

The Canadian Experience with Lawyers & the Indian Residential School Settlement Agreement Lessons Learned

Law Society of Upper Canada

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Dark Chapter in Canada's History

- 1800s: Government policy to “aggressively assimilate “ Canada’s Indigenous Peoples into English speaking Christian Canadians.
- The Indian Residential School System was central to the “civilizing” strategy” .
- Carried out at church-run, government-funded industrial schools.
- Chief Justice Beverly McLaughlin ; “Cultural Genocide”.



We took their Children Indian Residential Schools

- Forcible removal of 150,000 + children from parents, families & communities.
- 139 Indian Residential Schools.
- 1920: *Indian Act*: Mandatory attendance Indigenous children ages 7-15 years.
- Parental failure to send children: punishment incarceration.
- About 80,000 Survivors today.
- Last school closed 1996.



“Final Solution of our Indian Problem”

Duncan Campbell Scott

Deputy Superintendent Indian Affairs 1913 - 1932

- 1910: Referring to high death rate of children in the schools; “This alone does not justify a change in the policy of this Department, which is geared towards the *final solution* of our Indian Problem.”
- 1920: “I want to get rid of the Indian problem. (...) Our objective is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question, and no Indian Department, that is the whole object of this Bill.”

Some of the Experiences



- Sexual, physical & mental abuse.
- Medical experimentation.
- Forced labour.
- Forced marriage.
- First languages & cultural practices forbidden & punished.
- Wide spread hunger & thirst – Malnourishment.
- Bondage & confinement.
- Illness & disease - High mortality rates.



Loss

- Identity.
- Self.
- Family.
- Language.
- Culture.
- Community.



Impact

In time our actions affect 7 generations in both directions.

- Adaptation of abusive behaviours learned from residential schools.
- Personal trauma & intergenerational transmission of trauma.
- Lateral violence.
- Suicide & self-harm.
- Poverty.
- Addiction.
- Lack of parenting skills.
- Lack of capacity to build & sustain healthy families & communities.
- Poor & overcrowded housing.
- Compromised life expectancy.

Pan-Canadian Litigation & Pan-Canadian Settlement

- \approx 15,000 civil claims commenced.
- Litigation included a number of class actions.
- May – November 2005 multi-party negotiations.
- *Agreement in Principle* reached.
- May 2006 Federal Cabinet approved details.
- Settlement pan-Canadian & encompassed; resolved all outstanding litigation.

Addressing the Legacy of Indian Residential Schools

- Common Experience Payment (CEP) for all eligible students of Indian Residential Schools.
- Independent Assessment Process (IAP) for claims of sexual, serious physical abuse & abusive acts that resulted in serious psychological consequences.
- Measures to support healing: IRS Health Support Program & endowment to Aboriginal Healing Foundation.
- Commemorative activities.
- Establishment of a Truth & Reconciliation Commission (TRC).

June 11, 2008: The Apology on behalf of the Government of Canada & all Canadians.

Lawyers & the Settlement Agreement

What can we learn & take from our regulatory experience?

Now over to those who we have been waiting for.....

Our three guest panelists !



THANK YOU!

