

Historical Crimes against First Nations: Residential Schools and the Trudeau Government

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The Williams Lake First Nation of British Columbia has announced discovery of another 66 sites which are possibly the graves of children on land of the St. Joseph Mission Residential School which closed in 1981. 93 suspected burial sites were previously announced. Control of the school passed from the Catholic Mission to the federal government in 1969. Approximately two thousand "anomalies" or possible graves have been detected by earth scanning instruments. Historical records indicated the deaths of only sixteen of the attending children. Geophysical analysis has been applied to 34 hectares so far of the 782 hectares to be assessed.

In response to a class action suit brought by 325 First Nations, the Trudeau government (awaiting court approval) has awarded a 2.8 billion dollar settlement, for a Trust which will attempt to repair damages caused by residential schooling. Funding to recompense individual damages was previously provided under the *Indian Residential Schools Settlement Agreement*, approved by all parties in 2006 and Canada's courts in 2007, costing the government \$1.9 billion. An additional 27 million dollars was provided in 2021 to investigate unmarked graves.

There's still a problem with this way of proceeding with historical crimes that have contravened the Convention on Genocide. Paying off damaged survivors of a genocide without addressing through the law the atrocities committed, suggests pay-offs as a business expense for the worst crimes known to humankind. But genocide isn't simply an intentional crime against in this case Indigenous people, it's a crime against society. As a crime against humanity, its acts are not acceptable which society states by applying its legal system. Most of those directly responsible for the crimes of residential schools have passed away.

The challenge of a future which will not be at the service of these crimes of the past, or allow further crimes to protect the established colonial cultures, might be to identify and adjudicate the actual crimes committed, both under domestic law and the Convention on Genocide which has no statute of limitations. Does it seem ridiculous to apply the full force of international law to clerics and government administrators who furthered the crimes of residential schooling? This possibility is rigorously avoided by the government, Canada's left wing and right wing, and all Canadian media and alternative media.

Without confronting genocide under law, ie. at court, there is little to discourage its continuation. [Nightslantern.ca](https://nightslantern.ca) has noted about 50 informal genocide warnings for Indigenous peoples in Canada since 2005. To note one recent specific case: the Sipekne'katik First Nation.

In 2020 attempts were made to shut down the independent lobstering of the Sipekne'katik. The Nation's boats were harassed on the water, one burned at the dock, gear was stolen. Then a warehouse of its harvest was burned to the ground by a mob of commercial fishermen, and the Band's people threatened all in front of police and *Department of Fisheries and Oceans* personnel who were continually monitoring the First Nation for fisheries infractions. Terrorized by the crimes and threats against their people the community appealed to police, and the provincial and federal governments for help. The appeals were minimally answered leaving the Band's community under threat for its safety.

These crimes, the terrorization of the Band, the damages to the Band's fleet and gear, furthered commercial fishing interests in Nova Scotia, furthering control of a lucrative and powerful billion dollar lobstering industry.

Increasingly the Canadian media portrayed lobstering by the Sipekne'katik as illegal, in this way supporting commercial interests which in turn were supported by the actions of the *Department of Fisheries and Oceans*. The *DOF*, police and Coast Guard continued to confiscate First Nation's fishing gear and lobster traps and catch, as if these were illegal. The Sipekne'katik lobstering effort was an independent Indigenous fishery allowed by the Supreme Court Marshall decision in 1999 which however was followed by an unsettled legal ambivalence the government has relied on to assert its control of Indigenous business, ie. the commercial season, the amounts of catch etc. (This is familiar 'Indian management' policy from the 1800s on the prairies when a Band's food production was limited to consumption but its farmer's were not allowed sell their produce).

Without protection of its legal rights to fish, without protection for the safety of its community from corporate interests and those relying on payment from commercial fishing, the Sipekne'katik Band had no recourse for its protection. The Band's response was to register a complaint with the *United Nations Committee on the Elimination of Racial Discrimination (CERD)*. The Government of Canada was legally bound to answer by July 14, 2021 but ignored the request until March 14th, 2022 and its explanation wasn't released to the public. The Band limited lobstering to harvesting a "moderate livelihood" (a food, social ceremonial FSC license) which doesn't allow commercial sale of the harvest.

Then in August of 2021 the self regulated Sipekne'katik treaty fishery opened its season, without *DOF* approval. Chief Michael Sacks saw this as an attempt to lift his community out of poverty. He was arrested by fisheries officers, then released and hassled. His gear was confiscated. The Band's gear and traps were taken. In the past two years 7000 of the Band's

lobster traps were sabotaged, or confiscated by Canada's *Department of Fisheries* without clear legal justification: on January 9th Nova Scotia Judge Tim Landry, threw out the arrests of three Sipekne'katik fishermen because the government prosecution hadn't established a legal basis for their prosecution.

Chief Sacks has since been replaced by the community's first woman chief, Michelle Glasgow. Last Spring the federal government gave the Sipekne'katik First Nation \$326,700 for research on the site of the Maritimes residential school, Shubenacadie, which processed Indigenous students from 1930 to 1967, funded by the federal government and managed by the Catholic Church. Official histories of the school are usually accompanied by trauma warnings. Despite testimony to the *Truth and Reconciliation Commission* and from school survivors no unmarked Indigenous graves have yet been identified.

Time passing mutes the community's fear, and ignores the commercial fishermen's quandary of having to support company interests, the source of their livelihoods, against the human and legal rights of the Indigenous people. The federal government is paying the Sipekne'katik community which is the second largest Mi'kmaq band in Nova Scotia, an allocation of 2.73 million dollars toward 20 housing units for some of the Band's homeless, as part of a larger initiative to create housing across the North. The government is aware of the Band's poverty in a lethal climate, yet deprives the Band's industry a living. The pay off coincides with the deprivation of what were once legally assured Indigenous rights.

These rights are recognized by Canada's Senate. In July 2022, a Senate report asked the Federal government A., to let the Mi'kmaq independent fishery move forward under its own rights, and B., for obvious reasons to transfer negotiations with the Indigenous fisheries from the *Department of Fisheries and Oceans*, to *Crown-Indigenous Relations*. The Senate report affirmed the rights of the Indigenous bands to at least co-manage the fisheries, currently crippled by DOF laws and control. And the Senate report affirmed the United Nations *Declaration on the Rights of Indigenous Peoples*.

There is a continual struggle within the national fabric of Canada, within the government, about righting the course of history toward the hope for justice. Consider Dr. Peter Henderson Bryce's report in 1907 on the lethal health conditions of Residential Schools and his *The Story of a National Crime: Being a Record of the Health Conditions of the Indians of Canada from 1904 to 1921*, in 1922. Or the sound efforts of the 1996 *Report of the Royal Commission on Aboriginal Peoples*, and the reluctant but gradual acceptance of the *UN Declaration on the Rights of Indigenous People*. Against the good sense of the Senate report is a deeply entrenched network of privilege and profit serving corporate wealth, with no concern for the survival of any peoples.

The Senate report and the Sipekne'katik First Nation deserve the support of genocide prevention organizations such the *Montreal Institute for Genocide and Human Rights Studies (MIGS)*, but with government funds MIGS hasn't to my knowledge addressed any crimes against North America's Indigenous people. It does properly address the Holocaust, issues affecting Rwanda, and many other areas prone to violations of human rights. Domestic considerations of genocide are dealt with more directly by former European colonies in South America. In Brazil former President Bolsonaro is under investigation for genocide in his treatment of the Yanomami Indians. In Peru sitting President Boluarte and at least five of her Ministers and former Ministers are under criminal investigation for allegations of genocide among other crimes, as a result of the murder by authorities of largely Indigenous and Mestizo worker-protesters. Here in Canada it's an ongoing tension, eased by the sincere

good intentions of so many Canadians, betrayed by political subservience to corporate profit.

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