

Canada needs truth in the Air-India case

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The justice system has done its job, and yet there is no justice in the Air-India bombing that killed 329 people on June 23, 1985.

No one has been held responsible for the biggest mass murder in this country's history. Only a man who helped acquire the materials for the bombs has been convicted, and for manslaughter, not murder. Twenty years on, no government agency sworn to protect Canadians has been held accountable. Wrong is heaped on wrong.

A British Columbia judge's acquittals of Ajaib Singh Bagri and Ripudaman Singh Malik yesterday should not be the end of the matter. Those acquittals, while understandable given the weaknesses of the Crown's case, underscore the failures in protection and investigation. Canadians need to know what went wrong, and what is being done today to ensure that they are protected from terrorism. Air-India is not a matter of mere historical interest, not after Sept. 11, 2001.

Ottawa should call an inquiry. Canadians need to know what warnings government officials had before the bombing, and what was done about them. Can anyone imagine the United States simply closing its eyes to its intelligence failures and hoping for the best after 9/11? It created an independent, 10-member commission with the powers to look at secret government documents and a clear time frame because it needed to know whether Sept. 11 was preventable, and if so, how. Canada needs answers about June 23, 1985.

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There is no shortage of questions. Why did CSIS, Canada's civilian spy agency, appear to bungle matters so badly? It had the key suspects in its sights not long before the event. On June 4, 1985, CSIS agents followed several men into a quarry in a wooded area on Vancouver Island, and heard them explode a bomb, but mistakenly identified the sound as a gunshot. A CSIS official later acknowledged, in a memo included in the court record, that if it had promptly interviewed those suspects, it might have stopped the bombing.

Why did CSIS erase all but 54 of 210 wiretapped conversations, an erasure conceded by the Crown to be "unacceptable negligence"? To what extent was CSIS at odds with the RCMP, and how much of a factor was this either in the failure to stop the bombing, or to investigate it effectively? Did CSIS have a mole in

the terror group? An RCMP officer, interrogating Mr. Bagri, said it did, and pulled him out two days before the bombing so as not to be implicated in it. The government has vociferously denied it, and it may be that the RCMP officer was merely trying to manipulate Mr. Bagri with false information. But it is still being whispered about.

It is difficult to take issue with Mr. Justice Ian Bruce Josephson of the British Columbia Supreme Court. He had no small task. The investigation took 15 years to result in major charges. It cost an estimated \$130-million. A secure courtroom for the trial cost \$1.6-million to build. The trial took nearly two years. But Judge Josephson's job was not to satisfy Canadians' desire for retribution, nor to ensure that all that money and time produced a kind of dividend in guilty verdicts. That, as he suggested yesterday, would be no justice at all.

His job was to decide whether the state had proved its case beyond a reasonable doubt. In his view, it fell "markedly short." His ruling, explained in 600 tightly reasoned pages, speaks volumes about judicial independence, and about the case assembled by police and prosecutors. It was circumstantial, and relied heavily on hearsay, from witnesses whose credibility Judge Josephson found reason to doubt.

An inquiry can never do what the justice system does, which is to stand up to wrong, expose it, denounce it, punish it. But neither can the justice system get at the systemic failures that allowed the wrongs to occur. It is a terribly hollow feeling to be denied justice in an act of mass murder. Canadians should not also be denied the truth.

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