

**Reparations and American Indian Boarding Schools:  
A Critical Appraisal  
by  
The Boarding School Healing Project**

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## Introduction

The Boarding School Healing Project and the International Center for Transitional Justice (ICTJ) held a joint meeting in September, 2008, for a critical appraisal of reparations strategies. The ICTJ has worked in many countries to support struggles for reparations. The BSHP has been calling for reparations for American Indian boarding school survivors in the United States. However, in looking at the results of various reparations struggles in the world, it is clear that there are many strategic decisions to be made before articulating a reparations campaign. Unfortunately, these campaigns often do not have the space and time to make the most strategic decisions when issues become public and movements are forced to react to situations rather than frame their struggles in a pro-active manner.

Since the movement for justice for boarding school survivors in the United States is still in the process of coalescing, there is some time now to think critically and strategically about what a reparation campaign should look like. As more individuals and groups join this struggle, it is hoped that this report will provide some food for thought as they develop their own projects.

This report does not represent a consensus of the BSHP, the ICTJ, or the individuals that attended the 2008 meeting. The ideas put forth are not meant to be prescriptive, but rather to be conversation-starters in hopes that a movement will coalesce around the issue of boarding schools that is strategic, forward-thinking, and pro-active. However, before beginning this critical appraisal of reparations as a strategy for Native communities, this report will detail why a reparations framework might be helpful for survivors of American Indian boarding schools.

## American Indian Boarding Schools - Why Reparations?

During the 19<sup>th</sup> century and into the 20<sup>th</sup> century, American Indian children were forcibly abducted from their homes to attend Christian and U.S. government-run boarding schools as a matter of state policy. This system had its beginnings in the 1600s when John Eliot erected “praying towns” for American Indians where he separated them out from their communities to receive Christian “civilizing” instruction. However, colonists soon concluded that such practices should be targeted towards children because they believed adults were too set in their ways to become Christianized. Jesuit priests began developing schools for Indian children along the St. Lawrence River in the 17<sup>th</sup> century.

The boarding school system became more formalized under Grant’s Peace Policy of 1869/1870. The goal of this policy was to transfer the administration of Indian reservations to Christian denominations. As part of this policy, Congress set aside funds to erect school facilities to be run by churches and missionary societies. These facilities were a combination of day and boarding schools erected on Indian reservations.

Then, in 1879, the first off-reservation boarding school, Carlisle, was founded by Richard Pratt. He argued that as long as boarding schools were primarily situated on reservations, then 1) it was too easy for children to run away from school; and 2) the efforts to assimilate Indian children into boarding schools would be reversed when children went back home to their families during the summer. He proposed a policy where children would be taken far from their homes at an early age and not returned to their homes until they were young adults. By 1909, there were 25 off-reservation boarding schools, 157 on-reservation boarding schools, and 307 day schools in operation. The stated rationale of the boarding school policy was to “kill the Indian and save the man.” Children in these schools were not allowed to speak Native languages or practice Native traditions.

Interestingly, Richard Pratt’s involvement with boarding schools was actually considered progressive in its time, and he was considered to be a “friend of the Indians.” U.S. colonists, in their attempt to end Native control over their land bases, generally came up with two policies to address the “Indian problem.” Some sectors advocated outright physical extermination of Native peoples. Meanwhile, “friends” of the Indians, such as Pratt, advocated cultural rather than physical genocide. Carl Schurz, at that time a former Commissioner of Indian Affairs, concluded that Native peoples had “this stern alternative: extermination or civilization.” Henry Pancoast, a Philadelphia lawyer, advocated a similar policy in 1882: “We must either butcher them or civilize them, and what we do we must do quickly.”

Thus, when Pratt founded off-reservation boarding schools, his rationale was “kill the Indian in order to save the Man.” Separate children from their parents, inculcate Christianity and white cultural values into them, and force them to assimilate into the dominant society. Of course, because of racism in the U.S, Native peoples could never really assimilate into the dominant

society. Hence the consequence of this policy was to assimilate them into the bottom of the socio-economic ladder of the larger society. For the most part, schools prepared Native boys for manual labor or farming and Native girls for domestic work.

The rationale for choosing cultural rather than physical genocide was often economic. Carl Schurz concluded that it would cost a million dollars to kill an Indian in warfare, whereas it cost only \$1,200 to school an Indian child for eight years. Secretary of the Interior Henry Teller argued that it would cost \$22 million to wage war against Indians over a ten-year period, but would cost less than a quarter of that amount to educate 30,000 children for a year. Consequently, administrators of these schools ran them as inexpensively as possible. Children were given inadequate food and medical care, and conditions were overcrowded. As a result, children routinely died in mass numbers of starvation or disease. In addition, children were often forced to do grueling work in order to raise monies for the schools and salaries for the teachers and administrators. Overcrowding within schools contributed to widespread disease and death.

Attendance at these boarding schools was mandatory, and children were forcibly taken from their homes for the majority of the year. Parents who refused to comply with the policy could be incarcerated. In the schools, children were forced to worship as Christians and speak English (Native traditions and languages were prohibited). Sexual, physical, and emotional violence were rampant. While not all Native peoples see their boarding school experiences as negative, it is generally the case that much if not most of the current dysfunction in Native communities can be traced to the boarding school era.

Today, most of the schools have closed down. Nevertheless, some boarding schools still remain. While the same level of abuse has not continued, there are ongoing charges of physical and sexual abuses in currently operating schools.

### **Human Rights Violations**

A number of human rights violations have occurred and continue to occur in these schools. While some abuses predated explicit human rights standards that recognized them as violations (for example, the Universal Declaration of Human Rights was not adopted until 1948), states should be held responsible for the legacies of government wrongdoing. The U.S. has provided no recompense for victims of boarding schools, nor have they attended to the continuing effects of human rights violations. The Boarding School Healing Project has begun documenting some of these abuses in South Dakota. Below are some of the following violations that were aimed at American Indians.

### ***Religious/Cultural Suppression***

Native children were generally not allowed to speak their Native languages or practice their spiritual traditions. As a result, many Native peoples can no longer speak their Native languages. Survivors widely report being punished severely if they spoke Native languages. However, the

U.S. has grossly underfunded language revitalization programs. A survivor of boarding schools in South Dakota testifies to these abuses:

“You weren’t allowed to speak Lakota. If children were caught speaking, they were punished. Well, some of them had their mouths washed out with soap. Some of them had their hands slapped with a ruler. One of the ladies tells about how they jerked her hair, jerked her by the hair to move her head back to say ‘no’ and up and down to say ‘yes.’ I never spoke the language again in public.”

### ***Malnutrition***

Because boarding schools were run cheaply, children generally received inadequate food. Survivors testify that the best food was saved for school administrators and teachers.

“Whenever we got the chore to clean the priest’s dining room, everyone wanted that chore because they ate the best, you know, the best food. I think Saturdays were the time when I went to bed hungry. That’s when we only got a sandwich.”

### ***Inadequate Medical Care***

Survivors report that they received inadequate medical care. They also report that when they were sent to infirmaries, they were often sexually abused there.

“There was a time when my little brother was sickly and he was in the hospital with a cold and I don’t know what else was wrong. But they had the high beds in the hospital and he was little. And he fell out of bed during the night and got a nosebleed. He told them that he had a nose bleed, but they didn’t believe him because the thought was that everybody, Indians, had TB [tuberculosis]. So they sent him to Toledo, Ohio to a TB sanatorium, where he spent about a year doing tests to see if he had TB. And he didn’t have TB, but it took a year to find out that he didn’t have TB. That was a whole year that he was sent away because they wouldn’t believe him when he had nosebleeds.”

“I just suspect, you know, that he must have been sick and had appendicitis. And he was thrown over the hood of a bed, the metal bedstead. And he was thrown over that and whipped. And uh, he must have been sick. And so whatever it was, he wasn’t doing or he got punished for it and got whipped and then he got sick and died from it. He had a ruptured appendix.”

### ***Physical Abuse***

Children report widespread physical abuse in boarding schools. They also report that administrators forced older children to physically and sexually abuse younger children. Children were not protected from the abuse by administrators or other children.

“If somebody left some food out and you beat the other one to it, they would be waiting for you. So there was a lot of fighting going on, a lot of the kids fighting with each other, especially the bigger kids fighting the littler ones. That is what you learned.”

“They used to send the boys through a whipping line. And we were not too far from there and the boys lined up, I don’t know how many, in a line, and they all wore leather belts. They had to take off their leather belts and as the boy ran through, they had to whip them.”

### *Sexual Abuse*

Sexual, physical, and emotional abuse was rampant. Many survivors report being sexually abused by multiple perpetrators in these schools. However, boarding schools refused to investigate, even when teachers were publicly accused by their students. In 1987, the FBI found that one teacher at the BIA-run Hopi day school in Arizona, John Boone, had sexually abused over 142 boys, but the school’s principal had never investigated any allegations of abuse. J.D. Todd taught at a BIA school on the Navajo Reservation before twelve children came forward with allegations of molestation. Paul Price taught at a North Carolina BIA school from 1971 until 1985 before he was arrested for assaulting boys. In all cases, the BIA supervisors ignored complaints from the parents before the arrests. In one case, Terry Hester admitted on his job application that he had been arrested for child sexual abuse. He was hired anyway at the Kaibito Boarding School on the Navajo Reservation, and was later convicted of sexual abuse against Navajo students. According to one former BIA school administrator in Arizona:

“I will say this. . . child molestation at BIA schools is a dirty little secret and has been for years. I can’t speak for other reservations, but I have talked to a lot of other BIA administrators who make the same kind of charges.”

Despite the epidemic of sexual abuse in boarding schools, the Bureau of Indian affairs did not issue a policy on reporting sexual abuse until 1987, and did not issue a policy to strengthen the background checks of potential teachers until 1989. The Indian Child Protection Act in 1990 was passed to provide a registry for sexual offenders in Indian country, mandate a reporting system, provide rigid guidelines for BIA and IHS for doing background checks on prospective employees, and provide education to parents, school officials, and law enforcement on how to recognize sexual abuse. However, this law was never sufficiently funded or implemented, and child sexual abuse rates are dramatically increasing in Indian country while they are remaining stable for the general population. Sexual predators know they can abuse Indian children with impunity. According to the *American Indian Report*: “A few years ago . . . a patient who had worked in a South Dakota-run facility where many of his victims were Indian children. . . was caught and acquitted. . . After [he] was released, he attacked three more kids and is now serving a 40-year sentence.”

Survivors testify:

“There was the priest or one of the brothers that was molesting those boys and those girls.”

“It seems like it was happening to the little ones. The real little ones. And that...I know that guy that they were accusing of that would always be around the little ones...the little kids...the little boys.”

“One of the girls, who was nine, nine or ten, jumped out the sixth floor window. The older girls were saying the nuns and the priests would take advantage of her and finally one of them explained to us younger ones what it was. And she finally killed herself. That was the most overt case that I can remember. There have been others that I have made myself forget because that one was so awful.”

As a result of all this abuse, Native communities are now suffering the continuing effects through increased physical and sexual violence that was largely absent prior to colonization. However, the US fails to redress these effects by not providing adequate healing services for boarding school survivors.

### ***Forced Labor***

Children were also involuntarily leased out to white homes as menial labor during the summers rather than sent back to their homes. In addition, they had to do hard labor for the schools, often forced to do very dangerous chores. Some survivors report children being killed because they were forced to operate dangerous machinery. Children were never compensated for their labor.

“We had to wash all the kids’ clothes, and the priests’ clothes, and iron them. The other thing that one of our nuns, she saved stamps. I remember she’d soak them, and we would get the stamps, put them in our hand, peel off the stamp, put it over here, and dry them...like you had to put them all in rolls. I don’t know what she’d do with them.”

### ***Deaths in Schools***

Thousands of children have died in these schools, through beatings, medical neglect, and malnutrition. The cemetery at Haskell Indian School alone has 102 student graves, and at least 500 students died and were buried elsewhere. These deaths continue today. On December 6, 2004, Cindy Sohappy was found dead in a holding cell in Chemawa Boarding School (Oregon) where she had been placed after she became intoxicated. She was supposed to be checked every fifteen minutes, but no one checked on her for over three hours. At that point, she was found not breathing, and declared dead a few minutes later. The US Attorney declined to charge the staff with involuntary manslaughter. Sohappy’s mother is planning to sue the school. A videotape showed that no one checked on her when she started convulsing or stopped moving. The school has been warned for past fifteen years from federal health officials in Indian Health Services about the dangers of holding cells, but these warnings were ignored. Particularly troubling was

that she and other young women who had histories of sexual assault, abuse, and suicide attempts were put in these cells of solitary confinement.

Two paraphrased testimonies:

Two children died in school, and the administrators took the bodies home. However, the parents weren't there, so the administrators dumped the bodies on the parents' house floor with no note as to what happened to them.

I used to hear babies crying in my school. Years later, the school was torn down, and they found the skeletons of babies in the walls.

However, the legacy of abuses continue to this day in a way that gravely affects the rights of Native Americans and are furthered or tolerated by the government. Human rights violations often occur long before treaties or customary international law recognize them as such. Legal claims based on such law can be affected by this timing gap. However, some violations continue to this day and others continue to have effects that themselves constitute human rights violations. In the case of boarding schools, it is clear that Native communities continue to suffering devastating, continuing effects as a result of these policies.

Whether on legal or moral grounds, the U.S. should be required to make reparations to address the continuing effects of abuses perpetrated by boarding school policies. Some of these continuing effects include:

- Increased physical, sexual, and emotional violence in Native communities
- Un- and under-employment in Native communities
- Increased suicide rates
- Increased substance abuse
- Loss of language and loss of religious/cultural traditions
- Increased depression and post-traumatic stress disorder
- Increased child abuse

While not all Native people viewed their boarding school experiences as negative, it appears to be the case that, after the onset of boarding schools in Native communities, abuse became endemic within Indian families. The U.S. should be held responsible for redressing these continuing effects and acknowledging the abusive policies and actions underlying them. The effects of boarding school abuses continue today because these abuses have not been acknowledged by the larger society. As a result, silence continues within Native communities, preventing Native peoples from seeking support and healing as a result of intergenerational trauma.

Because boarding school policies are not acknowledged as human rights violations, Native peoples individualize the trauma they have suffered, thus contributing to increased shame and

self-blame. If both boarding school policies themselves and the continuing effects from these policies were recognized as human rights violations, then it might take away the shame from talking about these issues, and thus provide an opportunity for communities to begin healing. By framing the U.S. as accountable for boarding school abuses, it provides an opportunity for Native peoples to demand that the U.S. begin providing adequate funding for healing services for Native survivors of boarding school abuses. It could also be used to pressure the U.S. to support language and cultural revitalization programs to reverse the effects of boarding schools. It is critically important to make demands now, because the U.S. government is not only making no progress towards instituting needed policies, it is actually going backwards. The U.S. is cutting tribally-controlled education and social services programs, and state governments are increasingly supporting “English-only” laws which threaten the survival of indigenous languages.

Framing the issue of boarding schools in terms of reparations can also become a strategy for addressing gender violence within Native communities. One of the human rights violations perpetrated by state policy in the form of boarding schools has been sexual violence perpetrated by both slave owners and boarding school officials. The long-term effect of this human rights violation has been the internalization of sexual and other forms of gender violence *within* Native American communities. Thus, the challenge is, how can we form a demand around reparations for the long-term effects of human rights violations that are evidenced by violence *within* communities, but are nonetheless legacies of *external* colonial violence. The issue of boarding schools forces us to see the connections between state violence and interpersonal violence. It is through boarding schools that violence in our communities was introduced. But we continue to perpetuate that violence through violence against women, child abuse, and homophobia. To successfully decolonize, no amount of reparations will be effective if we define reparations solely as financial payment and do not address the oppressive behaviors we have internalized. Women of color have for too long been presented with the choices of either prioritizing racial justice or gender justice. This dualistic analysis fails to recognize that it is precisely through sexism and gender violence that colonialism and white supremacy have been successful. It can be difficult to address sexual violence in particular within Native communities because of the shame attached to the issue. But if we adopt a more expansive notion of reparations, it can perhaps provide a framework by which we can say that the reason why there is sexual abuse in Native communities is not because they are inherently dysfunctional, but because of the traumatic impacts of human rights violations perpetrated by the U.S. government. Putting sexual abuse within a larger context can reduce the personal shame attached to the issue, allowing for a collective process to address it.

Finally, a reparations framework can help us internationalize our struggle with all other reparations struggles of colonized and enslaved peoples. Since Native peoples are such a small percentage of the U.S. population, they cannot challenge U.S. power on their own. But if Native peoples work in coalition with other reparations struggles, they can build the political power necessary to challenge the state. Colonization and white supremacy are global problems and require a global response.

## What are Reparations? International Legal Standards

Reparations are actions taken by states in recognition of rights, violations, harms, and responsibility, for the direct benefit and empowerment of victims of serious human rights abuses and violations of international humanitarian law.

International legal standards hold that effective reparation includes, in some combination, the following elements:

1. Restitution
2. Compensation
3. Rehabilitation
4. Satisfaction
5. Guarantees of non-repetition<sup>1</sup>

Reparation is *not* just about compensation, but includes a balanced mixture of all of these dimensions. Reparation should *not* be a tool to silence victims (although that does happen). They should *not* be a reward for those who are considered “good” victims. Since reparations are for those who have suffered human rights violations, and since human rights are inalienable to all humans, all those who have suffered serious human rights abuses should have equal rights to reparations. Reparations should be of direct benefit to victims and they should empower victims’ agency, not become another source of marginalization or oppression.

Reparation is a right. It is not a handout for the vulnerable or needy although sometimes attention to these groups is treated as a priority. Under international law, the right to reparations for serious human rights violations is a developing norm that has general acceptance, in addition to being embodied in a number of specific human rights treaties. However, the specificity of what that right entails – the content of reparations – is not well defined and often depends on the specific context.

The guidelines around reparations were adopted by the United Nations in 2005 after many years of discussion and development. In accordance with domestic and international law, victims of serious violations of human rights are entitled to reparations appropriate to the severity of the violation(s). Because many victims of human rights violations continue to be marginalized, reparations should also look forward as well as backward. That is, they should not only address

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<sup>1</sup> See General Assembly Resolution 60/147, 16 December 2005, The UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. Accessible at: <http://www.ohchr.org/english/law/remedy.htm>.

human rights violations in the past, but be implemented in a way that recognizes the continuing effects of those violations in order to create a new future.

Reparations have generally tended to focus on redress of human rights violations in terms of civil and political rights rather than redressing violations of economic, social, and cultural rights. Consequently, they do not necessarily address structural and economic inequalities, though they may include measures such as health care, or livelihood support.

Reparations take many different forms, including measures that are delivered to individuals and others that are collective in their conception or delivery. Reparations always have some message attached to them, so they have a symbolic component that can be more or less pronounced. Some reparations are primarily material – such as construction of a language school and cultural center – but if the reparation strategy does not include any acknowledgement of the violation, it may not fulfill the objectives of reparation. One strategy is to focus on *collective* reparations in order to address *collective* harms. Collective harms could refer to violations of collective rights (to culture, language) or to the collective effect of individual harms (such as systematic sexual abuse). However, even collective reparations should be of direct benefit to individual victims, and it may be that if reparations take solely a collective form, other steps will still need to be taken to redress the harm felt by individuals. Different reparations programs tend to pay more attention to one or the other; the important thing is to ensure that if the emphasis is on collective reparation it is because this is felt to be a good way to address what happened, rather than just because it may appear to be more cost-effective or politically viable.

Objectives of a Reparations Policy might include the following six elements in some way. When thinking about reparations measures, these criteria might be a good way to “check” for reparative value.

1. Recognition - Acknowledge harms and victims, and help the broader society to do likewise.
2. Repair - Real attempt to address harm done. Reparations should not be a band-aid or a tool to silence victims
3. Reform - Ensure non-repetition of atrocities. Reparation requires an appraisal of how the system allowed the harm to happen and a strategy for changing the system so that it does not happen again.
4. Rights - Have rights of victims affirmed, and involve victims as active agents in conceptualizing reparations
5. Reconciliation - Build a base for a more just society
6. Real and Realistic - Reparations programs should not be modest, but they should be achievable.

In practice, no reparations program has actually implemented all of these objectives to the full satisfaction of victims, though enormous and valuable efforts toward reparation have been undertaken with some success. Implementation of complex reparations can be seen in a range of

examples, such as German reparations following the holocaust, Chilean or Argentine reparations following massive human rights abuses, or even the steps finally taken to recognize and redress the cruel and unjust detention of people of Japanese origin or descent during World War II in the United States. In other examples, promised reparations have been underdelivered or ignored, and of course in many cases where massive or systematic abuses occurred – especially through colonialism, or slavery – even discussion of reparations has been difficult or avoided altogether.

Typically, the state is responsible for reparations, but it is possible to also engage non-state actors. Under UN standards, the state *must* respond to violations perpetrated by the state or other parties that act as an agent of the state. The state *should* act when perpetrators act outside the state. In the case of Indian boarding schools where churches did act as an agent of the state, it can be argued that responding to these violations would fall in the “must” rather than the “should” category.

## **The Limitations and Unintended Consequences of Reparations**

At the same time, many indigenous scholars and activists point to the limitations of both reparations and international human rights standards. Jeff Corntassel and Cindy Holder note in “Who’s Sorry Now?” that apologies, reconciliation committees, and reparations programs can have the effect of solidifying colonial relationships between indigenous peoples and settler states. While states may be willing to make some acknowledgement of harms done to indigenous peoples, they are not willing to end the colonial relationship that exists between the state and Native communities. This problem speaks to the limitation of any human rights standard: since human rights standards generally uphold the inviolability of “state” sovereignty, they are by definition unable to mandate an end to settler colonialism. The sovereignty of nation-states will always take precedence over the sovereignty of indigenous nations. And even when reparations are involved, they are deployed to relegate injustice to the past, thereby enabling the continuation of settler colonialism. As an example, Corntassel and Holder contend that Canada’s response to residential schools frame the issue as “abuse within the schools” rather than the school system itself as a form of abuse.

Thus, while reparations ideally are an important strategy for redressing harms to those who have suffered human rights violations, in practice reparations can have negative unintended consequences. Thus before embarking on a campaign for reparations, it is important to consider these limitations:

### 1) Commodifying harms

In order to gain reparations, it becomes necessary to quantify harms if compensation is to be considered. But how do you quantify something like the loss of Native languages or the loss of cultural and spiritual values? Reparation cannot redress the effects of colonization, but it can have the impact of relegating colonization to the past by positioning the harms of colonization as

past acts that have now been compensated in some way. Compensation is a very difficult issue but can be most effective if it is not seen as the sole form of reparation. Some other forms – even though they may involve financial outlays to achieve – may be more beneficial and long-lasting. In Canada, there are some lessons to be learned about the way compensation may or may not fulfill reparative goals in connection with the experience of residential school survivors.

## 2) Reparations generally do not address structural oppression

As an example, in post-apartheid South Africa, reparations were made available for specific acts of violence, but not for the crime of apartheid itself. Reparations to Japanese concentration camp survivors in the US addressed that specific policy, but did not address the underlying issue of white supremacy and imperialism. It may be possible that a reparations struggle can be a strategy for bringing attention to the underlying structures and ideologies that give rise to specific human rights violations, but they can also normalize these structures and ideologies by positioning specific atrocities as an exception to the system rather than as an integral part of systemic oppression. For many governments, reparation may be seen as an opportunity to close the door to these larger issues, while survivors may be seeing this as a way to open that door. This is a divergence that needs to be addressed very explicitly.

## 3) Reparations do not challenge capitalism.

Reparations tend to focus on civil and political rights rather than on economic, social and cultural rights. It is really not possible for reparations to challenge capitalism, because the majority of the people in the world who are poor would all be deserving of reparations because capitalism requires that the majority of the people in the world be poor in order to allow those who own capital to control 95 percent of the world's wealth. There would no way for meaningful reparations to happen on such an economic scale without bankrupting capitalist institutions, effectively ending capitalism itself. As such, reparations do not necessarily speak to how indigenous peoples are structurally situated at the bottom of the socio-economic ladder. Especially when reparations are given on an individual basis and focus primarily on compensation as opposed to other elements, cash payments do not generally result in poor people becoming less poor. Since the structural reasons for poverty are not addressed, poor people receiving reparations do not generally have the means to utilize the resources in a way that will fundamentally change their economic status.

## 4) Reparations create competition between groups.

As discussed above, reparations do not fundamentally change the economic system. In this context, reparations can be seen through a scarcity mindset, causing different groups to focus on getting a bigger portion of the resources made available to them by the state rather than question why so few resources are allocated to them in the first place.

- 5) The state co-opts reparations programs for its own purposes.

As will be discussed later in this report, when the state provides reparations, the means by which it does so often supports state needs rather than the needs of survivors. For instance, if the state provides reparations in the form of healing services, the services it will support are those that do not challenge the larger system and are probably services that the state is obliged to deliver in any case. Another example is how reparations often take the form of economic development programs that the state wants anyway rather than programs developed by impacted communities.

- 6) Reparations can shift our focus from goals to strategies.

Because of these limitations, it is clear that reparation is at best a strategy for a larger political vision of true social change. However, reparation campaigns often shift our focus to where we begin to view reparations themselves as the goal. Consequently, the struggles often stop once reparations are achieved rather than being remobilized to continue the struggle in new forms.

- 7) Reparations can foster a dependency on the system.

The goal of reparations is to empower survivors and change their power relative to the state, but empowerment is not always the result. In their efforts to demand funding or resources from the state, people start to believe that they cannot do the organizing work without those resources. We then fail to recognize or be creative with the resources we do have.

- 8) Reparations (as well as the concept of human rights) are not well understood by many people.

Many people do not know what reparations are or what they could be. They are not aware of what human rights mean, what rights they have, what are considered to be human rights violations, or what they are entitled to if their human rights are violated.

- 9) Because reparations are not well understood by many peoples, it is a struggle that can quickly be taken over by elites who do that have knowledge.

These elites dictate the terms of the struggle rather than involving the peoples who have suffered human rights violations. Human rights education gives way to political expedience. When reparations are designed without the participation of survivors or victims' families or communities, they may fail as reparations because they do not carry the right meaning.

### **Questions to Consider**

Thus, while reparations may be a sound strategy, a reparations struggle must ponder many serious questions:

- 1) What is the demand?
- 2) What is the process for developing and giving shape to the demand?
- 3) What are the reparations for?
- 4) How are survivors included in the process?
- 5) Who will deliver the reparations and how?
- 6) What are the political priorities in light of contemporary conditions?
- 7) What are the possible negative consequences of reparations and how can they be addressed?
- 8) How can the reparations struggle be tied to a larger struggle that addresses white supremacy, capitalism, imperialism, patriarchy and settler-colonialism?

In the next section, this report will explore some of the specific considerations that a struggle for reparations for boarding school survivors might need to address depending on the type of reparations demands that might be made.

## **Deciding on Strategic Avenues to Reparation**

The Boarding School Healing Project has not focused on individual causes of action as the most strategic way to seek reparation for boarding school survivors. The history the individual lawsuits in Canada around residential school abuses casts serious doubt on the wisdom of this strategy. Survivor advocates report that the strategy of individual lawsuits put survivors in an adversarial environment for years only to receive relatively little compensation. This approach individualizes the issue when in fact boarding schools have damaged Native peoples collectively. These advocates also report that huge numbers of survivors committed suicide or began relapsing into substance abuse when they began pursuing lawsuits because there was no collective healing framework inherent in this approach.

In the U.S. a case on boarding schools was filed against the U.S. government in the federal court of claims, but it was dismissed because the plaintiffs did not first file a complaint with the Bureau of Indian Affairs. However, if a complaint is filed with the Bureau of Indian Affairs, there is no policy that requires them to address the complaint in any time frame. Thus, the legal possibilities within U.S. domestic courses are not clear at this point. Given the conservative nature of the U.S. Supreme Court, it is not clear how wise such a strategy would be, particularly given that U.S. law does not grant the same recognition for group rights as does Canadian law, where lawsuits could at least have some legal effect.

Reparation is not only something that is attained by court order; it can also be achieved through government policy, whether via executive action or through Congress. Such reparation in the

form of a government policy would come from political action rather than merely court-oriented channels. In Canada, both tactics were combined, with a political agreement putting massive litigation into settlement negotiations that ultimately resulted in a compensation agreement and the establishment of a truth commission, among other commitments. Strategic thinking on the best approach - political, legal, or some combination of both - is needed. This paper is focused primarily on the nature of the reparations required rather than the process of achieving them. Below, we consider two broad categories of reparations, individual and collective, then turn to three specific suggestions for collective reparations.

### **Individual and Collective Reparations<sup>2</sup>**

Individual measures require a precise identification of the persons entitled to them as well as a way to deliver the concrete benefits to the individual recipient. Individual measures are important because international human rights standards are generally expressed in individual terms. Reparation to individuals therefore underscores the value of each human being and their place as rights-holders. This avoids considering all victims together in a way that risks minimizing the particular harm done or makes the meaning of reparations vague. On the other hand, individual measures – depending on the specifics and how well they are complemented by other actions – necessarily are selective, so that in any one group or community some victims will be entitled to individual reparations and others, whether victims or fellow citizens in general, will not. This can, sometimes, exacerbate tensions. For example, if twenty people in a community suffered detention, torture, or the loss of a family member and are to receive individual reparations for their loss and suffering, others in the community who have suffered in other ways, such as displacement, or who have needs because of minimal government attention to their social and economic rights, may protest their exclusion from reparations that are purely individual in nature.

Collective reparations are focused on delivering a benefit to people that suffered from human rights violations as a group. For example, collective reparations measures might address identity-based dimensions of individual violations (such as the violation of women’s rights and dignity in a campaign that used rape as a means of repression, or systematic attacks on a particular ethnic group). In other instances, they might address violations such as bombings or a destruction of villages that had the intention of terrorizing a whole population, affecting means of subsistence, dismantling organizations, or destroying public trust among residents. In such contexts, collective reparations may offer an effective response to damage to community infrastructure, identity, and trust, by supporting, for example, a community-generated project that helps locate missing relatives or that builds a meeting lodge to promote renewed community life and governance.

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<sup>2</sup> This section comes from International Center for Transitional Justice, “Reparations in Theory and Practice,” New York, NY, 5-7. <http://www.ictj.org/static/Reparations/0710.Reparations.pdf>

In East Timor, the truth commission recommended a process that combined individual benefits with a form of delivery designed to promote collective healing. As foreseen by the East Timor commission, single mothers, including war widows and victims of sexual violence, would benefit from scholarship grants for their school-aged children. In order to access their benefits, the mothers would have to travel to a regional service center, where they would, in turn, have access to peer support, skills training, healthcare, and counseling. In Chile, many group therapies have been implemented for survivors of torture, which help them to find support in each other. Stimulating the creation of victims' organizations through collective reparations can also be a way to provide a network of solidarity.

Collective reparations can also be formulated as a way of simplifying delivery of reparations either in the context of practical limitations or of concerns about drawing too stark a line between classes of victims or between victims and non-victim groups. In this way, a specific village that was particularly affected by various kinds of abuses might, for example, receive a fund for community projects, even though not every individual in the village was affected in the same way and even if some people there contributed to the harms. In Peru, for example, communities hardest hit by violence have been asked to submit community funding proposals up to a \$30,000 limit. These projects would benefit the entire community, generally, rather than only serve specific victims and would be implemented regardless of whether some former perpetrators also live there. Collective reparations avoid the potentially disruptive effect individual payments can have on communities. In Chile, it has been reported that payment of individual reparations to members of indigenous communities that had a strong collective ethos had an adverse effect on internal harmony in those communities. In Peru, a similar collective identity prevails in many of the highland areas, but victims there demanded individual as well as collective reparations as a way to assert their status as individual citizens of equal value to their urban counterparts. They insisted on this as a way to overcome the amorphous group identity that made it easier for urban elites to be indifferent to their fate during long years of repression.

Collective reparations have their own challenges. They are not easy to implement and they risk being resisted by individual victims because they do not respond to the often quite intimate, individual nature of the violations and suffering. Often, it will be difficult to define the communities that stand to benefit or to justify benefiting some to the exclusion of others. Moreover, the process can be used for political gain and the measures can become confused with development policies that those communities are entitled to anyway. This was the case in Peru, where the government tried to simply re-label as reparations a development initiative that was already under way. Victims protested that they were already entitled to development programs and, moreover, that the project was not designed to recognize the abuses they had suffered. In some cases, such as those noted above where reparations are delivered collectively to a whole community, these broad brush strokes can inadvertently serve to benefit perpetrators residing there. This kind of reparation can advance the unity of the group, but if it is perceived as unjust it can also easily ignite division or tensions.

### **Focusing on Collective Reparation**

Given some of these issues, the Boarding School Healing Project has focused on collective remedy. Consequently, the majority of this report will be analysis of possible considerations in framing reparations demands on a collective basis. While there are many kinds of collective demands Native peoples might make to redress the legacy of boarding school abuses, this report focuses on three areas:

- 1) Healing services
- 2) Language revitalization
- 3) Land

### ***Healing Services***

The continuing effects of human rights violations in Native communities have included increased violence, particularly sexual and domestic violence, child abuse, substance abuse, and suicide. Consequently, a possible reparations demand might be funding for healing services. However, if we were to secure reparations in the form of healing services, what are the consequences of having healing services that are provided by the U.S. government? To explore these consequences, it is important to do a critical appraisal of how state funding is currently impacting healing services. An examination of how the promotion of state funding has impacted the delivery of healing services in the past can provide some indication of how a demand for reparation services might impact healing services in the future.<sup>3</sup>

Since the passage of the Violence Against Women Act in 1994, federal monies have been made available to Native tribes in order to provide services and advocacy for survivors of domestic and sexual violence. This funding has proven to be a double-edged sword. On the one hand, this funding has certainly increased the visibility of the issue and enabled the provision of services to thousands of survivors. At the same time, these services are only provided in a manner that is compatible with U.S. interests. In particular, because these monies are administered through the Justice Department, the strategies that are funded are those that work with the criminal justice system. However, the criminal justice system has always been brutally oppressive towards Native communities who are highly over-represented in the prison system. In addition, when we consider that domestic and sexual violence are largely the result of boarding schools, does it make sense to expect the state to be the solution to the problem it has created? In fact *The New York Times* recently reported that the effects of the strengthened anti-domestic violence legislation is that battered women kill their abusive partners less frequently; however, batterers do *not* kill their partners less frequently. Thus, ironically, laws passed to protect battered women are actually protecting their batterers!

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<sup>3</sup> For citations in this section, see Andrea Smith, *Conquest: Sexual Violence and American Indian Genocide* (Cambridge: South End Press, 2005)

This has been particularly true for Native women. In her study of incarcerated American Indian women, *Inventing the Savage*, Luana Ross notes that Native women are generally in prison as a direct or indirect result of gender violence. For example, she documents how women of color who are involved in abusive relationships are often forced to participate in men's criminal activities. In one study, over 40 percent of the women in prison in Arizona were there because they murdered an abusive partner. Thus, the criminal justice system, rather than solving the problems of violence against women, often re-victimizes Native women who are survivors of violence and criminalizes the attempts of women of color to resist and survive violence.

In addition, prisons have proven to be an ineffective means for decreasing "crime" and violence. As a number of studies have demonstrated, more prisons and more police do not lead to lower crime rates. For instance, the Rand Corporation found that California's three strikes legislation, which requires life sentences for three-time convicted felons, did not reduce the rate of "murders, rapes, and robberies that many people believe to be the law's principal targets." In fact, changes in crime rate often have more to do with fluctuations in employment rates than with increased police surveillance or increased incarceration rates. Concludes Steven Walker, "Because no clear link between incarceration and crime rates, and because gross incapacitation locks up many low-rate offenders at a great dollar cost to society, we conclude as follows: gross incapacitation is not an effective policy for reducing serious crime." Criminologist Elliott Currie similarly finds that "the best face put on the impact of massive prison increases, in a study routinely used by prison supporters to prove that 'prison works,' shows that prison growth seems not to have 'worked' at all for homicide or assault, barely if at all for rape."

The premise of the justice system is that most people are law-abiding except for "deviants" who do not follow the law. However, given the epidemic rates of sexual and domestic violence in which 50 percent of women will be battered and 47 percent will be raped in their lifetime, it is clear that most men are implicated in our rape culture. It is not likely that we can send all of these men to jail. As Fay Koop argues, addressing rape through the justice system simply furthers the myth that rape/domestic violence is caused by a few bad men rather than something which most men find themselves implicated in. Thus, relying upon the criminal justice system to end violence against women may strengthen the colonial apparatus that furthers violence while providing nothing more than the illusion of safety to survivors of sexual and domestic violence.

In addition, prior to colonization, violence against women and children was relatively rare. Yet, Native communities did not use prisons. One consequence of the federal funding stream is that it focuses our attention on working with colonial strategies for addressing violence rather than on indigenous strategies that were that much more effective. As an example, the Indian Civil Rights Act limits the time tribes can incarcerate someone for a crime to one year. As a result, advocates have focused their attention on trying to remove that limitation. However, the Civil Rights Act does not prohibit other means of addressing violence, approaches that might be much more effective than incarceration. Many advocates have resisted looking at alternatives to incarceration because these alternatives are usually framed as "soft" approaches - such as talking

circles. The models offered as alternatives, such as restorative justice models in which the community holds the perpetrator accountable, often do not work for cases of gender violence because they depend on a romanticized notion of a community that will be willing or able hold perpetrators accountable, when often communities are in fact complicit in the perpetuation of such violence. However, there are more than two options besides incarceration or restorative justice. These other options need greater exploration.

Thus, an unintended impact of organizing for state-funded healing services is that the state has provided these funding streams through the criminal justice system, thus strengthening the apparatus of the prison industrial complex which negatively impacts indigenous peoples. Another unintended consequence of securing funding for healing services is that the state generally depoliticizes the causes of violence. That is, instead of organizing survivors to end violence on their own behalf, federal monies direct us to positioning survivors simply as clients who need healing services. Consequently, the movement to end violence within our communities becomes transformed into a network of social service providers who focus on encouraging survivors to adapt to violence as a community rather than to transform the community itself. In Native communities, violence against women and children is a direct result of colonial processes in which patriarchal ideologies were instilled into Native communities. Thus, relying on a colonial apparatus to address domestic/sexual violence does not allow us to develop a project of decolonization which would address the root causes of violence in Native nations. Instead, we end up with a medicalized treatment approach towards violence. Rather than training survivors to end violence in their communities, they are sent away to a therapist for treatment. Because survivors are treated simply as clients, then those who provide the services become posited as the “advocates” who work on their behalf. We then create a class division within the healing movement whereby professionalized advocates do the political advocacy work on behalf of their clients who have no role in shaping how this work is done. Also, because this advocacy work is not grounded in a real movement of survivors it is not politically strong enough to make deep change.

In terms of boarding school survivors in particular, the focus on reparations through healing services reframes the issue from one of cultural genocide requiring a political response to one in which survivors become imagined as a national wound that requires healing. Native peoples are re-imagined as eternal victims that need services rather than being contextualized within a larger history of settler colonialism and genocide requiring a mass movement to change.

Because the issue of violence is depoliticized, a dichotomy is created between good victims and bad perpetrators. The manner in which all peoples have internalized colonial violent ideologies cannot be addressed in this model. Rather the intent is to punish the few perpetrators that get caught rather than address the inherently violent nature of our society as a whole.

Furthermore, victims that fail to live up to the role of an ideal victim are punished as well as perpetrators. As mentioned previously, when the state provides healing services, they are often provided through the criminal justice system. The criminal justice system in turn increases state

surveillance over survivors when they do not act like “good victims.” For instance, under current mandatory arrest laws, many women are now finding themselves arrested instead of their perpetrators. In addition, many women who are survivors of violence often cope with this violence through strategies such as substance abuse, sex work, or other strategies deemed “illegal.” Provisions addressing violence against women are often attached to anti-crime bills that are particularly punitive to women who engage in these coping strategies. Thus, they are subjected to more violence in the prison system rather than being provided a means to heal from violence.

Some of the research done to prove the need for healing services by showing high statistics of domestic/sexual violence or child abuse have been used against impacted communities. For instance, a *Children Are Sacred* report that was done to show the need to address child abuse in indigenous communities in Australia was then used by the government to invade those communities under the pretext that if these communities had such high levels of abuse, they were not fit to govern themselves.

In addition, these funding streams often encourage competition rather than collaboration between anti-violence advocates. Insufficient funds are allotted, requiring that tribal communities compete with each other for funds. Social service providers are structurally held accountable to funders rather than to the people they are supposed to represent. Depending on the administration, federal regulations can dictate how issues of violence are framed, requiring that you omit any discussion of colonization in your materials. Of course, funding can also provide much needed healing services for survivors. Many programs also consciously attempt to address these contradictions in their work. Nonetheless, the structures of non-profit organizations/NGOS and state funding streams contribute to the development of anti-violence approaches that focus on social service delivery rather than on survivor mobilization and empowerment.

Finally, in relating the issue of violence to the problem of individual reparations, a number of groups found that when boarding school survivors received lump payments in Canada, elderly peoples and women were often targeted for violence. Violence against women, children and elders can sometimes be an unintended consequence of reparations in the form of individual payments.

### Conclusion

On the one hand, federal funding can provide desperately needed healing services that can save lives. On the other hand, federal funding can also depoliticize and colonize those healing services so that they end up negatively impacting the very survivors they are supposed to help. In addition, because the state has the responsibility to redress the continuing effects of human rights violence, it has the responsibility to provide these services. Survivors are entitled to these services as a matter of right; they should not be seen as a gift that the state can take away when inconvenient. Some possible strategies for demanding reparations in the form of healing services while addressing the possible negative consequences of such a demand include the following:

- 1) Diversify strategies for addressing violence. If we only use one strategy (such as the criminal justice approach), then this strategy will be more easily co-optable by the state. We need to expand our strategies and also be prepared to shift strategies even if that strategy is well-funded.
- 2) By diversifying our strategies for ending violence and providing healing, we can then expand our demands. For instance, in the anti-violence movement our current demand is almost solely focused on improving the criminal justice system. But what if we argued instead that affordable housing and adequate employment opportunities help keep women safe? Within the human rights framework, instead of focusing solely on civil and political rights, if we also addressed economic, social and cultural rights, we could more fully address the broad spectrum of issues that keep women vulnerable to violence.
- 3) Rethink the role of NGOs/non-profits in social change work. Particularly within the United States, most social change work is done by non-profits that are funded by the state or foundations rather than supported by the constituents they claim to represent. Consequently, we develop a model of career activism in which people expect to be paid to do activist work. Also, because these activists are funded by public and private foundations rather than constituents, they do not have an incentive to increase their base of support and hence movements do not grow. An alternative model is to first develop an independent movement for healing that funds itself through its constituents. Nonprofits can then support these movement and answer to that movement.
- 4) Develop strategies that highlight the role of the state in perpetrating violence. By relying excessively on the state, we position the colonial state as the savior of indigenous peoples rather than as the primary beneficiary of this violence. If the state provides healing services to survivors of abuse without taking clear responsibility or being clearly identified as the party responsible for this abuse, indigenous communities will be portrayed as inherently violent and dysfunctional communities in need of state intervention.
- 5) Develop models that position survivors as potential organizers rather than clients in need of services. Many survivors certainly do need services and have basic needs that must be addressed. However, these needs can be met within a program that stresses political education and organizing. The goal is to build a movement in which more and more survivors join so that it becomes politically powerful and effective, and less vulnerable to co-optation.
- 6) Look to pre-colonial indigenous strategies for healing and accountability. Rather than rely on colonial models for addressing violence that have failed to reduce violence not only for Native peoples, but for anyone, it makes sense to look to indigenous models for healing and accountability. We can look to our languages, our teachings, and our songs as sources for developing our own processes for healing and restoration.

7) At the same time, it is important to not romanticize our communities. As we look towards indigenous models, we must remember that we are living under different conditions which will impact how we use these models. For instance, many nations traditionally practiced banishment for perpetrators of violence. Prior to colonization, this might be very effective because it was essentially a death sentence as it would be difficult then to live outside the context of a community. Today, perpetrators can easily move to another city and hence such a punishment may be less effective. Any strategy must address the impact of colonization in Native communities and adapt to this reality.

### ***Language Revitalization***

Native languages are threatened with extinction. There are about 155 Indigenous languages still spoken in the United States, and it is estimated that 90% will extinct in ten years, leaving about twenty languages by 2050. By that point, those twenty will be on the verge of extinction as well. Of the 16 languages spoken in Washington state, and 50 languages spoken in California, only a few speakers are under the age of 60. Of the 38 federally recognized tribes in Oklahoma, 22 have no speakers living among them. Eight have less than 20 speakers left, and they are all elderly. In Oklahoma, there are less than five speakers of Osage, five speakers of Euchee, and several languages that are only spoken by grandparents. Oklahoma is considered one of the five places where language loss is the most significant. Boarding schools are primarily responsible for this language extinction.

There are many reasons why demanding reparations in the form of language revitalization programs may be a particularly strategic move. Many Native peoples are Christian and are reluctant to speak out about boarding schools. In addition, because of the issues of shame, many peoples do not want to speak about abuse, particularly sexual abuse. In addition, many Native peoples have internalized the ideologies they learned in boarding schools and/or do not see their experiences in boarding schools as negative. But almost everyone does agree that Native languages were targeted in boarding schools and can agree this was a problem. Thus, focusing on language loss may be a way to politicize Native communities about boarding schools as a whole.

In addition, demands for language revitalization programs can be more easily quantifiable for federal funding programs. That is, it can be difficult to quantify “healing,” but one can make specific targets around language, such as we want the number of language speakers to increase by  $x$  percent in  $x$  years. Also, the causal relationship between boarding schools and language loss is so clear, whereas the causal relationships between, for example, boarding schools and increased substance abuse can be more easily challenged using a traditional scientific approach.

In addition, while there are always dangers of co-optation when the state funds any program, we may be in a position where concerns about such dangers are superseded by the urgency of the current situation. Many languages could die in the next generation, and funding is desperately needed now to address this problem. Some indigenous language revitalization advocates

contend that \$250 million are needed to adequately fund indigenous language revitalization programs in the U.S. As discussed previously, it is possible that the focus on funding is stopping communities from promoting language revitalization through means that do not require funding - such as encouraging language speakers to talk to their children. However, in some communities there are few language speakers left, and these speakers often have to deal with basic survival issues first. Such speakers may require funding to have the time to be able to teach the language.

The maintenance of indigenous languages is important because they are the means by which indigenous worldviews are perpetuated. The attack on indigenous languages coincides with the inculcation of patriarchal and colonial worldviews within Native communities. The perpetuation of Native ceremonies depends on their being performed in their corresponding language. Language is the means by which Native peoples establish and maintain their radical relationality to their land base.

### Limitations of State-Funded Language Revitalization Programs

- 1) Governments often support a one-size-fits all model that does not address community contexts.
- 2) Smaller independent language programs often do not receive funding support.
- 3) State funding often promotes competition rather than collaboration between language programs.
- 4) In some cases, funding is often diverted to one or two institutions that then control certification and curriculum. Some such programs are the sole judges of who can be authorized as language teachers, and they do not share their curriculum or resources with others. Some of these programs are not particularly effective either - the number of words they teach are limited and their curriculum does not begin until high school.
- 5) While on the one hand, the fact that language revitalization programs can be quantified can assist in the procurement of funding, many funding sources may then evaluate programs only by measures that can be quantified. However, these programs can have beneficial impacts beyond the number of people who become fluent language speakers, such as decolonizing epistemologies within a community.
- 6) Many programs do not focus on the whole communities. Linguists often want to work only with elders and do not include the entire community in the project of language revitalization.
- 7) Many programs fail because they do not operate within a decolonization framework. Programs that focus on children are often not supported by parents who may feel shame for not knowing their language. Hence, programs that focus only on language instruction without addressing the social and psychological impacts of language loss may be ineffective.

8) Because such programs do not come from a framework of decolonization, even Native communities themselves only want to work with peoples with formal degrees, whether or not their approaches are effective.

9) Sometimes, the government approach to language revitalization blames Native peoples for losing their language rather than admit to their complicity in extinguishing these languages.

10) If curricula are government-funded, they can then be government-controlled. Languages may then be taught in a way that is severed from their ethical, cultural and epistemological contexts as well as the land bases from which they emerge.

11) Teachers' certification programs can also create a class system within the language revitalization movement.

12) In terms of pursuing reparations for language revitalization programs as a matter of rights, there is not as clear an international legal standard for language as a right.

### Recommendations

1) While state-funded revitalization programs may be necessary given the dire situation facing indigenous languages, it is also important for these programs to be creative about securing resources, including collaborating with universities, collaborating with non-indigenous language programs that have much more funding, sharing resources within the community, and developing collaborative projects.

2) A strategy for gaining parental support for language programs that work primarily with children is to provide some means for parents to gain some level of language competency independently. One such process is to work with the Rosetta Stone program that effectively assists in teaching minimum language proficiency at home through a voice recognition program. Many parents may be too embarrassed to begin language instruction in a larger group if they have no proficiency at all. Providing a means by which they can develop some proficiency may enable them to do more advanced language instruction later. In turn, they are more likely to support language programs for their children.

3) Programs need to focus on increasing the number of fluent speakers. This means that programs should de-emphasize CDs and DVDs, and emphasize face-to-face interaction. Programs that actually increase the number of fluent speakers require a multi-tiered approach that emphasizes language immersion in the early grades and partial immersion in later grades. The research suggests that there is no other strategy for increasing the number of fluent speakers other than immersion programs.

4) Locate teacher training programs in Native communities.

- 5) Begin collecting “best practices” strategies.
- 6) Linguists have a critical role to play in saving the grammar of languages that are at risk.
- 7) Develop ways to market language revitalization programs that are popular and engage youth rather than those that produce shame in participants for not knowing the language.

### ***Land***

Of concern to indigenous peoples seeking reparations is the fact that the U.S. often uses financial compensation as a means to abrogate indigenous land claims. During the 1950s, the U.S. government pursued the policy of “termination” against Native nations, which was designed to terminate the tribal status of Native peoples and hence end their collective control over their lands. One component of this policy was the strategy of compensation for outstanding land claims. In 1946, the U.S. formed the Indian Claims Commission, which was designed to adjudicate land claims. In its award, the Claims Commission could deduct the monies the U.S. government spent in funding the military to massacre that tribe or kidnap the children from the tribe to put them into boarding school. But the most significant problem with the Claims Commission is that redress could only take the form of compensation; lost lands could not be restored to indigenous control. So tribes have often found that simply by bringing their claims to the Commission, they have given up land title in the eyes of the U.S. government. Thus, the basic premise of the Claims was to settle all land claims by providing financial compensation in order to free the U.S. government from any ongoing treaty obligations between it and Native nations, further consolidating Native lands under U.S. government control. Thus, it would seem to make sense to frame reparations in terms of land restoration rather than in terms of financial compensation.

One problem, however with pursuing reparations in the form of land is that it rests on a politics of recognition whereby one’s land claims must be articulated in a form that it is intelligible to the courts. Native peoples are forced to argue within narrow legal and cultural frameworks in order to have their right to control land be recognized by the settler colonial state. These frameworks do not question the presumed normative relationship between peoples and lands, in which land is seen as property to be controlled by peoples. As the Indigenous Peoples’ Councils at the 2009 World Social Forum declared, indigenous nationhood is not based on control of territory or land, but is based on relationship to and responsibility for land.

In order to make land claims within the U.S. or any other legal system, Native communities must fundamentally reshape their relationship to land. For many communities, prior to these battles for land claims, their relationship with land was not a capitalist relationship, and the economic structures were based on subsistence models rather than on economic development.

Consequently, governance structures were also decentralized and more cooperative. Land was not understood as a commodity to be bought and sold but as a form of relationship that teaches us to be with one another. Thus, ironically when the structures of colonialism are more overt, colonized peoples may retain their own systems of governance because they have no investment in the colonial system. However, in recent years the language of colonization is now mediated

through a language of “truth and reconciliation.” Native peoples are promised resources if they agree to reconcile with the colonial government or articulate their claims in ways that can be recognized by the state.

In addition, in order to gain access to the court, Native nations often have to rely on “experts” such as anthropologists and lawyers in order to present their cases. These “experts” then begin to shape the public understanding of Native peoples rather than the peoples themselves. To gain recognition, Native peoples often have to prove themselves by claiming that their practices have never changed over time. They have to frame their communities in a very primitivist manner based on a very fixed understanding of identity and history. These representations then begin to shape the way Native peoples see themselves. They have to be frozen in the past and cannot be seen as living communities that evolve through history. Their relationship with land must also be fixed rather than based on a set of evolving relationships.

As a result, many communities began to shift in the way they are organized. The resources that were given created managerial positions for some Native peoples, creating class and other divisions. Communities stopped talking about alternative political economies and presumed capitalist economic development. Battles for language and cultural revitalization became separated from land struggles. Service provision was fought for instead of land title. It was acceptable under these terms of “reconciliation” to request funds for economic development or services but not to talk about sovereignty. People still talk about land struggle, but now they mean it more from the framework of land as a commodity so that they can use it for environmentally destructive economic programs.

Also because land claims were then seen in the language of property rather than in the language of relationship, communities began to understand themselves in bounded exclusionary terms in which they sharply distinguished themselves from others. Whereas before they might have an understanding of mutual obligations with other peoples over shared territories, they now began to engage in boundary disputes

It may also be the case that we are in a post-recognition era. For instance, in Australia, the government declared a state of emergency with respect to indigenous peoples in 2006. It claimed that all the statistics that show high levels of violence and addiction proved that the politics of recognition were not working and were allowing indigenous peoples to live in a “pre-modern” fashion. Consequently, the government seized indigenous land leases, cancelled community education programs, cancelled permit programs, and cut off funding to rural areas. The goal was to force indigenous peoples into the market economy. A book recently published in Canada, *The Aboriginal Industry*, makes similar arguments and calls for similarly devastating policies.

## Strategies

As in the cases of healing services and language revitalization, it is important to address land claims within a decolonial framework.

We have identified a possible four-fold strategy for articulating a reparations claim for land:

- 1) Truth telling in some form. A possibility could be a truth commission that forces people to recognize the reality of Native genocide. Such truth commissions, however, can sometimes be utilized by governments as a substitute for avoiding real reparations. Consequently, they should be seen as step toward a larger project of reparation, rather than as its substitute.
- 2) Dismantling the icons of U.S. imperialism. It is difficult to challenge genocidal ideologies when our lands are covered by icons that celebrate this genocide.
- 3) Reparations in the form of land return. A strategic demand would be to call for the return of all publicly held lands to the indigenous peoples to which they belong. Such a strategy would not threaten private landholders and hence might minimize political backlash. In addition, restoration of lands must include the development of an infrastructure that allows Native peoples in the diaspora to return home. This infrastructure would include access to sacred sites, development of water sources, environmental restoration, access to traditional foods, and communal living infrastructures. Native peoples living off their lands should also receive debt relief and other forms of financial support to return home.
- 4) Decolonization: You cannot apologize for oppression, and then keep all the systems in place that allow colonialism to continue. Certainly campaigns for apologies can be effective short-term strategy for public awareness in order to further a longer term goal of decolonization. But, apologies alone are insufficient and can serve to stabilize rather than challenge the status quo by rhetorically rendering injustice a problem of the past. Land rights struggles must be part of a larger project for decolonization that transforms the current political and economic status quo. Otherwise, we will simply replicate neo-colonial versions of the U.S. capitalist model in our communities.

Some communities are rejecting this politics of recognition. Consequently, they find themselves often completely displaced. But their strategy is to take land back rather than to ask for it, and to begin living traditional forms of governance through spiritual camps, traditional birthing clinics etc. These efforts are fragile and under-resourced, but they also reflect a higher degree of self-determination.

## Conclusion

Reparations are a strategy for politicizing Native communities. Rather than being positioned as having to beg for services, reparations campaigns highlight that we are entitled to services because of the human rights violations we have suffered. But for this strategy to be an effective political organizing tool, we need to build strong political movements for change so that this strategy supports our movements rather than co-opts them. Reparations can be a tangible way to represent the harms caused by human rights violations in boarding schools. A reparations movement can bring issues into public consciousness and can become a platform to call for changing conditions. If engaged in larger struggle, it can empower survivors to organize for even bigger changes. In addition, it can also be a strategy for Native peoples to begin coalescing with other reparations struggles in order to expand their political power.

But it is clear that reparations can be a problem if they are seen as an end goal rather than as a strategy to engage in the larger struggle for decolonization. To do so, it is important to contextualize boarding schools as part of a larger struggle against colonization and white supremacy that entails that we coalesce with all those who are also impacted by these structures of oppression so that we build a sufficiently large power base to change the world.

## Appendices

### *Timeline of Canada's Settlement of Residential School Abuses*

Full scale efforts to civilize aboriginal peoples did not begin until British hegemony was established in 1812 because military alliances with indigenous people were often needed by competing European powers. In 1846, the government resolved at a meeting in Orilla, Ontario, to fully commit to Indian residential schools. The state and the churches collaborated in the effort to civilize Indians in order to solve the “Indian problem.” The major denominations began carving the country among themselves. In 1889, the Indian Affairs department was created in which Indian agents were dispatched to aboriginal communities, and would threaten to withhold money from aboriginal parents if they did not send their children to school. Parents were even imprisoned if they resisted schooling their children. Indian agents prepared lists of children to be taken from reserves and organized fall round ups. In 1879, Nicholas Flood Davin, a Regina MP, sent a report to the federal government, advocating that Canada adopt a similar system to that of the United States established by Richard Pratt. Day schools were seen to be inadequate for civilizing aboriginal peoples. As in the U.S., residential schools focused on industrial education rather than academics, including agriculture and trades for boys and domestic training for girls. These schools were to be set up far away from their communities so that children would not be influenced by the cultures of their communities. By 1896, the Canadian government was funding 45 church-run residential schools.

In schools, Christian religion was mandatory. No expressions of aboriginal culture were allowed. Sanitary and physical conditions were poor, leading to a high disease rate. Overcrowding led to tuberculosis outbreaks. In File Hills Industrial school in Saskatchewan, 69 percent of students died of TB in one decade at the turn of the century. A medical inspector carried on an investigation and warned of outbreaks, but his report was largely ignored. The response of Deputy Superintendent of Indian Affairs was “If the schools are to be conducted at all, we must face the fact that a large number of the pupils will suffer from tuberculosis on some of its various forms.” At Upker Island, the Indian Affairs’ own files estimated that 40 percent of children died before they returned home.

Children were also physically and sexually abused. In 1990, the Special Advisor to the Minister of National Health and Welfare on Child Sexual Abuse stated that in some schools, 100 percent of children were sexually abused. They were forced into hard labor and frequently whipped and beaten if they spoke aboriginal languages or expressed aboriginal cultural identity. In 1907, the *Montreal Star* and *Saturday Night* reported on a medical inspection of schools that found a death rate of 24 percent of children in schools, and 42 percent including children who died at home where they were sent when they became critically ill.

In 1991, the Royal Commission on Aboriginal Affairs issued a report documenting abuses in residential schools. “Children were frequently beaten severely with whips, rods and fists, chained and shackled, bound hand and foot and locked in closets, basements, and bathrooms, and

had their heads shaved or hair closely cropped.” It further reported that children had their faces rubbed in excrement and urine. The typical punishment for children who ran away from school was to run a gauntlet where they were beaten severely.

Because so little time was spent on academic preparation, the schools were not successful. According to the Indian Affairs own statistics, by 1938, 75 percent of aboriginal children were below grade 3, and only 3 in a 100 made it past grade 6. By comparison, half of children in school were past grade 3, and a third were past grade 6. By 1986, nearly half of all aboriginal peoples on reserve had less than a grade 9 education, and less than one quarter had a high school diploma. Educational achievement is increasing for aboriginal peoples, but it is still substantially less than the general population.

Residential schooling reached its peak in 1931 with over eighty schools in Canada. From the mid-1800s to the 1970s, about a third of aboriginal children were confined to schools, most of whom were there for the majority of their childhoods. The last school closed in 1984.

One of the first cases of residential abuse was filed by Willie Blackwater and 23 other men against school supervisor Arthur Henry Plintt, the United Church of Canada, the federal government, and the former principals of the Alberni Indian Residential school. Plintt was also criminally charged with 16 counts of sexual abuse between 1948 and 1968. He was sentenced to 11 years in prison. Before the sentence, B.C. Supreme Court Justice Douglas Hogarth described the residential school system as “nothing more than institutionalized pedophilia.” Since this abuse has become public, the Royal Canadian Mounted Police started a taskforce to investigate allegations of abuse in residential schools. By 2000, they had received 3,400 complaints against 170 suspects. Only five people were charged. By 2001, 16,000 aboriginal peoples had begun a legal claim against the churches or government (which is 17 percent of living residential school alumni). Still, very few perpetrators actually received criminal convictions.

In 1991, Indian Affairs minister Tom Siden refused demands for aboriginal inquiry into residential schools. He said there would be no apologies, no compensation, no admission of government liability, and he said he would shelve any recommendations from the Royal Commission on Aboriginal Peoples which was conducting a report that included residential schools. Instead, rather than focus on government accountability, the government strategy would be to focus on community healing from abuse. This focus was criticized by many as an attempt to allow the government to escape accountability by framing the issue as one where Indigenous peoples were “sick” and needed healing.

By 1992, most churches began issuing apologies for their complicity in residential school abuses, but also demanded that the Canadian government take responsibility for its role as well. Soon, the level of lawsuits filed against churches threatened some churches with bankruptcy. In 1995, the federal government began to quietly pay out-of-court settlements to 50 former students in government-run schools without formal acknowledgment or apology. The Royal Commission on Aboriginal Peoples issued a 1996 report after five years of research, including over 60,000 school files, concluding that there should be public hearings across the country, and that remedies should include compensation to enable communities to heal.

In 1997, a May inquiry into abuse in Alkali Lake and the suicide of one activist, helped prompt more federal intervention. Finally, in 1998, the government set aside \$350 million to support community-based healing initiatives to be administered through the independent Aboriginal Healing Foundation which was given a one-time endowment for a ten-year mandate.

In 2003, a National Resolution framework was instituted that was supposed to expedite a settlement process.

In 2007, a \$2 billion settlement was announced to redress the \$11 billion in lawsuits in order to “close the sad chapter” of residential school abuse. \$20 million was set aside for a truth and reconciliation commission and to commemorate the legacy of residential schools. This settlement includes a lump sum payment for all survivors, a new process to deal with serious claims of abuse, expedited payments for elderly survivors, and funding for healing and educational programs.

### **For Further Reading**

Aboriginal Healing Foundation Report on Truth and Reconciliation for Residential School Abuse  
<http://www.ahf.ca/publications/research-series>

Corntassel, Jeff and Cindy Holder. "Who's Sorry Now? Government Apologies, Truth Commissions, and Indigenous Self-Determination in Australia, Canada, Guatemala, and Peru," *Human Rights Review* DOI 10.1007/s12142-008-0065-3

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De Greif, Pablo (ed). *The Handbook of Reparations*. Oxford: Oxford University Press, 2006.

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Lenzerini, Federico (ed) 2008. *Reparations for Indigenous Peoples: International and Comparative Perspectives*. Oxford: Oxford University Press, 2008.

Smith, Andrea. *Conquest: Sexual Violence and American Indian Genocide*. Cambridge: South End Press, 2005.

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*2008 Critical Appraisal of Reparations Meeting Attendees*

Boarding School Healing Project

International Center for Transitional Justice (Lisa Magarrell, Virginie Ladisch, Martin Chapman)

Invited Guests:

Peggy Bird

Glen Coulthard

Richard Grounds

Richard LaFortune

Barbara Meek

Dian Million

Gerry Oleman

Elizabeth Povinelli

Waziyatawin

Other participants:

Anita Isaacs (spoke about Guatemala)

Ellen Lutz (on New Zealand)

Anexa Alfred (Inter American Commission on Human Rights)

Additional Information provided by:

Jeff Cornassel

The International Center for Transitional Justice provided much assistance, but is responsible only for the report's sections on international legal standards of reparations (pages 9-11) and on individual and collective reparations (15-16).