

Can the Missing and Murdered Indigenous Women and Girl's Inquiry be Reclaimed?

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Yellowhead Institute acknowledges the First Nations women, girls and Two-Spirit people who have walked on to the spirit world, and their relations who fight for justice, honour, and dignity in their memory.

THE NATIONAL INQUIRY ON MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS

(the “Inquiry”) now has less than one year to complete its mandate. Initially scheduled to end December 2018, the Inquiry requested a two-year extension to its mandate, which has not been granted. Instead, a compromise of six additional months has been added for the Inquiry’s to complete its final report.

By April 30, 2019, the final report is expected to make findings on:

- Systemic causes of violence against Indigenous women and girls (including underlying causes and vulnerabilities); and
- Policies and practices aimed at reducing violence and increasing safety;

And the Inquiry will make recommendations on:

- Actions to address systemic causes of violence and increase the safety of Indigenous women and girls in Canada; and
- Strategies to honour and commemorate missing and murdered Indigenous women and girls.

Many have called into question the Inquiry’s ability to meet these objectives. In addition to twenty-four resignations or firings from the Inquiry (from lawyers to communications staff to commissioners), the Inquiry itself has pointed to a number of issues, which have resulted in delays to its process. These include burdensome government procurement and hiring processes. Given the challenges the Inquiry has faced to date, a number of issues need to be addressed in order to restore confidence in the Inquiry’s ability to affect change.

THE FIRST AND MOST ENTRENCHED CHALLENGE is ongoing political inference by the Federal Government. Inquiry staff, including Inquiry lawyer Breen Oullette who resigned last week, and many participants in the hearings, have repeatedly flagged this throughout the Inquiry process. Carolyn Bennett, Minister of Crown Indigenous Relations, has been quick to reject these criticisms, pointing to advice that she has received from provinces, territories, Indigenous organizations, and family members, that there is little appetite for a lengthy inquiry process.

However, with influence and control over funding, along with the ability to limit the term of an investigation into government practices related to policing, shelters, and child welfare, there is certainly the perception that provinces, territories, and the federal government are trying to limit

investigations in their jurisdictions, and by extension, their responsibility in remedying decades of failure.

A SECOND CHALLENGE is primarily procedural and revolves around timely access to evidence and witnesses by parties with standing. At the most recent hearings – Truth Gathering Process Part II Institutional Hearing: “Police Policies and Practices” – in Regina, SK, Parties with Standing raised concerns over their inability to access evidence in both official languages, to properly analyze evidence due to late disclosure, the lack of expert witness and knowledge keepers from all regions in Canada, and a number of other irregularities with respect to procedural fairness, which are typical to these types of legal processes.

Parties with Standing in the Inquiry include Indigenous women’s organizations, human rights organizations and families of missing and murdered Indigenous women and girls who are there to scrutinize institutions, practices and policy negatively impacting Indigenous women and girls. Receiving evidence in advance is critical for them to prepare for hearings.

A major procedural concern is also the extremely limited time to cross-examine expert witnesses allowed to parties with standing. For example, during one panel in Regina, some Parties with Standing were given four and a half minutes to ask and receive answers to important questions on police practices. So these challenges result in a perception of **disregard** for survivors and family members. It has been common following each of the hearings.

Given this state of affairs, it has become increasingly clear that navigating the Inquiry’s processes has been a burden for the women and families of missing and murdered women the Inquiry was intended to support.

Instead the Inquiry has ultimately failed to establish and maintain broad confidence and endorsement of its process and approach, which is required to mobilize findings of fact and enact the reforms that it's been tasked to produce.

Of course, it has been decades of advocacy by Indigenous women, and families who have been impacted by violence, that has drawn attention and created national and international recognition of the substantive effort and investment required to create safety for Indigenous women in this country in the first place.

SO WHAT ARE WE SUPPOSED TO DO NOW?

Clearly, the Inquiry needs to be able to do its work in a way that offers fairness to all parties, free from even the perception of influence from any level of government. But we also need renewed support and commitment to transformation from all levels of government, including at the Elected Band Council level, now and into the future.

For the Inquiry itself, having received a body of evidence and recommendations from survivors, family members, expert witnesses, and knowledge keepers, they now must determine the balance between prescriptive recommendations in specific instances, and broader systemic reform that enable survivors, family members, and communities to substantively address violence in their communities.

They must do this in a way that advances the most meaningful and relevant recommendations. As the Inquiry acknowledges, “to date, there have been multiple

inquiries, inquests, commissions, human rights complaints, and independent reports that have dealt directly or peripherally with systemic causes of violence against Indigenous women and girls in Canada... Many of these studies make concrete recommendations and point to solutions that have already been put forward but have not been implemented. This may be for lack of political or social will, limited funding, or for other reasons.”

They must also do this in a way that centers Indigenous women, acknowledging their self-determination and ability to make change. Dubravka Simonovic, United Nations Special Rapporteur on Violence Against Women, Its Causes and Consequences, made an official visit to Canada in April. In the [end of her mission statement](#), she called for a National Action Plan on Violence against Indigenous Women, stating that the *United Nations Declaration on the Rights of Indigenous Peoples* affirms that Indigenous women should have ownership of, and administer, initiatives to improve their law and justice outcomes. The Special Rapporteur also stated that, “Indigenous led programs and service delivery should be the norm and not the exception as it is currently the case” with sufficient human and financial resources for effective implementation and measurement of outcomes.

Finally, for those Parties with Standing in the Inquiry, they can, to the best of their ability, use their participatory right to prepare and develop for submission to the Inquiry evidence and recommendations that will advance safety considerations for Indigenous women and girls.

All of the above is required if the Inquiry wishes to begin to regain credibility and confidence in its process.

Ultimately, in the long-term, the impact of the Inquiry will be judged on one standard – are Indigenous women and girls in Canada safe?

Determining how all Indigenous women and girls will have the ability to be physically and emotionally safe, in a way that is immediately and reliably available regardless of their location, must be the primary outcome of the Inquiry, and the Inquiry must focus its limited remaining time on how to achieve that outcome.

The Inquiry noted in their Interim Report, that a future where “all Canadians reject colonial frameworks of oppression and respect Indigenous Peoples or Nations as self-determining” can begin with the rejection of colonial and patriarchal notions in the healing and safety of Indigenous women and girls.

Healing exists alongside the love of missing and murdered women, within the mind, body, and spirit of those who remember them and grieve their loss.

Healing from gender-based and colonial violence belongs to those who experience it first-hand. Those who do experience it are real people, women and girls who exist in reality, with worth and a right to safety and dignity, not as abstract political concepts or as data to be measured.

Healing for survivors and families of missing and murdered Indigenous women should not coincide with trying to fix a broken Inquiry. For those who are grieving, may you find the comfort and peace that accompanies justice.

And for the rest of us, if we’re serious about addressing violence in our communities and in Canada, we must be louder in demanding accountability, competence, justice, and safety for Indigenous women and girls.