

PLAIN TALK

The Newsletter of the Income Security Advocacy Centre

Spring 2003

THE KIMBERLY ROGERS INQUEST

By Barbara Anello, Ontario Social Safety Network

My involvement in the Inquest into the death of Kimberly Rogers was as a representative from the Ontario Social Safety Network (OSSN), alternating attendance with Nancy Vander Plaats.

It was the circumstances surrounding the death of Kim Rogers that led me to join the OSSN in June 2002. Hence, when the opportunity to participate in the Inquest came up, I was quick to volunteer.

Like many other ordinary members of the public, I was appalled to learn of the Tories' draconian welfare policy that would subject anyone convicted of welfare fraud over \$5,000 to a lifetime ban.

In mid-May 2001 I read an article about a Sudbury woman, 6 months pregnant, who had been convicted of welfare fraud for collecting student loans while receiving social assistance. I was stunned to learn that she would be cut off welfare and placed under house arrest for 6 months.

My immediate thought was to question where was the "Common Sense" in such cruel punishment and to question how our government, our justice system, and the local welfare administration could have expected this pregnant woman to live with no income and no way of earning an income while under house arrest?

As I read on, I was excited to read that this northern Ontario woman suffering from depression had launched a charter challenge and that Jane Doe's lawyer would be representing her. I was inspired by her courage in the face of such public humiliation in the media.

In June 2001 I was relieved to read that an Ontario Supreme Court Judge had granted a temporary injunction that reinstated her benefits until the outcome of her charter challenge.

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I was not happy to read how this played out in the media: "Rogers has done little to cast welfare recipients in a good light. Her case has likely increased the criticism of people who rely on the program by reinforcing the negative perceptions of welfare recipients" [Sudbury Star Editorial dated June 6, 2001] - and many headlines referred to Kim Rogers as "the Welfare Cheat".

Then, in mid August 2001, I read the obituary of Kimberly Ann Rogers. I was shocked and outraged to learn that it was several days before her badly decomposed body was found, that she had died during a severe heat wave in a small, upper-level apartment with no air-conditioning, 8 months pregnant, alone and destitute.

And I was sick when I read how Kim Rogers had been forced to exist on just \$18 dollars a month to cover all of her expenses...

And I was sick when I read how Kim Rogers had been forced to exist on just \$18 dollars a month to cover all of her expenses after her \$450 rent was paid and a further \$52 overpayment deduction was subtracted from her \$520 benefit cheque.

The Inquest ...

A Coroner's inquest was eventually ordered to investigate the circumstances surrounding Kimberly Rogers' death.

I'm not certain what I expected from the Inquest, but I was disappointed by the narrow line of questioning permitted by the Coroner - disappointed even after hearing the Coroner state during the pre-inquest meeting that the core of an inquest is the how, when and where of a person's death.

(The only other time I had ever been in a court room was one morning in late June 1995 where I heard Karla Homolka giving testimony at the Bernardo trial...)

The heavy volume of medical evidence around the issue of the anti-depressant Amitriptyline took up a great deal of time, as did the testimony around suicide. But the testimony of the suicide expert and the family doctor did not affect me as much as sitting through the testimony of the OW Eligibility Review Officer. I wondered how she slept at night and wasn't surprised to hear that the ERO had been on medical leave since the death of Kim Rogers, 14 months earlier.

Each time we broke for lunch, I thought how the per diem for just one lunch for many of the individuals involved at the Inquest, reimbursed at Treasury Board rates, was more than Kim Rogers and her unborn baby had to survive on in an entire month!

And each time the coroner's counsel spoke, I couldn't help thinking that he was the same coroner's counsel at the Inquest into the death of Gillian Hadley, murdered in June 2000 by her estranged husband who then killed himself. Gillian was one of forty women murdered each year in Ontario by a partner or former partner.

The Hadley Inquest jury made a total of 58 important recommendations. The most vivid thing I recall reading from the Hadley Inquest was that the lawyer for the Ministry of the Attorney General submitted to the jury that it *should only consider recommendations with minimal implementation costs attached to them.*

Five of the recommendations from the Hadley Inquest were related to poverty including a cost of living increase for social assistance, new guidelines for rate levels based on individual circumstances and needs, and an increased housing allowance under OW.

I wondered if the recommendations that would come from the Rogers Inquest jury would suffer the same fate as those from the Hadley Inquest or the Arlene May Inquest before it.

So many recommendations where the jury gets it right, where the public interest groups

do their job very well - but not enough, if any, implementation!

From my perspective, I am certain that the work of the coalition partners was not a futile exercise and I am hopeful that we walked away with more than just recommendations out of this Inquest.

The most poignant moment for me during the Inquest was the testimony provided by Jacqueline Thompson of LIFE*SPIN. Jacquie's articulate and very eloquent testimony, I'm certain, resonated with the 5 jurors.

When I wasn't at the Inquest, I maintained an active website with content added several times a week to keep online visitors abreast of media coverage and daily summaries of what was happening at the Inquest.

I was amazed, encouraged, humbled and inspired by the overwhelming number of visitors that came to the site each day as evidenced by the web statistics and the volume of supportive emails from so many people throughout Ontario, Canada and from foreign countries.

Ontarians owe it to Kimberly Rogers and her unborn child to not let these recommendations collect dust.

REFLECTIONS ON THE ROGERS INQUEST

By Beth Walden, Steering Committee on Social Assistance

The Steering Committee on Social Assistance is a provincial group that advocates on systemic issues related to matters of social assistance law. The Committee is comprised of legal clinic caseworkers from across the province who work on social assistance matters.

As social assistance law is a core area of clinic practice, the Steering Committee

sought and was granted standing as a public interest party at the Inquest into the Death of Kimberly Rogers. The Steering Committee also retained the services of the new Income Security Advocacy Centre to represent us at the Inquest.

In order to assist in instructing our lawyers, a "sub-committee" of three people was chosen to attend at the Inquest and work with counsel.

As a sub-committee member, I attended on behalf of the Steering Committee for the initial two weeks of the Inquest. During that time, I had the opportunity to watch how the story of Kimberly Rogers' life and death unfolded before the jury, the press and the people in attendance.

It was clear from early on, that we were successful in conveying to the jury the impact that the social assistance system had on Kimberly's life and the role it ultimately played in her death.

Our group sought to draw the jury's attention to the many onerous and unfair provisions in the **Ontario Works Act** which govern everything from the receipt of loans to whether a person can collect assistance and attend college or university. At the heart of our submissions was a condemnation of the regulations that ban persons convicted of social assistance fraud from ever receiving any further assistance.

It was clear from Kimberly's experience that even the three-month ban she endured profoundly impacted on her and was one of the factors leading up to her death.

The Steering Committee was very pleased with the recommendations made by the jury at the Inquest, including a call for an end to any type of ban for social assistance fraud and a recommendation that social assistance rates be adequate and based on actual living costs. We were however, bitterly disappointed with the response of the Minister of Social Services, Brenda Elliott, soon after the recommendations were

released, that the regulations requiring the lifetime ban would stay.

Presently, the Steering Committee is working with the Ontario Social Safety Network and the Income Security Advocacy Centre to lobby the government to implement the jury's recommendations. In the next number of months you will be hearing more from many groups concerning the jury's recommendations and what steps we and others will be taking to ensure that no other person suffers the same fate as Kimberly.

Information on the Kimberly Rogers Inquest including the complete set of jury recommendations is available on the Disabled Women's Network - Ontario website (http://dawn.thot.net/Kimberly_Rogers/kria.html) and ISAC's website (<http://www.incomesecurity.org>).

A MINIMUM WAGE NOT A POVERTY WAGE!

By Michelle Nowotny, Justice For Workers

With the times we are living in now, and with our minimum wage frozen at \$6.85, it seems almost impossible to make ends meet.

1 in 4 workers in Ontario make wages below the poverty line.

Did you know a worker needs to work full time for 35 hours per week at 10 dollars per hour just to reach the poverty line? That's just hard to believe isn't it? Take a look at these upsetting statistics:

- Federal and provincial politicians have recently approved salary increases over 20% for themselves yet they refuse to approve a raise for us working class people;
- In Canada all other provinces have increased their minimum wage since

1998, but in Ontario it has been frozen since 1995;

- 1 in 4 workers in Ontario make wages below the poverty line, or less than 10 dollars per hour;
- 32% of people of colour, 38% of women of colour, 31% of women and 41% of immigrant workers in Ontario work for less than 10 dollars an hour.

From my personal experience I have always been paid minimum wage for any job I have been offered. How can I, a college student live off of \$6.85 per hour? The reality is I can't. With trying to pay my school tuition, schoolbooks, transportation, rent and food, the minimum wage is not going to cut it, especially when all of these costs are skyrocketing every year. It's hard trying to make ends meet. I can see why there is so much poverty in Ontario.

We need to start fighting back and show the government we want a change. We need to get the word out that we will not be treated like second class citizens anymore. We've taken enough and it is time for a change!

In the Jane-Finch area in Toronto, community members are coming together around increasing the minimum wage to at least the poverty line, which works out to \$10 an hour. We have residents going out there and getting lots of petitions signed. We are planning on going to our local MPP's office and presenting him with all the work that's been done in the community. We want him to know that the Jane and Finch community feels that raising the minimum wage to \$10 an hour is absolutely necessary!

We are planning an event which will take place as part of the Mayworks festival so we can get out our message even more, and get many more people joining in the fight and building the support from the community. We are also planning to set up an information table at the local malls.

There is strength in numbers! Letting the whole community know and join in this fight is

what Jane-Finch Justice for Workers has been doing and will continue to do.

If you would like a copy of the Justice for Workers campaign kit, including flyers in over 8 languages, or would like to help with the fight to increase the minimum wage to \$10 an hour, contact Justice For Workers at justice_for_workers@yahoo.ca or (416) 531-0107. Justice For Workers is a coalition of low wage, immigrant, and young workers, women, community groups and union members. Become involved in organizing the campaign in your community, union or campus!

IMPROVING SUPPORTS FOR PEOPLE WITH DISABILITIES

It has been a busy year for disability advocates across Ontario. Led by the ODSP Action Coalition, a provincial coalition including legal clinic staff, community agency workers and people with disabilities, advocates have been fighting hard to reform the Ontario Disability Support Program. They want the government to raise benefit rates, simplify the application process and provide more supports to applicants, create a fair and accountable disability adjudication system, and improve client services and employment supports for ODSP recipients.

Over the past year, public forums on ODSP reform were held in 16 communities across Ontario including Hamilton, London, Kitchener, Northumberland, Thunder Bay, Sarnia, Toronto, and Windsor. Advocates have also been meeting with their local MPP's, municipal councils and provincial bureaucrats to press for change. To date, close to ninety organizations and municipalities have endorsed the recommendations for reform put forward by the ODSP Action Coalition.

On January 23, members of the Coalition met with the Minister of Community, Family and Children's Services, Brenda Elliott, to discuss problems with ODSP and get a commitment

from the government to take action. They also presented her with a report summarizing the community forums, a list of organizations endorsing the campaign, and ISAC's new report, "Denial by Design", which documents the barriers faced by disabled people attempting to access ODSP income supports.

Although the Minister acknowledged the Coalition's concerns and promised to work with advocates on these issues, she was vague about precisely what the government would do. Further meetings with Ministry staff have made it clear that the government recognizes that there are significant problems with ODSP and that major reforms are needed. The Coalition will be working with provincial staff in the coming months to ensure that we maintain this momentum for change.

We aren't there yet, but we've come a long way and we're definitely moving in the right direction. The ODSP Action Coalition and disability advocates across the province should be congratulated on their hard work over the past year to make the concerns of Ontarians with disabilities part of the government's agenda.

For more information on the campaign to reform ODSP, please check our website at www.incomesecurity.org. A copy of the report, "Denial by Design" is also available online.

IT'S TIME FOR AN INCOME SECURITY SYSTEM THAT WORKS

Frustrated with an unemployment insurance program you have to pay into but can't access when you need it? Angry about a welfare system that treats people like criminals? Think it's time income security programs, wages and labour standards respected fundamental human rights to dignity and basic needs?

Tinkering isn't going to work – the system needs a complete overhaul.

Over the next few months, ISAC will be working with communities across Ontario to help develop an income security system that actually works for people. Community agencies and legal clinics in Sarnia, London, Toronto, Waterloo, Grey-Bruce, Sault Ste. Marie, Hamilton, Georgina and North Bay will be holding focus groups with people living in low income to find out how we can address the growing social and economic insecurity in Ontario.

In December, the Quebec National Assembly passed Bill 112 – An Act to Combat Poverty and Social Exclusion. There is nothing like it in Canada.

The focus groups will have two components. The first will look at potential law reform and litigation strategies related to income security programs. This will help ISAC set its priorities for the coming years. In the second and most critical part of the focus groups, facilitators will help participants imagine a new income security system - one that takes into account the realities of the current economy of unstable, increasingly non-standard employment and polarized wages, and that embraces fundamental human rights.

We will also be working closely with the Inter-Faith Social Assistance Reform Coalition (ISARC) and the Ontario Coalition for Social Justice (OCSJ) who have initiated complimentary consultations in communities across Ontario.

Using the results from the focus groups, ISAC will work with participants, community organizations, legal clinics, ISARC and OCSJ to develop a policy platform on income security that we hope will inform future lobbying and law reform initiatives.

Low-income communities refuse to have their needs defined by those who currently occupy positions of power. We will not be restricted

by programs designed to undermine rather than meet our needs. In this consultation, we will set out and then claim our dreams for a world in which we can all live with dignity.

For more information, please contact ISAC's provincial outreach co-ordinator, Josephine Grey, or Katheryne Schulz (isac@lao.on.ca).

DECLARING A WAR ON POVERTY RATHER THAN A WAR ON THE POOR – FOR A CHANGE

Over the past decade, we've seen the dismantling of our social safety net at both the federal and provincial levels and social policy taken over by junior economists in finance ministries. We've seen growing wealth inequality and deepening poverty. "Taxpayers" have replaced "citizens" and any politician who even mentions the words "social spending" is considered a threat to the economy. It's all very depressing.

But take heart – one government in Canada, at least, is making an effort to move in a different direction. In December, the Quebec National Assembly passed Bill 112 – An Act to Combat Poverty and Social Exclusion. There is nothing like it in Canada.

Bill 112 came out of an extensive public process initiated seven years ago by the Fédération des femmes du Québec and their "Bread and Roses" march from Montreal to Quebec City emphasizing the need for a strategy to combat poverty. The process continued when a coalition of community organizations, faith groups and unions called "Collectif pour une loi sur l'élimination de la pauvreté" developed a draft bill.

Based on this "in your face" community action, the government of Quebec developed Bill 112 which puts in place a number of instruments to ensure that poverty reduction is a priority in Quebec.

Central to the Bill is the creation of a National Strategy to Combat Poverty and Social Exclusion. The strategy has as its goals improving the economic and social situation of persons living in poverty, reducing inequalities and promoting a sense of social solidarity so that Quebec society, as a whole, will take up the fight against poverty.

To reach these goals, the Strategy includes a number of measures, such as strengthening the social safety net, providing families with access to a range of services, improving access to education, increasing the availability of affordable housing, creating quality employment, and promoting the participation of all members of society.

The Bill requires the government of Quebec to establish an Action Plan to achieve the goals of the National Strategy and also requires all provincial ministries to assess the potential impact of new policies on people who are marginalized and living in poverty.

Critically, Bill 112 establishes an Advisory Committee to inform the government on the planning, implementation and evaluation of the National Strategy. This Committee will include individuals representing a range of sectors in Quebec society, with a substantial portion coming from the anti-poverty movement. There will also be an "Observatory" responsible for collecting, analyzing and disseminating information related to poverty and social exclusion.

While the "Act to Combat Poverty and Social Exclusion" is just in its infancy and at this point lacks any concrete actions and targets, it is an excellent first step. Reversing the national trend, it presents poverty and social exclusion as obstacles to achieving fundamental human rights. It focuses on prevention, getting at the root causes of poverty, and recognizes that poverty is more than just a lack of income – it is also the inability to fully participate in society. Most importantly, Bill 112 acknowledges that we cannot combat poverty and social exclusion without the participation and empowerment of those most affected.

Bill 112 is groundbreaking in Canada. Now, it's up to the people of Quebec to see that it becomes more than just nice words on paper. In Ontario, and across Canada, we will be eagerly watching their progress. ISAC will also be using the Bill as a starting point for discussions across Ontario. How might we use the Quebec model to bring together our issues and communities in one unified campaign? We'll be looking at that in the days ahead.

ISAC LITIGATION UPDATE: THE IMPORTANCE OF ORGANIZING

Reflecting on the litigation work ISAC has been involved in over the last short while reveals an important lesson. Poor people and others who seek social and economic justice will never find it in a court room. At most, litigation can focus public discourse on the issues we need to highlight. In order to obtain meaningful change, communities need to come together and state their demands in political and not just legal venues. Even where communities choose to litigate, the only chance there is to effect change is where the casework is grounded in community development approaches.

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We intervened in two Employment Insurance cases being heard in the Federal Court of Appeal. Both turned on equality rights. In Kelly Lesiuk's case, the issue was the hours of work eligibility rules. Like many women, Ms Lesiuk worked part-time. Her hours were not enough to entitle her to benefits. She argued and we agreed that the rules discriminate against women. We also said that low-income workers of colour, and immigrant and disabled workers are particularly prejudiced by these rules given the current realities of the labour market.

Joanne Miller made similar arguments about the Employment Insurance rules which reduce entitlement to regular benefits where maternity, parental or sickness benefits have been received. Again, we supported this analysis and said that income security programs have to be considered as part of a connected web. All programs have become harder to access and harder to stay on.

The court denied both claims. The women have asked the Supreme Court of Canada to hear their appeals. If they agree, we will again ask to intervene.

It is of course hard to predict whether the court might have responded differently had there been a community-based campaign underlying the litigation. But it is difficult not to at least consider that even if it wouldn't have affected the outcome in court, there would be enough of a steamroller now that politicians would have been forced to take notice.

Because we know that the important work to reform the Employment Insurance program is going to happen at the ground level, we are working with the Canadian Labour Congress and other community partners to build a campaign which will highlight the filthy rich and growing surplus accumulating in the EI account. It is low-income workers whose blood, sweat and tears have fuelled the surplus.

In contrast to the two EI cases where the two women who litigated the issues did not have the energy generated by community partners, the Rogers inquest saw two community groups taking a lead both inside and outside the courtroom. We represented the Ontario Social Safety Network and the Steering Committee on Social Assistance. The coalition put the issues of the cruelty of the social assistance regime front and centre before the jury and the public. We believe that bringing the voices of low-income people into that courtroom through the OSSN made a vital difference to the outcome.

Clearing the space for the voices of marginalized communities to be heard is the

chief point of litigating on behalf of these groups. Otherwise we reproduce rather than resist oppression by leaving the community out of the process and allowing judges and other decision makers to evade their core message. Litigating must always be conducted within the broader framework of organizing.

We are also intervening in a criminal appeal. The trial judge instructed the jury that the fact that a man charged with importing cocaine was poor (he was on EI) was evidence of motive to commit the crime. We will tell the court that it is poverty, not the poor, that should be criminalized. The case will be heard on March 19. Plans to bring this to the attention of the broader community are underway.

Let us know what you think. And please contact us about issues and cases you think might be of interest to us. Even if we can't accept your case, dialogue moves us forward.



PLAIN TALK is the newsletter of the Income Security Advocacy Centre and is published three times per year.

Please send us your comments and story ideas. We want to hear from you!

ISAC works with and on behalf of low income communities in Ontario to address issues of income security and poverty.

The Centre initiates and conducts test case and Charter litigation, law reform and community development related to federal and provincial income security programs such as Ontario Works, the Ontario Disability Support Program, Employment Insurance and the Canada Pension Plan.

If you want more information on ISAC and our work, please check out our website at www.incomesecurity.org or give us a call at (416) 597-5820 / 1 (866) 245-4072 (toll free).