

Murdered by “Bad Luck”: Indigenous Life and Death in Canada

By Robert Houle and Dallas Hunt

ANOTHER YEAR, another miscarriage of justice involving Indigenous people in Western Canada.

This latest case began in 2019, when the life of Kristian Ayoungman, a Siksika champion dancer and hockey player, was cut short in a callous and deliberate act of violence over half a pack of cigarettes. But it was just this week, on July 26, 2021, that Brandon Giffen, Ayoungman’s murderer was spared a conviction of first-degree murder by judge Robert Hall and given a lesser charge of manslaughter.

When one considers the “logical gymnastics” required to come to the manslaughter decision (as opposed to the charge of murder), it becomes apparent that settlers have been given a license to kill Indigenous people by the Canadian judicial system.

Indeed, while Canadians feign a recognition of systemic racism, decisions handed down by the courts when the victims are Indigenous peoples demonstrate that the system is working exactly as it should and always has.

THE CHARGE OF MANSLAUGHTER

The facts of the case, agreed to by all, are as follows: after a physical altercation outside a Strathmore bar, Giffen’s brother Kody, returned home to retrieve Brandon and a rifle, they pursued Ayoungman and three others down the highway. As the vehicle carrying Ayoungman pulled away, Giffen exited his vehicle, and on the side of the road, took aim and fired a shot, hitting Ayoungman in the back and killing him.

Despite these facts Justice Hall ruled that Ayoungman’s death was not intended or deliberate; instead, Hall described the event as an “unlucky” occurrence. Where else in the world, aside from Canada, is aiming and firing a rifle at someone, killing them, considered accidental?

Of course, this is not the first instance where a bullet fired from a gun, held by a White man, killed an Indigenous person and the real culprit of the crime was “chance” or “luck.” In 2019, Gerald Stanley was acquitted of killing Colten Boushie due to an **exceedingly** rare “hangfire” - a scenario wherein a bullet is fired and yet remains in the chamber, leaving at an inopportune time, in this case, conveniently pointed at an Indigenous person.

Chance and luck, it seems, are the real culprits of colonialism.

Compounding these tragedies has been the campaign for justice in the murder of **Cindy Gladue**. Gladue was killed by Bradley Barton in June of 2011, a crime for which he was originally acquitted. Gladue's death was attributed to an accident, or another bad turn of luck. The response from the Indigenous community, with a focus on the grotesque mishandling of the case by Crown and defence attorneys, led to the retrial of Barton, who was eventually convicted of, you guessed it, manslaughter. While this has brought some reprieve for the Gladue families, the fact that a campaign had to be mounted to challenge the acquittal - while Barton enjoyed ten years of freedom - signals a system in deep and, possibly, irreparable repair.

THE LINK BETWEEN DEATH & DISPOSSESSION

It is difficult to be Indigenous in Western Canada and watch the justice system contort to avoid delivering justice for Indigenous victims of crime. This is more painful with an awareness that **criminal law has been constructed** and wielded to dispossess Indigenous people. Historical examples range from prosecuting coercive Indian Act provisions to injunctions against land defenders. This kind of displacement ultimately results in death and destruction.

Indigenous land has value to Canadians and their institutions. Indigenous life? Not so much. This is demonstrated time and time again. Corporations and government agencies will spare no expense to try and gain access to Indigenous land. Imagine a world where those funds are spent on repairing relationships as opposed to the eradication of Indigenous presence?

But, instead, we are relegated to scratching and clawing for justice through a system designed to erase us.

It has become painfully clear over the last 150+ years that justice is not blind. Rather, it is non-existent for Indigenous peoples.

In many ways, Canadians are more than free to take Indigenous life when they feel they have been wronged, or even perceived to be wronged. This is not a sustainable existence, and real tangible reform and change is needed to restore value to Indigenous lives.

Until then, the genocidal machine will continue to roll forward, and Indigenous activists, writers, artists, scholars, lawyers will dig our feet into the ground to stop it every inch-of-the-way.

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