make information on Legal Aid available in the native language of the community.
- › Whereas the financial eligibility thresholds for Legal Aid have been increased to 20% for remote areas, raise this increase to 50% for Far North areas.
- › Allow the Legal Aid lawyers to have access to a secure Internet network in order to simplify the eligibility process and ensure that this can be done before the hearings, in the interest of better administration of justice for the benefit of these populations.

² Source : *Ministère de la Justice du Québec*

OBSERVATION #11 | Communications in need of improvement

The language barrier is a major problem, particularly since legal language is often unintelligible to the population.

RECOMMENDATIONS

- › Write indictments in three languages: the language of the community, French and English.
- › Standardize indictments. Such standardization could take the form of a checklist.
- › Produce information tools on the judicial process, based more on the way that aboriginal communities communicate.
- › At all times, promote efficient communications in plain language to ensure that they are understood by the population.

OBSERVATION #12 | Lack of adequate rules and regulations

A number of municipalities and villages are facing a bootlegging problem. They don't have any enabling powers to control such a problem and they feel powerless in their efforts to develop adequate rules and regulations.

RECOMMENDATIONS

- › Refer the mayors and band chiefs to lawyers likely to help them prepare private bills on bootlegging.

CONCLUSION

Over and above the financial investments required to respond to certain issues raised in this report, a common vision of justice in the Far North must be collectively developed. Ties are being forged and strengthened, potential solutions are emerging and a will is felt on the part of the various players to act in consultation with one another and to find appropriate, realistic solutions to the problems raised.

With the development of the North, which is making great demands on the existing infrastructures, the status quo is not a conceivable option. A massive investment on the part of the provincial and federal governments is necessary—and in fact essential—to bring the Far North up to standard, as well as an unfailing commitment to make this a priority.

The Barreau du Québec is renewing its commitment in this regard and will continue to work together with the aboriginal communities and governments to improve the justice system north of the 49th parallel.

Maison du Barreau

445, boulevard Saint-Laurent
Montréal (Québec) H2Y 3T8

T 514 954-3400

Sans frais 1 800 361-8495

information@barreau.qc.ca

www.barreau.qc.ca

Barreau
du Québec



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