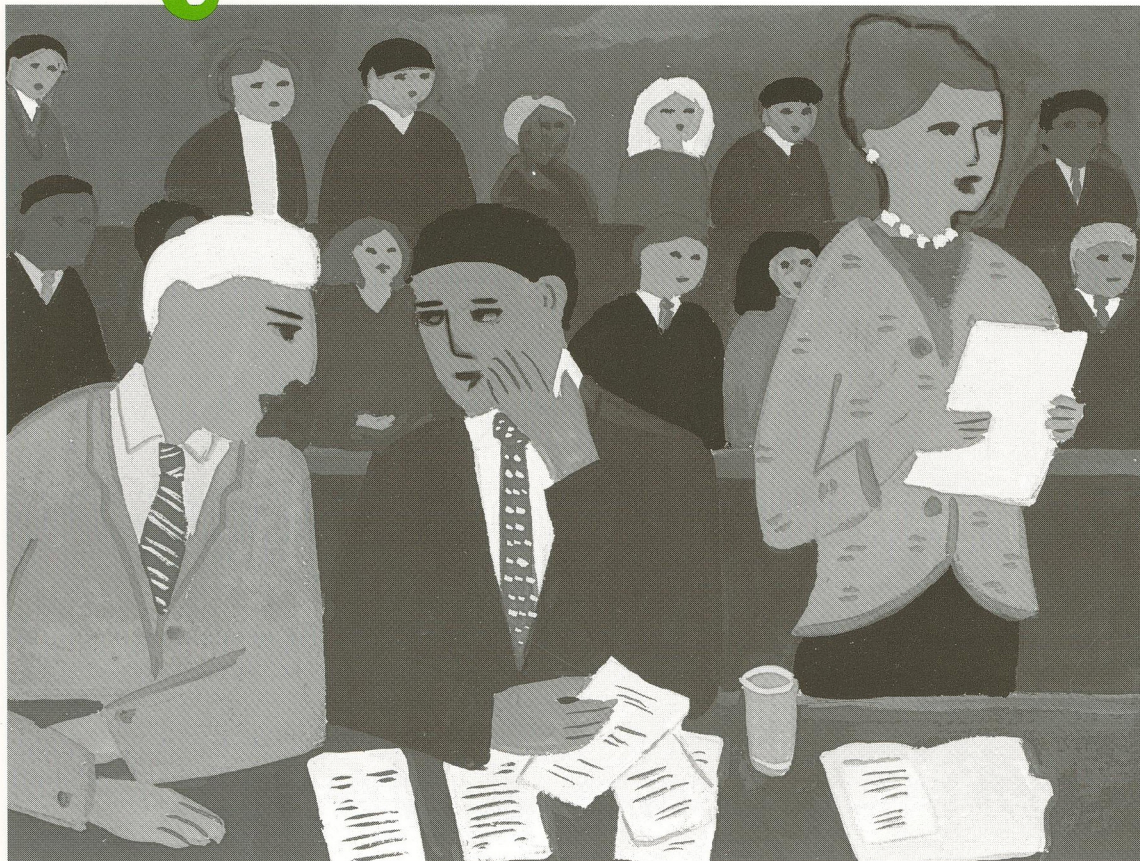


# Clearinghouse REVIEW

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# A RIGHT TO A LAWYER? MOMENTUM GROWS



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Sargent Shriver National Center on Poverty Law

## About This Issue

More than forty years ago, in *Gideon v. Wainwright*, the U.S. Supreme Court recognized a right to counsel, provided and paid for by the state, for indigent persons facing criminal charges that could lead to imprisonment. While we still struggle to fulfill the promise of *Gideon*, it stands as a singular milestone in the long struggle to ensure equal justice, and equal access to justice, for all in America.

The time has come to ask why this right to counsel has not been extended to lower-income people facing equally serious *civil* legal problems—problems that can imprison one just as surely in poverty and despair as behind bars of steel. If we are finally to make good on the eloquent promise of equal justice under law, we must now consider a defined right to counsel for the poor in certain civil matters. With about 50 million Americans qualifying for federal civil legal assistance, and 70–80 percent of their legal needs going unmet year after year, it is more urgent than ever that we take action. In matters where a legal problem threatens a poor person's family, sustenance, safety, health, or housing, our system of justice must provide necessary legal assistance.

Guided by these principles, I appointed the American Bar Association Task Force on Access to Civil Justice in August 2005 to explore the feasibility of a civil right to counsel, and to expand the successful model of state-based “access to justice” commissions that are now in more than twenty states. The task force has worked hard during the past year, and in August 2006 it will ask the ABA House of Delegates to endorse the following call for a civil right to counsel:

*Resolved, That the American Bar Association urges federal, state, and territorial governments to provide legal counsel as a matter of right at public expense to low-income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health, or child custody.*

If approved, the resolution will become official ABA policy. As envisioned by the task force, application of the right should be automatic in certain categories of cases. Individual jurisdictions, however, would decide how to bring to life a right whose underlying concept is elegantly simple: justice for all.

The active support of the organized bar is crucial to the success of the civil right-to-counsel movement, but more will be needed. Advocates must reach out to elected officials, the press, civic and religious organizations, and other nonlegal groups to make the case for this right and why it is so essential to the continued health and welfare of our society. The long-term cost savings associated with resolving civil legal issues before they result in much larger problems that often burden public resources will also be persuasive, especially in times of lean government budgets.

The outstanding contributors to this special issue include leading advocates for a civil right to counsel in the United States, and many have offered their expertise and insights to the American Bar Association on this issue. I thank them for their fine work and commitment and commend their outstanding articles to your attention.

MICHAEL S. GRECO

*President, American Bar Association*

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