



# National Association of Women and the Law Association nationale Femmes et Droit

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October 16, 2018

VIA E-MAIL

Hon. Pablo Rodriguez  
Minister of Canadian Heritage  
House of Commons  
Ottawa, Ontario K1A 0A6  
VIA E-MAIL

Dear Minister Rodriguez:

As you know, prior to the October 2015 federal election, Prime Minister Trudeau promised to restore funding to the Court Challenges Program (CCP). The federal budget of 2016 allocated \$5 million annually to the new CCP and, in February 2017, your government announced its plans to “restore and modernize the CCP.”

On March 13 and on April 11, 2017 a coalition of over 80 national, provincial and local civil society organizations from across Canada wrote to Ministers Joly and Wilson-Raybould to express our grave concerns about the proposed ‘modernization’ (those letters are attached.) As we explained to Minister Joly, abandoning the CCP’s historic mandate to protect and advance substantive equality leaves open the prospect of funding being sought and granted for section 2, 3, 7 and even section 15 *Charter* claims that could seriously undermine, rather than reinforce, your government’s and our shared objective of a more diverse, inclusive and equitable Canada.

We underscored that, in the absence of a substantive equality mandate, CCP funding could be used to support challenges to restrictions on hate speech, official-language minority protections, political and election spending limits, safeguards for sexual assault victims within the criminal justice system, LGBTQ rights, women’s reproductive choice, affirmative action measures, the single-payer publicly funded health care system, and many other hard-fought gains for disadvantaged individuals and groups within Canadian society.

In September 2017 it was announced that the University of Ottawa had been selected to administer the new CCP. The membership of the committee appointed by the University to manage the CCP's language rights and human rights program is surprising: no representation of Quebec's official language minority nor of racialized, Indigenous or other disadvantaged groups (<https://olbi.uottawa.ca/court-challenges-ccp>).

In January 2018 representatives of civil society organizations met with Minister Joly, to reiterate our concerns relating to the CCP, namely that:

- Section 35 (Aboriginal and Treaty) and section 25 rights have not been included in the reinstated CCP, notwithstanding the Truth and Reconciliation Commission's Calls to Action relating to access to justice for Indigenous people in Canada;
- The CCP's historic mandate to protect and advance substantive equality and access to justice for historically disadvantaged groups has not been explicitly reaffirmed;
- No assurance has been given that the contract with the University of Ottawa; the terms of reference for the CCP's Expert Panels; and especially the CCP's funding criteria, will protect and advance substantive equality for disadvantaged groups; and
- While a minimum of \$1.5 million of the CCP's \$5 million annual budget has been allocated to language rights cases, no amount has been earmarked for equality rights cases.

Since that meeting, no further announcements about the CCP have been made. Minister Rodriguez, we are deeply concerned that three years after the election and 18 months after your government announced the reinstatement of the program, a CCP capable of ensuring substantive equality and access to justice for disadvantaged groups in Canada is still not in place. We would greatly appreciate the opportunity to meet with you at your earliest convenience in order to discuss our concerns and to propose a way forward.

Yours sincerely,

Suki Beavers, Project Director

National Association of Women and the Law

On behalf of:

Alex Neve, Secretary General  
Amnesty International Canada

Lobat Sadrehashemi, President  
Canadian Association of Refugee Lawyers

Jewelless Smith, Chairperson  
Council of Canadians with Disabilities

Shelagh Day, Chair, Human Rights Committee  
Feminist Alliance for International Action

Scott Robertson, President  
Indigenous Bar Association

Lucie Lamarche, Second Vice-president  
Ligue des droits et libertés

Lorena Fontaine, Representative  
Manitoba Aboriginal Languages Strategy

Bruce Porter, Executive Director  
Social Rights Advocacy Centre

CC:

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