

TRUTH & RECONCILIATION IN THE UNITED STATES OF AMERICA

A Call for the U.S. to Reconcile with the American Indigenous Community over the Mistreatment of Indian Children in Boarding Schools



Lakota People's
Law Project
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Executive Summary

In 1975 the U.S. Congress undertook a comprehensive review of American Indian policy. It concluded that federal and state government policy had directly caused the dire condition of the American Indian community as of that year. Experts agree that chief among these culpable government policies was its agenda of assimilation, which included the establishment of Indian boarding schools into which Native youth were forcibly enrolled. These schools, which were copied by Canada, were dedicated to the re-inculcation of Indian children following their removal from their families and tribes. Richard Henry Pratt, founder of the Carlisle Indian School in Pennsylvania, summed up the objective: “Kill the Indian, save the man.”¹

Today the boarding schools have been closed, but the campaign of destroying First Nations culture from the bottom up continues: Indian children in the United States are dramatically over-represented in foster care and adoption systems, and evidence proves that racism against Native people remains extant within state governments across the country.² Meanwhile, Canada has taken an important step toward mending its past: in 2008 it launched a truth and reconciliation commission to address the damage caused to its Indigenous population by boarding schools. The United States has yet to initiate any similar project. The Lakota People’s Law Project demands it do so now.

Preface: American-Indian Relations

In 1975, the United States Congress declared it essential that our government conduct “a comprehensive review of the historical and legal developments” concerning the

unique relationship between American Indian tribes and the federal government.³ The need to conduct such a review was generated largely by “The Wounded Knee Incident”⁴ that transpired in South Dakota between members of the Great Sioux Nation and the Nixon Administration, against the backdrop of long-standing, abusive federal and state policies toward Native Americans. The resulting 1975 Joint Congressional Declaration that was set forth in Public Law 93-580⁵ launched the first thorough investigation of American Indian policy since Lewis Meriam’s 1928 report on *The Problem of Indian Administration*,⁶ a document that contributed to the drafting and passage of the Indian Reorganization Act of 1934.⁷ This second comprehensive federal review of American Indian policy initiated in 1975 was undertaken by the American Indian Policy Review Commission and driven by one basic question: “*What is the explanation for the present circumstances in which the Indian finds himself today?*”

After two years of rigorous investigation, the congressional commission found that, “First and foremost...the consistently damaging federal policies of the past—policies which were then directed toward breaking down the social and governmental structures [of the Indian People] and throwing their land, water, timber and mineral resources open to exploitation by non-Indians”⁸—were chiefly responsible for the desperate state of affairs that characterized the lives of most Native Americans in 1977.

Sworn testimony provided to the American Indian Policy Review Commission ultimately led Congress to re-acknowledge that a “special relationship” exists between the federal government and Indian tribes. Congress also took the

major step of enacting the *Indian Child Welfare Act* of 1978, 25 USC 21, “to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by establishing minimum federal standards for the removal of Indian children from

“It is generally believed, mistakenly, that the Federal Government owes the American Indian the obligation of its trusteeship because of the Indians’ poverty, or because of the Government’s wrongdoing in the past. Certainly American Indians are stricken with poverty, and without question the Government has abused the trust given it by the Indian people. But what is not generally known, nor understood, is that within the federal system the Government’s relationship with the Indian people and their sovereign rights are of the highest legal standing, established through solemn treaties, and by layers of judicial and legislative actions.”
– Introduction of the American Indian Policy Review Commission, 1977

their homes.”⁹ The passage of the Indian Child Welfare Act (ICWA) marked more than a simple attempt to rebuild some of the social and governmental structures within tribes that had been disassembled by decades of relocation and removal of Indian youth. ICWA was intended to give concrete effect to the reality that had been assessed and reported for more than a half a century prior: **Indian children succeed best in school and in life when they remain in the “natural setting of home and family life.”**¹⁰

Now, forty years since the issuance of ICWA, it is time for Congress to officially recognize that the law has *not* succeeded in achieving its stated goal, with more than half of foster children in states like South Dakota being Native despite Indian children constituting only 13% of the overall child population. It is time for the U.S. as a whole to more honestly come to terms with our nation’s long-held policy of attempted cultural extermination of the Indigenous population. And, we must acknowledge the central role played in this campaign by the agenda of

“assimilation” of Indian children through the creation of Indian boarding schools. It is long past due that we begin a renewed process of truth and reconciliation, just as the government of Canada has recently done. This is the path to healing for all parties.

Findings: A Call to Action

The system of Indian boarding schools that was established in Canada was explicitly imported from the United States.

Richard Henry Pratt, the founder of the Carlisle Indian School in Pennsylvania, was one of the most outspoken advocates of the assimilation of Native American people into mainstream U.S. culture through a policy of “Indian re-education.” Meanwhile, inspired both by Pratt’s strategic objective and his tactical means, Canada’s prime minister in 1879, Sir John A. MacDonald, commissioned an official study of Indian boarding schools in the United States. The commissioner of that investigation, Nicholas Flood Davin, recommended that Canada copy the framework and structure of the Indian

“All of the overrepresentation in this country in prisons—you know, some prisons have as high as 60 percent indigenous peoples—that’s not because of our culture; it’s because we’re Indians, and we have rights and aboriginal rights that still stand in the way of unfettered resource development. Why are our kids overrepresented in Child and Family Services, to the tune of 30,000 to 40,000 in Canada? Here in Manitoba, 90 percent of all kids in care are indigenous. It’s not because of their culture; it’s because of who they are as Indians and that we’re the indigenous peoples here, and we have rights to protect this territory, and we’re essentially the last stand against complete, unfettered development here in this country.”

—Pamela Palmater, Associate Professor & Chair of Indigenous Governance at Ryerson University

boarding schools in the United States.¹¹ The Canadian government did so, and in 1883 the Canadian public works minister, Hector Langevin, proclaimed: “If you wish to educate these children, you must separate them from their parents...if you leave them in the family, they may know how to read and write, but they still remain savages.”¹² This ideology undergirded the establishment of Canada’s Indian boarding school program and was consistent with the philosophy of Richard Henry Pratt, whose stated purpose for establishing the Carlisle School was to, “Kill the Indian, save the man.”¹³

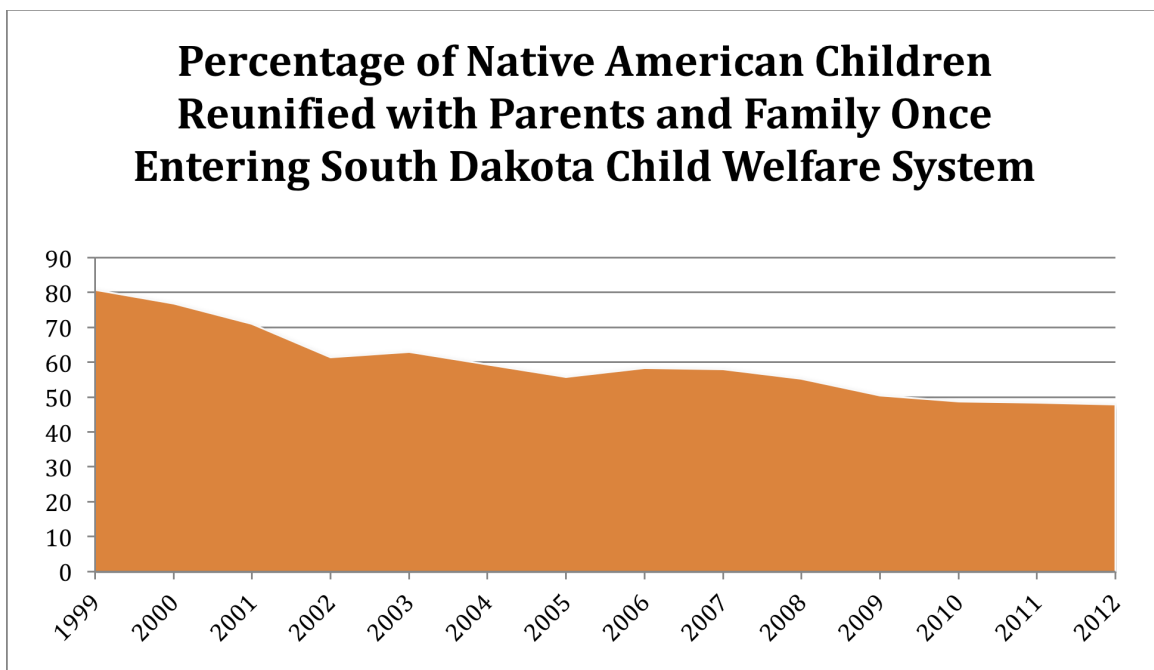
The mechanism of removing Indian children from their tribes and families and forcibly placing them into boarding schools was the central tactic of cultural genocide used against Native peoples in North America.

The dominant feature of Indian assimilation policies in the United States and Canada was the establishment of Indian boarding schools, a process which began in the early 19th century and continued until the 1970s. The demonstrably inferior academic quality of the staff typically employed at these schools was a direct manifestation of the fact that these learning environments were intentionally designed to be inferior to other American and Canadian public schools. There was an explicit belief held by federal officials in both countries that the highest level of education attainable by Indian children was vastly lower than that achievable by caucasian students. Poor teaching was not the only flaw in the management these institutions. In the words of former U.S. Secretary of the Interior Kevin Gover, Native students were “brutaliz[ed] emotionally, psychologically, physically, and even spiritually”.¹⁴ In light of these destructive and misguided developments, concrete, affirmative action must be undertaken on the part of all federal and state agencies in the

United States and Canada—especially the departments of education—to create an equality of outcomes between Native and non-Native students.¹⁵

The former United States government policy of Indian child removal and forced education in “white ways” continues today in the form of the forcible removal of Indian children from their parents, extended families, and tribes under the rubric of foster care and adoption.

In recent years, the department of social services in South Dakota has been returning fewer than half of Native children it has seized—ostensibly for the safety of those youth—to their tribes. Indeed, Indian children in the United States and Canada are dramatically over-represented in foster care and adoption systems in comparison to their percentage of the population.¹⁶



The establishment of a “Truth and Reconciliation Commission” has now become the universally-adopted mechanism for providing effective redress for harms caused to a people and culture by former government policies, such as racially-segregated

boarding school systems.

Truth and reconciliation commissions (TRC) have become the preferred method throughout the world for redressing wrongs committed by a government against a particular class of its citizens. In recent decades approximately 30 TRCs have been enacted in countries including South Africa, Chile, Brazil, Argentina, the Philippines, the Solomon Islands, Uganda, the Ukraine, South Korea, Sri Lanka, Poland, and the Czech Republic. Of these countries, South Africa constitutes the most well-known example. Its commission was created in 1995 and presided over by Nobel Peace Prize winner Archbishop Desmond Tutu. It unearthed past crimes committed by the South African apartheid government, and it aided in the transition to a more inclusive and democratic system of politics. Archbishop Tutu writes: “True reconciliation exposes the awfulness, the abuse, the hurt, the truth... It is a risky undertaking but in the end it is worthwhile, because only an honest confrontation with reality can bring real healing.”¹⁷

In 2008 the Canadian government joined this essential movement to heal past wrongs: it launched its own truth and reconciliation project to expose the horrors of its Indian boarding school program and proffer healing to those afflicted by it. The commission released its final report in December of 2015, stating: “For over a century, the central goals of Canada’s Aboriginal policy were to eliminate Aboriginal governments; ignore Aboriginal rights; terminate the Treaties; and, through a process of assimilation, cause Aboriginal peoples to cease to exist as distinct legal, social, cultural, religious, and racial entities in Canada. The establishment and operation of residential schools were a central element of this policy, which can best be described as ‘cultural genocide.’”¹⁸ By way of this revelation,

Canada has taken the first essential step toward greater justice for its indigenous population.

But the United States has yet to render any similar set of admissions. No American president has issued an apology directly addressing the American Indian boarding school tragedy, and the sum of the confessions by U.S. government officials for their roles in the administration of Indian schools falls short of genuine contrition. The United States claims it supports the United Nations “Declaration on The Rights of Indigenous People,”¹⁹ which decrees that: “All doctrines, policies and practices based on or advocating the superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust... [Native communities] have the collective right to live...as distinct peoples...and shall not be subjected to any act of genocide...including forcibly removing children of the group to another group.”²⁰ And yet American policy will not conform to this powerful Declaration until the truth of our past has been fully explored.

Recent comments by several high ranking federal officials demonstrate that the time is ripe for the United States to begin a process of healing. Last December, former U.S. Attorney General Eric Holder said about the history of American Indian policy: the government is “prepared to acknowledge the failures and injustices of the past—and to work with and empower you [the tribes] to chart a new course.”²¹ Similarly, President Obama asserted in June 2014 that his administration is “determined to partner with tribes”.²² Finally, First Lady Michelle Obama gave this forceful denunciation of previous United States policy in April 2015: “Folks in Indian Country didn’t just wake up one day

with addiction problems. Poverty and violence didn't just randomly happen to this community. These issues are the result of a long history of systematic discrimination and abuse."²³

It is time for truth and reconciliation in the United States. Without a clear understanding of the fact that U.S. government officials forcibly separated Native children from their families and tribes as part of a program of imperial domination that has amounted to cultural genocide, the average U.S. citizen will continue to falsely believe that merely a few government officials were responsible for America's Indian boarding schools. Healing and justice cannot come about upon a flawed foundation of knowledge. We must follow the example of our neighbor to the north.

Moving Forward: Reconciliation Across North America

The U.S. government should bring together every officer, agent, and employee of any federal and state agency, as well as all applicable church groups, who, at any time, assisted in the administration of the American Indian boarding school system—as well as all persons who have experienced directly or indirectly the tragic effects of this system. The hope and aim should be to provide Native Americans, collectively, as much relief as possible from the deep trauma they have endured over the centuries. Indeed, this would be in keeping with the U.S. State Department's declared support of the United Nations mandate that indigenous peoples be provided "effective mechanisms for prevention of, and **redress** for, forced assimilation."²⁴

There have been a number of beneficial policy reforms instituted by the Obama Administration in recent years, including the creation of a new Health & Human Services program designed to provide Title IV-E planning grants to Indian tribes to enable them to plan their own tribally-administered child & family services programs.²⁵ However, these disjointed actions fall drastically short of constituting a comprehensive U.S. program to redress the grave injustices imposed upon its Native families.

Conclusion

For all of the above-explicated reasons, the Lakota People's Law Project asserts that the United States should follow Canada's example by establishing a robust, well-funded truth and reconciliation commission concerning American Indian boarding schools. This commission should oversee a full explication of past and present assimilationist policies directed at Native American children, hear from adults who have been traumatized by the those policies, consider the extent to which current foster care and adoptive systems represent a continuation of the boarding school era, and chart a path forward for the healing and empowerment of America's original inhabitants.

Notes

¹ National Public Radio, “American Indian Boarding Schools Haunt Many”, May 19, 2008. www.npr.org/templates/transcript/transcript.php?storyId=16516865

² For the United States: see http://www.docs.lakotalaw.org/ICWA-Coalition_Report-to-Congress.pdf For Canada: Native children compose roughly 5% of the provincial population of British Columbia, yet constitute a majority of children in its’ child welfare system - <http://www.vancouversun.com/life/hires+high+profile+native+leader+john+improve+adoptions+aboriginal+kids/11350731/story.html>

³ That review was titled ‘The American Indian Policy Review Commission’ and it’s final report is available from https://archive.org/stream/finalreport01unit/finalreport01unit_djvu.txt

⁴ To learn more about the Wounded Knee Incident of 1973, not to be confused with the Wounded Knee Massacre of 1890, see https://en.wikipedia.org/wiki/Wounded_Knee_incident

⁵ Public Law 93-580, *To provide for the establishment of the American Indian Policy Review Commission*, available from <https://www.gpo.gov/fdsys/pkg/STATUTE-88/pdf/STATUTE-88-Pg1910.pdf>

⁶ Meriam, Lewis, *The Problem of Indian Administration*, available from <http://files.eric.ed.gov/fulltext/ED087573.pdf>

⁷ Public Law 73-383, the Indian Reorganization Act, 18 June 1934

⁸ American Indian Policy Review Commission, *Final Report*, page 2, 17 May 1977, available from <https://archive.org/details/finalreport01unit>

⁹ 25 U.S.C. Chapter 21 Section 1902 ‘Congressional declaration of policy’

¹⁰ Merian, Lewis, *The Problem of Indian Administration*, page 346 available from <http://files.eric.ed.gov/fulltext/ED087573.pdf>

¹¹ Davin, Nicholas Flood, *Report on industrial schools for Indians and half-breeds*, 14 March 1879, available from https://archive.org/details/cihm_03651

¹² Langevin, Hector, in speaking to the House of Commons on 22 May 1883, available from the *Official Report of the Debates, House of Commons, Volume 3; Volume 19*

¹³ National Public Radio, “American Indian Boarding Schools Haunt Many”, May 19, 2008. www.npr.org/templates/transcript/transcript.php?storyId=16516865

¹⁴ Bowker, Kathie, *The Boarding School Legacy: Ten Contemporary Lakota Women Tell Their Stories*, Montana State University Press, Bozeman, Montana, 2007, P. 9

¹⁵ *Race for Results*, Anne E. Casey Foundation, <http://www.aecf.org/m/resourcedoc/AECF-RaceforResults-2014.pdf>

¹⁶ For the United States: see http://www.docs.lakotalaw.org/ICWA-Coalition_Report-to-Congress.pdf For Canada: Native children compose roughly 5% of the provincial population of British Columbia, yet constitute a majority of children in its’ child welfare system - <http://www.vancouversun.com/life/hires+high+profile+native+leader+john+improve+adoptions+aboriginal+kids/11350731/story.html>

¹⁷ Shamai, Michal. *Systemic Interventions for Collective and National Trauma: Theory, Practice, and Evaluation*. Routledge Publishing. September 2015. P. 133

¹⁸ Truth & Reconciliation Commission of Canada, “Honouring the Truth, Reconciling the Future,” P. 9. That same year, the head of state in Canada, Stephen Harper, apologized for Canada’s assimilationist agenda, admitting it was designed to destroy tribes and thereby dissolve Canada’s treaty obligations. See Harper, Stephen, “Statement of apology to former students of Indian Residential Schools”, 11 June 2008, <https://www.aadnc-aandc.gc.ca/eng/1100100015644/1100100015649>

¹⁹ United States State Department, *Announcement of U.S. Support for the United Nations Declaration on the Rights of Indigenous Peoples*, available from <http://www.state.gov/documents/organization/184099.pdf>

²⁰ United Nations Declaration on the Rights of Indigenous Peoples, available from http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

²¹ United States Department of Justice, 2014. “Attorney General Eric Holder Delivers Remarks During the White House Tribal Nations Conference.” <http://www.justice.gov/opa/speech/attorney-general-eric-holder-delivers-remarks-during-white-house-tribal-nations>

²² White House, 2014. “President Obama and the Native American Community.” <https://www.whitehouse.gov/nativeamericans>

²³ Brammer, John, 2015. “Michelle Obama Stands Up for Native Americans, Says Natives Were Stripped of Their Culture.” <http://bluenationreview.com/michelle-obama-stands-native-americans-says-natives-stripped-culture/>

²⁴ United Nations Declaration on the Rights of Indigenous Peoples, available from http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

²⁵ Fostering Connections to Success and Increasing Adoptions Act of 2008, <https://www.gpo.gov/fdsys/pkg/PLAW-110publ351/pdf/PLAW-110publ351.pdf>. Additionally, the Bureau of Indian Affairs has issued much stronger “enforcement guidelines” to detail the preferential placement mandates covered by ICWA; the BIA has held field hearings on violations of ICWA in South Dakota; the U.S. Department of Justice has submitted an *amicus curiae* brief in South Dakota federal district court advocating a more responsible interpretation of the “preferential placement” provisions of ICWA; and the State of Maine and the Wakanabi tribe have initiated a truth and reconciliation process.