

Submission to the United Nations Expert Mechanism on the Rights of Indigenous Peoples Study on access to justice in the promotion and protection of the rights of Indigenous Peoples by the National Native American Boarding School Healing Coalition and the International Indian Treaty Council

Expert Seminar on Access to Justice for Indigenous Peoples including Truth and Reconciliation Processes, Columbia University, New York, 27 February - 1 March 2013

Agenda Item 9: The Impacts of Historical Grievances and Claims and Today's Solutions. February 28th, 2013, presented by Denise Lajimodiere and Andrea Carmen

The National Native American Boarding School Healing Coalition (N-NABS-HC) was formed in 2011 by Indigenous Peoples and organizations in the United States. Its purposes include initiating discussion, building awareness and developing a national strategy to focus public and political attention on the past and ongoing human rights violations imposed on Native Americans, including thousands of young children and their families, communities and Tribal Nations by the United States' Boarding School policy. The Coalition works to ensure appropriate redress from responsible government and church institutions and securing resources in support of lasting and true community-directed healing programs.

We affirm that the US Boarding School policies severely impacted the thousands of children who experienced forced removal from their parents, families and communities and the brutal physical, sexual, cultural, spiritual and emotional abuse that took place in the government mandated schools. We also stress the importance of redress and restitution for the ongoing intergenerational suffering and cultural loss that are a direct result of these policies for so many Indigenous individuals, families communities and Tribal Nations across the United States.

The United States Board School Policy and its Ongoing Legacy for Indigenous Peoples

During the 19th and into the 20th century, Native American children were forcibly abducted from their homes to attend Christian Church and government-run boarding schools. The purpose was to "civilize" the Indian and to stamp out Native culture. It was a deliberate policy of ethnocide or cultural genocide. There were almost 500 such schools across the US with the stated intention of "Kill the Indian, Save the Man".

Thousands of Indian children were forcibly abducted from their homes by government agents, and were taken to boarding schools where they were beaten, starved or otherwise brutally abused. Deliberately cut off from their families and culture, often hundreds or thousands of miles from home, children were punished for speaking their Native language, banned from traditional cultural practices, shorn of their long hair, stripped of their traditional clothing and other signs of Native culture, and taught to be ashamed of being Native American. These children passed on the legacy of the boarding school policy, returning to their communities, not as the Christianized farmers that the boarding school policy envisioned, but as deeply scarred human beings with none of the skills – community identity, parenting, extended family relationships, Native languages, ceremonial and cultural practices – learned by those raised within their own cultures.

Indigenous language and cultures were a focal point for abuse with lasting impacts. Professor Denise Lajimodiere, Chair of the National Native American Boarding School Healing Coalition testified to the Inter-American Commission on Human Rights October 29th, 2010, report issued by the Native American Boarding School Healing Coalition "My mother was locked in a closet because she didn't speak English." Based on interviews with survivors she added "People told me about having pins stuck in their tongues and getting their mouths washed out with lye soap if they spoke Indigenous

languages.” Andrea Smith testified at the same hearing that as direct result, of the approximately 155 Indigenous languages still spoken in the US, it is estimated that 90% will be extinct in 10 years. By 2050, there will be only 20 languages left, of which 90 percent will be facing extinction by 2060.

The loss of culture, language, and other devastating impacts of the Boarding School policy continue to affect Native American individuals, families, communities, Tribes, Pueblos and Alaska Native villages throughout the US. The lasting legacy is reflected in elevated levels of alcoholism, disproportionate rates of incarceration, large numbers of children still being removed from their communities and placed into non-Native foster care, low levels of educational achievement, high rates of domestic and other violence, mental health concerns including the highest suicide rates in the US, economic disparities, high rates of poverty, and rampant dissociation in family settings.

The Failure of the US government and the Churches to Acknowledge Wrongs and to Provide Access to Justice in the US

The devastating human rights violations carried out against Indigenous children and families by the US Boarding School Policy and Practices, and their ongoing inter-generational impacts have never been addressed by the United States. There has been scant recognition by the federal government or responsible churches that they initiated and carried out this policy, and no acceptance of responsibility for the indisputable fact that its purpose was cultural genocide. There are no realistic avenues in the US, for example a US Human Rights Commission, to seek redress or healing from these deep and enduring wounds inflicted on individuals and communities within the United States system. Lawsuits by individuals have been turned aside, and unlike other countries that implemented similar policies – e.g. Canada, New Zealand, and Australia – there has been no official proposal for healing or reconciliation. Incredibly, the Catholic Diocese in South Dakota went to the State legislature and secured legislation blocking claims for related abuse against the church.

Proposals and Recommendation for Restitution, Redress, Healing and Reconciliation to United States and United Nations

We affirm that without access to justice as defined and agreed by the victims and survivors themselves, there can be no true reconciliation. The initiation of actions to secure justice and reparations for Native American individuals, families, communities, Tribes, Pueblos and Native Alaskans in the US impacted by the US Boarding School policy must include acknowledgment of responsibility by government and churches for the implementation of this policy of cultural genocide and forced removal of children. In addition, redress in the form of financial and other resources must be made available to Indigenous communities to plan, design, implement and manage programs and processes for healing the longstanding inter-generational and historical traumas that continue to plague them, including programs to reverse language loss. These programs and processes must be locally conceived and administered with input from impacted families as well as traditional spiritual and cultural knowledge-holders, healers and other practitioners.

Support for communities, families and Nations in the healing process must be based on community-driven, culturally appropriate healing using Indigenous principles and understandings. The quest for fully participatory process that results in meaningful and just reparations, redress, reconciliation and restoration of what can be restored will involve engaging impacted Indigenous individuals and Peoples to define what justice, healing and redress looks like for them, recognizing this may differ among and between distinct communities. It will include collecting input as to what measures are needed in each Nation and community to begin to reverse the bitter legacy of this policy, which many define as deliberate genocide.

In order to gather the necessary information to inform an acceptable framework for understanding the scope and depth of these concerns, we are recommending that the United States create a Commission on Boarding School Policy with the full and active participation of impacted Indigenous Peoples at all stages to carry out a range of essential tasks. These include: providing accurate and comprehensive information to the United States government, Indigenous Peoples and the American public about the purposes and human rights abuses of Boarding School Policies; gathering documentation from survivors, their families and others about the treatment of children in the schools, the abuse and neglect they suffered, and the number of deaths that to date are unreported; receiving recommendations for reparations and programs to facilitate and support healing for individuals, families, Native communities, Tribes, Pueblos and Alaskan Natives Villages; and recommending legislative provisions that will remove the barriers to access to justice for individuals, Native communities, Tribes, Pueblos and Alaskan Natives Villages.

We affirm the importance of continuing opportunities for Indigenous Peoples from different regions and countries to share experiences and their successful processes for healing, justice and restitution. We thank the Truth and Reconciliation Commission of Canada, the Commissioners and Indigenous Peoples of Whitehorse Yukon Territory Canada for their invitation for us to participate as international witnesses at the TRC regional hearing 14 -15 January, 2013. The information, inspiration and spiritual blessings we received there will make an essential contribution to our process in the US.

In addition, we recommend that the report of this Seminar and the EMRIP in its report to the UN Human Rights Council on Access to Justice for Indigenous Peoples:

- 1) Call on the US, other States and all involved churches to accept moral responsibility for the human rights violations carried out under this policy as well as their ongoing impacts;
- 2) Call on the US to establish a National Commission in full collaboration with impacted Indigenous communities and Nations to conduct hearings on boarding school abuses and their continuing impacts on Native American and Alaska Natives Peoples and recommend programs for justice, restitution, redress and healing;
- 3) Recommend National and International recognition of and support for the healing, restoration and reconciliation processes initiated by Indigenous Peoples and communities;
- 4) Recommend that other United Nations human rights processes, including the UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of non-recurrence examine the impacts and outcomes of Truth and Reconciliation and Restorative Justice processes addressing historic violations with continuing and inter-generational impacts, as well as the situation in countries such as the US where no such processes have been initiated;
- 5) Finally, we recommend that the report of this Seminar be submitted to the UN Special Rapporteur on the Rights of Indigenous Peoples, recommending that he consider a study addressing the ongoing impacts of Boarding school policies as well as current foster care and adoption policies which include any form of forced or coerced removal of Indigenous children from their homes and communities in the US, and requesting that he make recommendations regarding redress and non-repetition.

In conclusion, we thank the organizers of this Seminar and the UN Expert Mechanism on the Rights of Indigenous Peoples for taking these important steps and hearing our proposals for reversing the lack of access to justice and redress for the Indigenous Peoples. The victims of these historic and ongoing human rights violations have too long been denied the healing power of restorative justice. Cheoque Utesia, Migwech.