

Opinion: Denial of justice at the Missing Women Commission more than a shame to the country

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The refusal of the BC government to provide representation to groups granted standing at the Missing Women Commission of Inquiry is more than a national shame. It's part of Canada's internationally known pattern of international human rights violations against women and indigenous people.

Only the families of victims have been granted funding for representation at the hearing even though Commissioner Wally Oppal recommended funding for 12 additional groups who can't afford to participate properly without funding. The issues under scrutiny at the Commission go far beyond the private tragedies of individual families of victims. The Commission was created under the Public Inquiries Act to investigate allegations of systematic police failure to protect Canadians' right to life. Police failure to conduct proper investigations of murders of poor and indigenous women fosters a climate of impunity for violent criminals. It also fosters inequitable public attitudes about whose rights and whose lives are worth protecting. These are critical matters of public interest.

The BC government's refusal to follow the Commissioner's recommendation to fund lawyers to participant groups is part of a discriminatory pattern to curtail legal representation to protect the basic rights of the most vulnerable persons in BC society. International law binding on Canada, obligates the BC government to ensure legal representation to enable people to seek necessary protection of their rights when they cannot afford legal counsel.

Several United Nations bodies have criticized Canada's failure to live up to human rights treaties. In 2006, the UN Human Rights Committee noted that denial of legal aid to poor and Aboriginal women at heightened risk of violent death is effectively a denial of their access to justice and right to the equal protection of the law. In 2007, the UN Committee on the Elimination of Racial Discrimination noted Canada's failure to adequately provide access to justice for Aboriginal peoples and others belonging to minority groups. In 2008, the UN Committee on the Elimination of Discrimination Against Women noted that cuts to civil legal aid—particularly in BC—denied equality rights to low-income women. In 2009, the Report of the Working Group on the UN Universal Periodic Review (UPR) of Canada, noted that violence against Aboriginal women was "a significant concern" and recommended that Canada "take effective measures to combat and put an end to discrimination against indigenous population and...ensure effective access to justice, establish immediate means of redress and protection of rights of ethno minorities, in particular, Aboriginals." Countries criticizing Canada during the UPR process included Austria, Belgium, Chile, Czech Republic and India. Canada's performance in 2010 and 2011 is no better and will undoubtedly receive similar criticism.

The government suggested that the Commissioner's creation of a more informal "study commission" so participants could tell their stories without legal counsel along with community members. However, the Commissioner made it clear that the informal process is not a substitute to full participation in the formal inquiry by designated groups representing victims and their families. He concluded that these groups require funded legal counsel to participate on an equal basis with police and other groups in the inquiry.

Several indigenous peoples' and women's groups have now withdrawn from participating in the Commission. They were already concerned by restrictive terms of reference and timelines. The appointment of a former BC Attorney General as Commissioner raised understandable apprehensions of bias. Now the BC government's refusal to adhere to the Commissioner's funding recommendations is the last straw. The Commissioner has tried to keep the Commission afloat by announcing in early August the hiring of two "independent" lawyers and two pro bono lawyers to help ensure that the perspectives of Vancouver's Downtown East Side community and Aboriginal women are presented at the inquiry. These lawyers have a mandate to serve the public interest and "take guidance" from -- but not represent -- the concerns of unfunded groups with official standing at the Commission.

Cheap compromises are not good enough. The government and the police have their interests represented by their own lawyers. Groups representing concerns of poor and marginalized groups in society will not. This is a shocking denial of equality that merely confirms a pattern of government sanctioned inequality and discrimination in British Columbia. Such fundamental denials of equal access to justice invalidate the proceedings and must be publicly denounced.