

Indigenous Law Bulletin (2002) Volume 5, No. 17 p. 4

Canadian Residential Schools: The Legacy of Cultural Harm

by Lorena Sekwan Fontaine

For many years Indigenous people have been denied the ability to be in control of their destinies including a livelihood from the land. The Residential Schools mark a time in Canadian history when Indigenous people also lost the ability to be in control of the lives of their children. Indigenous children were removed from their communities and placed in a foreign and abusive environment created to eliminate their culture. The wellbeing of most Indigenous children was jeopardised and their human dignity violated during this time. The cultural racism of the Residential School era also resulted in the legacy of cultural harm, which is the breakdown of the spiritual, moral, health and emotional fabric of Indigenous people.

The first Canadian Residential School was created in the late 1600's, and although the Canadian government ceased to financially support Residential Schools in the late 1960's, the last one closed its doors in 1980. The Residential School experience is part of a legacy directed at extinguishing the culture of Indigenous people in Canada. A statement made by a Canadian government official in the early 1900's captures the policy behind the Residential Schools:

In order to rid Canada's Indian Problem a policy of assimilation exists and is to continue until there is not a single Indian that has not been absorbed into the body politic of Canada and there is no longer an Indian question, and no Indian Department.[\[1\]](#)

As a result of this policy of cultural extinguishment, many Indigenous children were removed from their communities, families and their land. Examples of the practice of cultural racism occurred when Indigenous children had their hair shaved off, were told they could no longer speak their language and that their culture was based on savagery.

In the early 1900's the death rate of Indigenous children at these schools was as high as seventy-five percent.[\[2\]](#) Several government reports stated that the living conditions in the Residential Schools were inhumane, resulting in the death of many children from tuberculosis. Recommendations were made in these reports on how to prevent

tuberculosis from spreading and yet nothing was done. In fact, the issue was prevented from being discussed publicly at all.[3]

A recent study has determined that the effects from the Residential Schools are now affecting the third generation as a result of their parents' school experiences.[4] It can be firmly stated that every Indigenous person in Canada is affected by the legacy of cultural harm from the Residential Schools to some degree. This legacy directly affects my family physically, psychologically, emotionally and spiritually starting with my grandfather's generation.

First Generation

My maternal grandfather was taken away from our community at a very early age and put into a Residential School that was only seven miles away from our community. He was not allowed to return home during the school year but would often run away because there was never enough food for him or any of the other children. My grandfather said that he remembers 'losing the values' his parents taught him, which were to be kind and respectful to people, not to swear, steal or lie. He once said:

I was aware that nobody there at the school loved me as my parents did. We were all left to ourselves, to protect ourselves in any way we could. This is where I strayed from the path of my parents' teachings. I also lost respect for the dignity of human beings. It was all because people there, the staff, didn't treat us very well. There was absolutely nobody there that I could ever trust or who loved us.[5]

Second Generation

My parents, aunts and uncles also went to the Residential Schools. My mother was only three when she was forced to leave home. As soon as my family arrived at the Residential School, they were instantly separated from one another. Some were physically abused and some even sexually abused. All of them were brutally punished whenever they spoke our language, and were told that our ceremonies and our spirituality were witchcraft and evil.

Third Generation - Intergenerational Cultural Harm

The cultural harm that has resulted from these schools now affects my generation. Although my generation never attended Residential Schools, we have been brought up by parents who were raised in a culturally, physically and spiritually abusive environment without love or care for a major portion of their childhood. Today, none of my cousins can speak our language, and some remain ashamed of their Indigenous identity.

There are Canadian studies that have linked the high rate of Indigenous youth suicides to the Residential Schools and the breakdown of the culture.[6] Many Indigenous youth have stated that they feel ashamed of their identity and that it is hard to be hopeful about

the future when there is alcohol abuse, suicides, drug abuse, violence and sexual abuse occurring in their homes and in their communities. Indigenous youth are increasingly entering Canada's prison population and committing suicide at alarmingly high rates. Last year in my community there was at least one young person committing suicide every month. One month there were three suicides in a week. My community was in a state of perpetual mourning and there was no relief that year.

Residential School Cases

Approximately 10,000 Residential School cases have been filed against the government and the churches that were in charge of running the schools. Lawyer fees range from ten percent to forty percent of the total awarded damages. The Canadian government and the churches have publicly acknowledged and apologised for the cultural harm they caused to Indigenous people, yet there have not been any remedies or compensation for cultural harm.

It has been stated that cultural harm is not a legally defined harm in Canada and therefore transcends the individual rights paradigm that regulates the Canadian judicial system. A further justification is that there are no implementation mechanisms for international treaties that would require them to examine Indigenous rights to culture. Lawyers are therefore prevented from framing issues around cultural harm.

To date, Residential School cases are proceeding at an inhumane snail's pace and the issue has been restrictively framed around cases of sexual and physical abuse. The harm on Indigenous peoples is, however, far broader. One of the most critical issues in the Residential School cases is the impact on the Indigenous peoples and the culture. In Canada:

- Out of fifty-two original Indigenous languages, only a few will survive;
- Indigenous teachings, ceremonies, history and traditional art are rapidly being lost;
- Many healing practices and ceremonies are being lost;
- There is very little history written from Indigenous perspectives;
- Many Indigenous people are ashamed of their cultural identity; and
- Some of the highest rates of youth suicide are in Indigenous communities.

The Blackwater Decision

Last year, however, a provincial Supreme Court in a case called *Blackwater v. Plint* [7] ('Blackwater') held that '(t)he government policy of cultural extinguishment does not necessarily equate to a breach of fiduciary duty in law' [8] and that in order to find a breach of fiduciary responsibility there would have to be a determination of a personal advantage on the part of Canada in the creation of policies of cultural extinguishment. The court concluded in this case that there was no such evidence. The issue of cultural

harm was also banned from the Blackwater case because the plaintiffs did not meet the limitation period in the province. The court further held that

...it is not the judicial role or function to engage in a consideration of such societal matters, and the task of the court is to apply the principles of tort law and assess a dollar award for the injuries. [9]

Canadian Government's Response

Cultural harm is not being treated as a serious issue by the government. A \$350 million Healing Fund was established in 1988 to assist Indigenous communities to implement and manage healing strategies for sexual and physical abuse.[10] Although the Healing Fund does not have a mandate to examine the issue of cultural harm, there has been some minimal funding directed towards culture revitalisation projects.

This past summer, \$53 million was put aside for the creation of a government bureaucracy to resolve Residential School cases, \$24 million has been allocated to pay seventy-two lawyers, and an unknown number of researchers to work on the Residential School cases of sexual and physical abuse.[11] The government wants to settle claims of sexual and physical abuse as quickly as possible through out of court settlements. There have been discussions on developing an alternative dispute resolution process to settle Residential School cases. Many Indigenous people have stated that the issue of cultural harm has to be examined but there has been no discussion on resolving the issue of cultural harm.

Indigenous Residential School Strategy for Cultural Harm

Although cultural harm is not being adequately reconciled in Canada, there may be a light of hope emerging from this dark period of Canadian history. A committee of Residential School survivors from an Indigenous community in Northern Canada called the Opaskwayak Cree Nation ('OCN'), has been working for the past few months on a Residential School reparation strategy. The strategy is at a preliminary stage, but OCN hopes that their work and innovative ideas of reparation will assist its community members to begin to heal from this horrific legacy and rebuild their cultural integrity. The people of OCN hope that their strategy will instigate political action to develop a process to remedy and compensate for cultural harm.

Conclusion

Currently a significant amount of effort is being made to overlook the heart of the matter, that is the detrimental impact on Indigenous culture and the violation of human rights principles by the racist policies and political will of successive Canadian governments. Part of the healing process from this devastating legacy has to include Indigenous people

controlling and developing the process. The OCN Residential School reparation strategy will hopefully be the start of a healing journey that is required so that Indigenous people can move forward. While many Indigenous people state that nothing will ever fully compensate for the tragic losses caused by the Residential Schools, there still is clearly a need to start a process to begin to redress cultural harm. There is also a common feeling by Indigenous people that as long as Canada continues to ignore the issue of cultural harm, violation of Indigenous rights will continue and cultural racism will remain a living legacy in Canada.

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[1] JR Miller, *Shingwauk's vision, A history of native Residential Schools* (1996) 46. For further information on the history of the Residential Schools see John Miloy, *A national crime, the Canadian government and the Residential School system 1879-1986* (1999).

[2] DPH Bryce, *The story a national crime: an appeal for justice to the Indians of Canada, the wards of the nations: our allies in the Revolutionary War: our brothers-in-arms in the Great War* (1922) 7.

[3] *Ibid* at 5.

[4] N Roslyn Ing, *Dealing with shame and unresolved trauma: Residential school and its impact on the 2nd and 3rd generation adults* (Unpublished Dissertation, University of British Columbia, 2000).

[5] N Roslyn Ing, 'The Effect of Residential Schooling: The Native Perspective' (1991) 18 *Canadian Journal of Native Education* 90.

[6] Ing, above n 4 and 5.

[7] *B (WR) v Plint* [2001] BCSC 997. See Jim Miller, 'The Alberni Residential School case: *Blackwater v Plint*' (2001) 5(12) *Indigenous Law Bulletin* 20.

[8] *Ibid* 247-248.

[9] *Ibid* 333.

[10] See http://www.ainc-inac.gc.ca/gs/schl_e.html.

[11] Michael Valpy, 'Native lawsuits fuel costly bureaucracy', *The Globe and Mail* (Canada), 5 March 2002.

