

# UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES

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## **The urgent need for criteria helping to identify and denounce different forms of forced integration**

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## **Introduction:**

Article 8 of the United Nations Declaration on the Rights of Indigenous Peoples deals with assimilation and forced integration:

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:
  - a) **Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;**
  - b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
  - c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
  - d) **Any form of forced assimilation or integration;**
  - e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

The UN appears to have definitively recognized that assimilation and forced integration are actions which have the same goals and effects and which may, on the basis of article 8 cited above, be defined as follows:

*A policy of assimilation or forced integration consists in a set of strategies and methods planned to prevent certain populations from obtaining the conditions and means at the social, economic and political levels necessary for ensuring respect of their right to their distinct identity.*

In extreme cases, a policy of assimilation uses military and/or police repression. But the above-cited article refers to other means of repression as well, such as forced transfer, propaganda and discrimination.

However, the evolution of democratic societies and the values of their populations is such that fewer and fewer States are able to openly declare policies of assimilation, and even less, to use such means as military and/or police repression. We must include in this context the emergence of international law and the legal recognition of the rights of First Nations. Consequently, some States, while continuing to favour policies of assimilation, are forced to give the false impression that they are doing the opposite and to use misleading strategies and methods.

Therefore we must not be too astonished by the adoption of official policies which recognize the rights of Indigenous peoples; as these policies all too often come with the implementation of strategies and measures intended to ensure their failure. In making their populations believe that assimilation is no longer an objective, States enormously reduce the pressure exerted by informed public opinion at the national and international levels. But when the gap between the standards of living of Indigenous people and the non-Indigenous population continues to widen, we see that there is very much room for serious doubts about the official policies and stances of some States.

In Canada, it is a recognized fact that education has been used as the privileged means for assimilating First Nations. But First Nations are seeking today to regain control of their education to counter two centuries of official policies of assimilation. In this sense, it is necessary to clearly distinguish between voluntary integration and forced integration into the dominant society.

*In the first case, the First Nations' right to exercise their jurisdiction over their own institutions is fully respected and supported, and partnerships are created on a voluntary basis upon the initiative of First Nations. In the second case, an effort is made to compromise the ability of First Nations to administer schools under their jurisdiction, with a view to demonstrate and impose integration into the institutions of the dominant society and the resigned submission to its laws and rules as the only truly viable option.*

The objective of this paper is to demonstrate the urgent need to establish criteria for identifying and denouncing the different forms that forced integration policies can take, including military or police repression, but bearing a wider scope. The FNEC, in collaboration with the AFNQL, will show here, using specific information in the area of education, that certain actions and inactions on the part of governments must be interpreted as leading inevitably to forced integration. Supported by strong evidence, this paper sets out an approach for the establishment of equally strong criteria that can be used to identify and denounce strategies of forced integration as seen in certain government actions and inactions.

Our concern in this regard is one shared by the United Nations' Special Rapporteur on the rights of Indigenous Peoples. In his 2007 report, he exhorted States to go beyond the standards established to ensure respect of the rights of Indigenous peoples by complying to and effectively implementing recommendations exactly as they are set out.



## **About the FNEC and the AFNQL**

The First Nations Education Council (FNEC) is a regional organization that represents 22 communities in eight First Nations in Quebec ([www.cepn-fnec.com](http://www.cepn-fnec.com)). With close to 25 years of experience in First Nations education, the FNEC has on numerous occasions had the opportunity to assess the scope of the hidden agenda of the federal government, which to this day continues to pursue the objective of assimilating First Nations as wholly as possible into the dominant society. The federal government's actions in First Nations education over the years clearly show that it does not want to bring about a successful education system under the jurisdiction of First Nations.

The Assembly of First Nations of Quebec and Labrador (AFNQL) is a political organization representing 11 First Nations in Quebec and Labrador. Founded in 1985, it strives to achieve the recognition of First Nations governments and to establish nation-to-nation relationships. Further to the FNEC, other commissions associated with the AFNQL are active in various sectors.<sup>1</sup> Like the FNEC, all of them are confronted with policies that point to forced integration.

## **Assimilation of First Nations: Three steps – three strategies**

### **1. The residential school era: “Kill the Indian in the child”**

This era is amply illustrated by such quotations as the following:

*“I want to get rid of the Indian problem. Our objective is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian Question and no Indian Department.”*

*Duncan Campbell Scott, Deputy Superintendent General, Indian Affairs, 1920*

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<sup>1</sup> First Nations of Quebec and Labrador Health and Social Services Commission (FNQLHSSC), First Nations Human Resources Development Commission of Quebec (FNHRDCQ), First Nations of Quebec and Labrador Economic Development Commission (FNQLEDC), First Nations of Quebec and Labrador Sustainable Development Institute (FNQLSDI) and First Nations of Quebec and Labrador Youth Council (FNQLYC).

The residential school era, which is very well documented, ran for more than a century, extending beyond the 1960s. The following excerpt from the apology made by the Prime Minister to First Nations on June 11, 2008 traces out a portrait of that period:

*I stand before you today to offer an apology to former students of Indian residential schools. The treatment of children in these schools is a sad chapter in our history.*

*For more than a century, Indian residential schools separated over 150,000 Aboriginal children from their families and communities.*

*In the 1870s, the federal government, partly **in order to meet its obligation to educate Aboriginal children**, began to play a role in the development and administration of these schools.*

*Two primary objectives of the residential schools system were to remove and isolate children from the influence of their homes, families, traditions and cultures, and to **assimilate them into the dominant culture**.*

*These objectives were based on the assumption that Aboriginal cultures and spiritual beliefs were inferior and unequal.*

*Indeed, some sought, as it was infamously said, to “kill the Indian in the child.”*

*Today, we recognize that this policy of assimilation was wrong, has caused great harm, and has no place in our country. One hundred and thirty-two federally-supported schools were located in every province and territory, except Newfoundland, New Brunswick and Prince Edward Island.*

## **2. Two attempts by the federal government to finish once and for all with the “Indian question”**

The closing of the residential schools did not bring an end to the Canadian government’s desire to remove the special status of First Nations and to abandon its responsibilities for them. Striking and irrefutable proof of this is given by two examples from the 1960s.

In 1964, the federal government met with the provinces<sup>2</sup> and indicated that it wanted to transfer responsibility for First Nations programs and services to them. While First Nations were seeking to re-establish a nation-to-nation relationship with these governments, the federal government wanted to place them under provincial jurisdiction. This meant, in pure and simple terms, a negation of the status of First Nations as peoples and an abdication of the federal government's responsibilities towards them. For different reasons, the provinces and First Nations opposed this project of the federal government.

In 1969, the federal government went back on the attack with its "**White Paper**," a policy statement announcing its intention to repeal the *Indian Act* and abolish Aboriginal titles and rights, which would bring about the end of the historical relationships stemming from nation-to-nation treaties. In other words, the White Paper proposed nothing less than finishing once and for all with the Indian question, by making Indians Canadian citizens without special status.

The "**White Paper**" was met with explosive and unified opposition by First Nations and the government was forced to backtrack. The indignation of First Nations led to the publication in 1972 by the National Indian Brotherhood (today the Assembly of First Nations) of a policy statement entitled **Indian Control of Indian Education**. With this document, First Nations reaffirmed their inalienable right to control the education of their peoples. In 1973, the federal government adopted this policy statement as the foundation of its education policy for First Nations.

But subsequent events revealed a hidden agenda and thus a strategic retreat, not the abandonment by the federal government of its longstanding desire to absorb First Nations fully into the dominant society.

### **3. Policies of forced integration under false representation**

The past 40 years are replete with facts demonstrating that the federal government has never abandoned its objective of forced integration, despite claiming otherwise. An analysis of the *First Nations Governance Act* by Anasazi, an Aboriginal publishing firm (cited by Kairos<sup>3</sup>), affirms that:

*"Today, the same White Paper principles have emerged as separate elements on the government assembly line...Now that all the components are manufactured; they can be assembled as an end product to reveal the same old White Paper."*

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<sup>2</sup> Andrew Webster. 'The Indian Problem Today: The History and Trajectory of Cost-Avoidance and Offloading' – Draft - Discussion Paper prepared for The Assembly of First Nations, March 31, 2008.

<sup>3</sup> Source: <http://www.kairoscanada.org/en/solidarite/droits-des-autochtones/analysis/lqpn/>  
Kairos is a Canadian church-based social justice movement.

The above analysis concludes that the same objective of assimilation is still being pursued, despite the Prime Minister's apology for the Indian residential schools and despite article 8 of the United Nations Declaration on the Rights of Indigenous Peoples, which was adopted on September 13, 2007 and condemns forced integration in the following terms:

*Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.*

*States shall provide effective mechanisms for prevention of, and redress for: (4) Any form of forced assimilation or integration;*

The following sections of this paper deal with this third step, which is marked by a policy of forced integration under false representation. Several facts taken from the area of education will show that without resorting to military or police repression, the Canadian government is going against its own official discourse by using strategies that are much more subtle – and thus more difficult to detect and condemn – to achieve the same result it sought during the residential school era and the 1960s, namely forced integration/assimilation.

### 3.1 Funding policies: Planned failure

#### ➤ Outmoded formula for the funding of First Nations schools

The formula used to provide the funding of First Nations schools in Canada dates back to 1988. It is important to specify that no analysis of the real costs was conducted to assist in the elaboration of this formula. It was simply a formula developed for distributing an arbitrarily determined budget envelope among the First Nations schools.

Contrary to the up-to-date funding formulas for the provinces' schools, the formula for the First Nations schools has not been revised to take account of the many new developments in education. Nothing has been done since 1988 to update this formula and to allow funding of First Nations' schools to follow the same normal evolution that we see in the school systems of Canada's provinces. This holds true in terms of support for information technologies in the schools, operation of school libraries, professional development, updating of school books, etc. In addition, the federal government claims that the formula covers certain other costs (i.e., curriculum development, language teaching, school transportation, school construction and renovation), even though the amounts allocated for these costs are well below those allocated by other education systems.

With regard to the funding of language teaching, the inequitable treatment that exists in Quebec pervades as follows: in 2008, for purposes of teaching French to new immigrants, the provincial school boards received an additional grant of \$2,082 per student at the elementary school level and \$3,253 per student at the secondary school level. In contrast, the FNEC member communities receive only \$185 per student per year for learning an Aboriginal language and \$190 per student per year for learning a second official language. Canadian Heritage adds an amount of about \$5,000 per community for carrying out Aboriginal language projects. It is easy to see that the schools can hardly run projects of any significant scope given the limited funding. It is important also to note that 60 Aboriginal languages are endangered and that a program for revitalizing them, worth \$160 million in funds, was abolished in 2006.

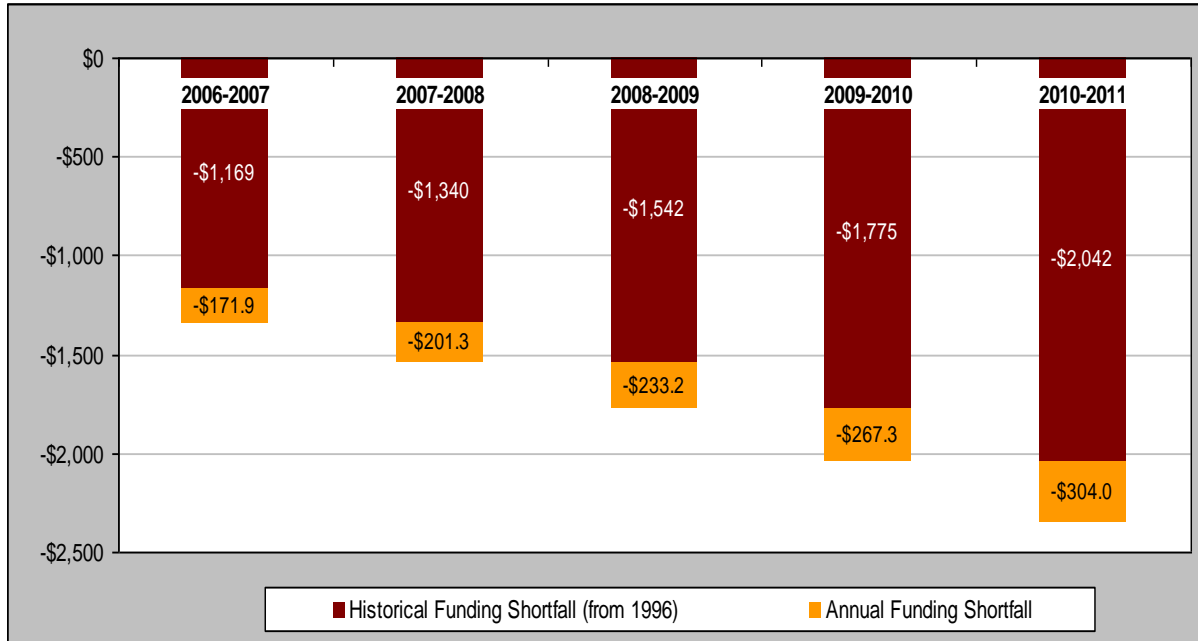
The federal formula for First Nations education funding has not been indexed since 1996 to take account of the increase in the cost of living and the strong demographic growth in First Nations. Beginning that year, the federal government imposed a 2% cap on annual funding increases for all First Nations programs. This 2% cap, which is not even always reached, remains in effect in 2009.

According to a recent analysis conducted for the years 1996 to 2008 by the FNEC,<sup>4</sup> the provincial education systems in Canada have seen their annual funding increase by an average of 3.8%. But demographic growth and the increase in the cost of living required just an increase of 2.8% for these systems. On the other hand, the annual funding increase for First Nations schools has been limited to a cap of 2%, whereas the strong population growth in First Nations combined with the increase in the cost of living required additional funding of 6.2%. The shortfall created by this ceiling is illustrated by the figure 1.

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<sup>4</sup> Paper on First Nations Education Funding, FNEC, February 2009.

**Figure 1: Shortfall in First Nations education funding (per million dollars), BOFF – Instructional Services, Canada**



Source: Calculations based on an analysis by the AFN, 2006 <http://www.afn.ca/article.asp?id=2499>

In all of Canada, First Nations education thus suffered an accumulated shortfall of \$1.5 billion between 1996 and 2008. If nothing is done to halt this trend, the accumulated shortfall will exceed \$2 billion in 2010. For 2008-2009 alone, the shortfall comes to \$233 million, whereas the overall budget for the First Nations schools is \$690 million.

In 2008, the federal government announced an investment of \$268 million over five years (which was subsequently made into a four-year period due to a delay in the publication of guidelines for programs and approval of projects). This amount will reduce the shortfall of \$268 million to approximately \$200 million for 2008-2009. Thus, there will be an important shortfall of more than \$200 million in each of the next five years.

*We need to sound the alarm because the very future of the First Nations schools is jeopardized by significant and repeated shortfalls every year for the past 12 years, which the federal government refuses to end!*

➤ No funding of support services for First Nations schools

Even though First Nations have been administering the schools in their communities since the 1970s, their regional organizations have never received funding or official recognition allowing them to offer second-level and third-level services. This situation is unique in Canada because all the provincial systems provide funding for these services. And it is a situation which holds true despite the fact that:

- The Report of the Royal Commission on Aboriginal Peoples, published in 1996, recommended that the federal government provide First Nations with funding for regional and national structures.
- *Our Children – Keepers of the Sacred Knowledge*, the report published in 2002 by the Minister's National Working Group on Education, recommended the funding of regional organizations.
- In 2005, Indian and Northern Affairs Canada Minister Andy Scott indicated that creating and developing First Nations regional structures was at the core of his strategic policy directions.
- The position of the Caledon Institute of Social Policy and the C.D. Howe Institute is that the current model for the organization of First Nations education is outdated. They have recommended the creation of education systems which are managed by First Nations and are comparable to the systems in the provinces.

Moreover, in December 2002, following a vast consultation of its member communities, the FNEC published a report entitled "The Destiny of Education for First Nations Children – Priority Intervention Areas." The priority areas for action identified by this report include second-level support services. The report was officially submitted to the Minister's office in 2002 and in 2005.

Subsequent to this report, a five-year action plan was presented at the First Nations Socio-Economic Forum, which was held in Mashteuiatsh in October 2006. The Minister for INAC did not want to follow up on this plan and limited his action to signing an agreement which would provide the FNEC with funding to conduct another study for specifying the options in the delivery of second-level services. This new study was carried out in 2007, with the final report completed in 2008. Following this study, the FNEC produced a second five-year plan, entitled "Five-Year Plan for Reinforcing a First Nations Education System by Implementing Essential Services in Support of the FNEC Member Communities."

This second five-year plan of the FNEC was presented to INAC national headquarters in November 2008. Despite the commitment made by the Minister through the agreement signed with the FNEC to collaborate in the implementation of a more complete education system, INAC indicated that it did not have the funding to follow up on this action plan. The FNEC received the following reply, which was typical of the answers given in response to the many actions and studies undertaken by First Nations: “Congratulations on your good work. You have done a tremendous job, which will help us in making sure your needs are met. Unfortunately, we cannot follow up on it, because the only funding available is for our two new programs.”

A few days later, INAC revealed the guidelines for its two new programs which had been announced in February 2008. This confirmed both the notorious lack of political will to give consultations held with First Nations their proper importance and the disregard of solutions put forward by the multitude of reports and studies stemming from those consultations.

➤ Funding requirements making it difficult to manage basic education services

No provincial education system has to fund its schools by means of the large number of contribution agreements that the federal government forces on First Nations. Funding through contribution agreements presents several disadvantages such as:

- The absence of permanent funding which would make long-term planning at least possible;
- Fragmented management due to a total lack of flexibility in budgetary allocations;
- The large number of proposals that must be submitted, and the time needed to prepare them, to obtain funding that is often minimal in relation to the effort involved;
- The large number of reports that must be submitted and the time needed to write them, to justify the spending for each project.

In 2002, the Auditor General published a report entitled “Streamlining First Nations Reporting to Federal Organizations.” The points we have just made are well illustrated by the following excerpt from that report:

*First Nations reporting requirements established by federal government organizations are a significant burden, especially for communities with fewer than 500 residents. We estimated that at least 168 reports are required annually by the four federal organizations that provided the most funding for major federal programs.*



*We found overlap and duplication among the required reports. With the exception of some financial reports, limited use is being made of the reports by the federal organizations sampled, and we suggest that fundamental change is required. We found the following:*

- Reporting requirements are dictated and not based on consultation.*
- The information reported is generally not used to set funding levels.*
- The reports contain information that does not reflect community priorities.*
- We note that new reports are being introduced with little or no review of the reporting requirements for existing programs, adding to the reporting burden.*
- There is little feedback to First Nations, except for an analysis of audited financial statements.*
- Most required reports for Indian and Northern Affairs Canada (INAC) and Health Canada do not provide adequate information on performance or results.*
- Little of the information being collected from First Nations is being used by a number of the federal organizations in their reports to Parliament.*

*We are concerned about the burden associated with the federal reporting requirements. Resources used to meet these reporting requirements could be better used to provide direct support to the community.*

Furthermore, the federal government allocates the education budget on the basis of a fiscal year running from April to March, whereas the schools operate on a school year running from September to June. The refusal to make a simple modification to this requirement has enormously and futilely complicated the lives of our schools' administrators.

Finally, the following excerpt from an evaluation plan of Indian and Northern Affairs concerning the risks related to programs also illustrates very well the scant attention that the federal government gives to the recommendations made by its own bureaucracy:

*“The government’s funding instruments may be poorly suited to the objectives and business of this department, as they focus on short-term activity, compliance monitoring and reporting to government rather than creating First Nations governments with a long-term vision who are accountable to the communities they serve.”<sup>5</sup>*

➤ Favouritism towards schools in the provincial system

In general, major and chronic under-funding of the First Nations education systems make them less competitive with the provincial systems. Even more, by providing the provincial schools with additional funding to take in First Nations students living on-reserve than it provides to the First Nations schools, the federal government is further confirming its intention to unduly favour the provincial schools and its intention to force the integration of First Nations into the provincial systems. Following are some cases which illustrate very well the strategy which ensures favouritism of the provincial schools:

- In general, the schools under provincial jurisdiction which serve a large number of First Nations students receive better funding than the First Nations schools do for their own children:
  - For example, in British Columbia, School District No. 49 (provincial jurisdiction, 69% Aboriginal students) receives four times more funding per student for language teaching than the band schools do (\$865 vs. \$215).
  - The Cree School Board in Quebec receives 75% of its funding from INAC, with the remaining 25% coming from the province. In 2004-2005, it received funding of \$22,258 per student, more than twice the average amount of funding allocated to the schools of the FNEC’s member communities.
  - In Manitoba, INAC provides more funding for on-reserve children attending a provincial school than it does for children attending the school in their community. Some First Nations members have been told that their schools should be placed under provincial jurisdiction, which would allow them to immediately double their funding.

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<sup>5</sup> INAC, Evaluation Plan 2007-2008 to 2011-2012.

- In Quebec, the children in one FNEC member community have to travel from home on Sunday evening to be ready for school the next day in a school in a city 75 kilometres away. They then need accommodations to stay the whole week in that city. The community has a school expansion project to keep some of these children at home. Their negotiations with INAC have shown them the important gap between the amount the government will pay to send the children away from the community and the amount it will pay to keep them in the community.
- The special education program is funded by a closed budget envelope. However, there is no established cap for the amount of funding that goes to the provincial schools. Provincial schools which provide special education services to on-reserve children need simply present INAC with a bill for those services and INAC will pay it. One of the perverse effects of this situation is that any increase in the overall amount billed by the provincial schools entails a corresponding decrease in the funding that could have gone to the First Nations schools.
- There are certain measures which penalize First Nations post-secondary institutions:
  - First Nations post-secondary institutions are not authorized to grant degrees and diplomas autonomously. To do so, they must form associations with non-Aboriginal institutions, a requirement which is also the main condition for becoming eligible to receive grants. This does nothing to resolve the crucial issue of under-funding, because First Nations institutions are also affected by chronic under-funding. Here is what the Standing Committee on Aboriginal Affairs and Northern Development had to say about this situation in its report published in 2007 (showing once again how little importance the federal government gives to the findings of its own bureaucrats):

*“Although time constraints prevented the Committee from pursuing this topic as fully as it merits at this time, our study has enabled the Committee to gain some insight into the position of Aboriginal post-secondary institutions under the present ISSP program. According to the National Association of Indigenous Institutes of Higher Learning, there are currently 64 such institutes in Canada. While highlighting the successes and proven benefits of these institutions for Aboriginal learners and their communities, our contributors expressed concern about the inadequate and unstable ISSP funding they currently receive.*

*The First Nations Technical Institute informed the Committee that ISSP funding of First Nations institutions in Ontario on the basis of annual proposals - which the Committee understands is the normal practice under PSE Program guidelines - has remained largely unchanged for a decade, with the result that*

*FNTI would require a 72% increase to its current allocation just to have the same spending power that it had a decade ago. A similar result would apply to other ISSP.”*

- A study of government policy conducted in 2005 by the Aboriginal Institutes' Consortium and published by the Canadian Race Relations Foundation summarizes the situation as follows:

*“Government policies have relegated Aboriginal institutions as second-class institutions, reliant on ‘mainstream’ institutions to validate their programs and grant diplomas and certificates. The potential for Aboriginal institutions to be in an equitable position where government funding is available, where the transfer of credits is honoured, where faculty and infrastructure are established, is not available within current legislation or policy.”*

- Special education: An issue which encapsulates the entire situation

The situation regarding special education speaks long and loud about the Canadian government's inertia and lack of will.

In the mid-1980s, while all other Canadian children with learning difficulties had the right to receive special education services, recognition of this right did not extend to include First Nations students attending schools in their communities. Yet, one of the objectives of the elementary and secondary education program of INAC is to allow First Nations children to receive education services comparable to those provided in the provincial schools.

However, all of the demands made by the FNEC to bring an end to this injustice were in vain. The FNEC thus initiated a new initiative to force the federal government to respect the right of First Nations students to special education services. This approach can be summarized in five main steps as follows:

- In 1990, the FNEC created a first committee. Without financial support from the federal government, this committee held a consultation of the member communities in 1991 and 1992. The consultation revealed the scope of the needs; no fewer than 52% of elementary and secondary school students require special education services. The committee drew up a policy and then in 1993, it produced a funding formula for special education services. All of this work was submitted to INAC, which merely acknowledged receipt of the documents and did not follow up on them.
- In 1994, following a meeting with INAC, it was decided to create a joint FNEC/INAC committee. INAC took seven months to name its representatives to the committee. After becoming operational, the committee developed various proposals, which were all rejected for one reason or another. For example, INAC would say that a certain proposal exceeded the department's capacity to pay for it, or it would say that the evaluations had been poorly

conducted without, however, any analysis to justify their conclusions, and so on. Independent consultants<sup>6</sup> were hired to validate the analyses carried out by the FNEC, but INAC still considers these experts as unreliable.

- In 1997, INAC accepted the creation of a three-year pilot project as a preliminary step to establishing a permanent program. A needs assessment was conducted and the final report for the pilot project was submitted in 2001. The results showed that during the year preceding the submission of the report, 48% of students with special education needs were receiving special education services thanks to the pilot project. Important needs had been demonstrated, but still no consideration was given to providing funding for creating a permanent national program. For the 2001-2002 school year, only non-recurring amounts were allocated to maintain the services that had been established by the pilot project.
- In 2002, a budget of \$60 million over two years for services in Canada overall was announced as part of the federal budget. The good news was that the federal government now recognized that First Nations children throughout the country were entitled to these services. The bad news was that this budget took no account of the importance of the needs identified by the pilot project, nor of any national policy, even though the pilot project's objective had been precisely to set the foundations for a true national policy. In 2004-2005, there was still no national policy on the horizon; funding was extended again for one year, on a temporary basis.
- In 2005, after a determined and unrelenting 15-year struggle by the FNEC, the federal government finally recognized the need for a national policy and for recurring funding.

*Fifteen long years of work by committees, mobilization, consultations and multiple reports were necessary to force recognition of a right to services to which all other children in Canada were already entitled.*

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<sup>6</sup>**Jerry Paquette**, Ph. D., Associate Professor since 1991 in the Faculty of Education at the University of Western Ontario, specialist in educational policy and funding, education of minorities in general and the First Nations in particular And

**Égide Royer**, Ph. D., Associate Professor in the Faculty of Education at Université Laval, specialist in school adaptation and behavioural problems, and their relationship with school success and school violence.

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➤ Abuse of procedures

As previously mentioned, the Auditor General of Canada published a report in 2002, bringing to light the exorbitant number of administrative requirements (project submissions, reports, etc.) imposed on First Nations administrators.

Two years earlier, the Auditor General's report for 2000 deplored the costs of not following up on studies in these terms:

*4.26. Although we are concerned that costs have been incurred to produce studies that have been left dormant, we believe that the costs of remedial inaction are greater (pp. 4-10).*

*4.66. We have also observed that current methods used to allocate funds from the Department's headquarters to its regions are based largely on information that was developed at least 15 years ago. The Department has no updated analyses to determine whether the current practice reflects actual education needs and is reasonable in the circumstances.*

Nevertheless, First Nations still have to produce too many unnecessary reports, while the data and conclusions of the numerous studies carried out remain unused.

The only two new education programs that were announced in 2008, without prior consultation with First Nations, are funded by a contribution method. The effect will be yet another increase in the number of proposals and activities reports that must be produced.

Alongside the endless studies, we note that going back four or five years, eleven joint national First Nations/INAC working groups were created.<sup>7</sup> But beginning in 2006, the majority of these groups were paralyzed when their funding was cut off by the newly-elected federal government. With a few exceptions, none have been able to continue their work. This provides the most recent and conclusive example showing that the results of consultations and analyses are simply shelved along with the pile of reports, as was mentioned in the Auditor General's report in 2000.

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<sup>7</sup> Eleven working groups were created to deal with certain topics, including the band school funding formula; special education; early childhood; post-secondary education and adult education; Jurisdiction; school systems and legislation; roles and responsibilities; languages; performance measurement; etc.

### 3.2 Policy for implementing First Nations' jurisdiction: A sham exposed

The Canadian Constitution recognizes the First Nations' right to self-government. But the government has imposed a negotiation framework that hamstrings the entire process for implementing this right, thus ensuring that it cannot succeed. Following is an excerpt from one government document (Aboriginal Self-Government: Federal Policy Guide) regarding self-government:<sup>8</sup>

*"The Government of Canada recognizes that there will be new costs associated with the transition from the existing regime to implementation of new self-government arrangements. **There will not be, however, a separate source of funding for implementation and transition costs. All federal costs associated with the implementation of self-government agreements will have to be accommodated within existing federal expenditures.***

***In addition, self-government agreements, including treaties, will not include any program enrichment."***

In other words, the policy that is supposed to lead to the legal jurisdiction of First Nations clearly indicates that no consideration will be given to the resources necessary for making jurisdiction possible. This is a condition intended solely to guarantee failure!

The above excerpt is in flagrant contradiction with the recommendation in the Report of the Royal Commission on Aboriginal Peoples (1996) that:

*3.5.2. Federal, provincial and territorial governments collaborate with Aboriginal governments, organizations or education authorities, as appropriate, to support the development of Aboriginally-controlled education systems by:*

*(...)*

***c) providing funding commensurate with the responsibilities assumed by the Aboriginal nations and their communities, or voluntary organizations, given the requirements of institutional and program development, costs of serving small or dispersed communities, and special needs accruing from past failures of education services.***

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<sup>8</sup> Aboriginal Self-Government: Federal Policy Guide

Six years later, the report by the Minister's Working Group on Education<sup>9</sup> put forward the same recommendation (recommendation no. 4):

*“(that) the Minister and First Nations, working with departmental and other officials, identify the real and projected costs of a First Nations holistic education system with a special focus on:*

- *costs associated with First Nations jurisdiction and jurisdictional issues in education;*
- *costs to establish and maintain a First Nations community and regional education infrastructure.”*

### 3.3 Public disinformation: A battle of images and the harm it does to First Nations

In Canada, there is a longstanding myth that “Indians cost the Canadian government an enormous amount of money.” This myth is carefully nurtured by the federal government itself, as seen in its communication strategy which can be summarized by the idea that the government is generous and well-meaning towards First Nations. Government officials never lose the opportunity to declare that the government is investing “important amounts” to ensure the well-being of First Nations. The ordinary citizen obviously does not know that:

- These amounts include the salaries and costs of a non-Aboriginal administration created for purposes of “managing Indians.” Indian and Northern Affairs alone has more than 5,000 employees;
- Costs go primarily to providing the same essential programs and services provided to all other citizens. These non-Aboriginal citizens receive services from the three levels of government (municipal, provincial and federal), and from a multitude of community organizations and private enterprises. Funding of First Nations comes under the responsibility of the federal government. At the end of the day, the expenses incurred for access to essential services for non-Native citizens exceeds the cost of the same essential services for First Nations;
- A good portion of First Nations funding ends up in the coffers of all the institutions which are paid for the services they provide to First Nations; provincial and private schools, colleges and universities, health establishments, private companies, and so on. Thus, a large amount of this funding contributes to the economic growth of Canadian institutions which are already doing much better economically than First Nations.

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<sup>9</sup> *Our Children – Keepers of the Sacred Knowledge*, Report of the Minister's National Working Group on Education, 2002.



The socio-economic conditions in First Nations, often termed as being third-world in nature, refute the supposed generosity of the federal government. Yet the government tries to shift the blame onto the shoulders of First Nations. Public opinion is led to view them as bad managers who fail to bring about positive results and who cannot demonstrate accountability. In other words, First Nations are seen as the authors of their own misfortune, even though federal bureaucrats are not able to offer any support to these allegations concerning the shortcomings of First Nations. On the contrary, the Auditor General has denounced the excessive number of useless and burdensome reports that the bureaucracy of the federal government forces on First Nations.

In short, we are witnessing a skilful campaign being waged by a government that wants to polish its own image by casting First Nations in as bad a light as possible.

### 3.4 David and Goliath and the limits to free expression

The federal government has means that far outstrip those of First Nations for reaching the media (and in the case of the federal government, getting its propaganda out). To this we must add the threats made by the new government towards First Nations that might hold demonstrations to denounce the injustices they are suffering.

Indeed, the current government is threatening to reduce the funding of First Nations organizations that want to hold demonstrations to denounce what they consider an attack against their most fundamental rights. Ted Yeomans, the spokesman for INAC Minister Chuck Strahl, said the following about the federal government's position:

*"Our government remains committed to the position last year where we would review any organization's funding if they were to contribute financially to the planning of a protest or blockade."*

We must seriously question the kind of respect given by the federal government to the freedom of expression and freedom of assembly of First Nations.

According to Article 19 of the Universal Declaration of Human Rights:

*"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."*

### 3.5 The government officially returns to its goal of integration

In the budget speech of February 26, 2008, the federal government announced the following allocation for First Nations education:

*"...\$70 million over two years to improve First Nations education outcomes through enhanced accountability and **by encouraging integration with provincial systems.**"*

Not since the White Paper of 1969 has such an intention been so openly restated. It is obvious that making funding dependent on integration, within the context of an alarming lack of funding for essential services, has nothing to do with a voluntary measure. Thus, more than ever before, the path has been set for the next few years to totally absorb First Nations into the dominant society.

This is a process already well underway, as borne out by the facts: the federal government, while claiming to recognize the First Nations' right to self-government, has imposed on them more or less total submission to provincial jurisdiction (integration with the provincial systems).

We see illustrations of this situation in the following areas:

- Education: the government imposes compliance with the provincial curriculum;
- Youth protection, health services, childcare services and police services: provincial law must be applied in all these cases;
- Water and wastewater systems: provincial standards must be applied;
- Post-secondary institutions: cannot grant degrees or diplomas unless they form associations with non-Aboriginal provincial institutions (college, university). In addition, the Aboriginal institution becomes subject to the regulations of the non-Aboriginal institution.

What can we conclude about the reappearance of the word "integration" in the federal government's official discourse? Does it mean the government is fully committed to on the verge of achieving this objective? Does this explain why the government appears to be less and less concerned about hiding its true intentions?

### 3.6 "Willing" partners?

Article 8 of the United Nations Declaration on the Rights of Indigenous Peoples condemns forced integration in these terms:

1. *Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.*
2. *States shall provide effective mechanisms for prevention of, and redress for:*
  - a) *Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;*
  - b) *Any action which has the aim or effect of dispossessing them of their lands, territories or resources;*
  - c) *Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;*
  - d) *Any form of forced assimilation or integration;*
  - e) *Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.*

We are now seeing, in this context, the emergence of a new government rhetoric according to which the government wants to work with "willing" partners among First Nations. The Minister for INAC speaks incessantly of his desire to form tripartite agreements with "willing partners." But the reality is otherwise.

Can one truly speak of willing acceptance of tripartite partnership when funding and access to services is conditional upon such partnerships or when forming such partnerships appears more and more to be the only viable option for First Nations to obtain adequate resources allowing them to be competitive and effective in their activities? We must remember that the federal government is keeping First Nations in an extremely precarious financial situation, all the while claiming generosity in its actions. In holding out the promise of inadequate funding, accompanied by the demand to form "willing" partnerships, the government is well aware of the severe and immediate needs in the First Nations communities and of the fact that these urgent needs often go unmet. Through this process, the government is intentionally creating tensions between "willing" partners and the others who, despite everything, are resisting this forced integration and are refusing to be treated as dupes.

### 3.7 Statements by Canadian politicians

The AFNQL and the FNEC are convinced that First Nations are being subjected to a policy of forced integration and that the under-funding of their programs, including the education program, constitutes the cornerstone of an as yet not fully avowed policy seeking the same goal as the official policies of assimilation in the 19<sup>th</sup> and 20<sup>th</sup> centuries did.

We have demonstrated in this paper the existence of such a goal on the basis of numerous and diverse sources:

- Confirmed statistics and figures;
- Numerous studies and consultations;
- The important work by the Royal Commission on Aboriginal Peoples (1996);
- Independent research institutes;
- Parliamentary committees;
- First Nations working groups
- Joint First Nations/federal government working groups;
- The Auditor General;
- Internal evaluations by Indian and Northern Affairs Canada;
- Etc.

Furthermore, recent statements by Canadian politicians, including a former Canadian prime minister, along with provincial premiers and ministers, confirm what First Nations have been denouncing for years.

Paul Martin, who was Canada's prime minister from 2003 to 2006, writes the following in his memoirs:<sup>10</sup>

*"How can the federal government justify spending substantially less per capita on the high school education of a young Aboriginal Canadian in its jurisdiction than the provinces do for a similar student in their jurisdiction? It's wrong, and it cannot last."*

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<sup>10</sup> Paul Martin (2008). *Hell or High Water: My Life in and out of Politics*.

Michael Bryant, Ontario's former Minister for Aboriginal Affairs, is quoted as follows in a November 30, 2007 article from *The Toronto Star*:<sup>11</sup>

*"The province could, for example, take over responsibility for on-reserve schools from Ottawa, which does an abysmal job in this area. **But reserve schools now receive substantially less cash per student than schools in the rest of the province**, so the province would want Ottawa to top up the funding before the transfer of responsibility took place."*

A July 17, 2008 article by the Canadian Press summarizes a statement from Quebec's premier, Jean Charest, in these terms:<sup>12</sup>

*Mr. Charest affirmed that funding of education in the First Nations would be among the priority issues to be discussed at a future meeting. He noted that in Canada, **spending on the education of First Nations children comes to less than half of the amount spent for the education of children in the non-Aboriginal communities**. "In itself, this number tells us a great deal," he said. "There are several priorities and we don't want to close the door on this issue."*

Following is an excerpt from a speech made on February 10, 2009 by Manitoba's Education Minister, Peter Bjornson:<sup>13</sup>

*"Unfortunately, the federal government has not always lived up to its duty to Aboriginal learners.*

*The federal government is constitutionally obligated to provide k-12 education on First Nations.*

*However, this education has traditionally been under-funded by Ottawa – especially in comparison to students and schools funded under the provincial education system. For example, the average per-student funding for the Frontier School Division was almost \$17,000 in 2008/09, while the Indian and Northern Affairs Canada average per-student funding was under \$14,000. That's a \$3000 gap."*

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<sup>11</sup> <http://www.thestar.com/printArticle/281262>

<sup>12</sup> <http://www.ledevoir.com/2008/07/17/198039.html>

<sup>13</sup> <http://www.mbteach.org/news/chamber-bjornson.pdf>

Finally, we present an excerpt from a February 19, 2009 article<sup>14</sup> quoting Gene Zwozdesky, Alberta's minister for Aboriginal relations:

*"Alberta's minister of aboriginal relations says the federal government has to spend more educating aboriginal children in the province.*

*Gene Zwozdesky says education is a provincial responsibility and Alberta provides, on average, 11-thousand dollars to educate a student for a year.*

***First Nations are a federal responsibility and Canada provides between six-thousand and eight-thousand dollars to educate a student for a year."***

***Zwozdesky says that gap needs attention.***

When the federal government remains impervious to all these sources of information, we can only conclude the existence of a hidden agenda for the forced integration of First Nations.

## **Proposed criteria**

What criteria should serve as the basis for bringing to light policies of forced integration pursued by certain States that do not have official policies of assimilation and do not use military and/or police repression?

The AFNQL and the FNEC believe it is necessary to go beyond the step of providing evidence of the short-term effects brought about certain measures. We must explore the longer-term effects of other more insidious and misleading measures. Taking languages as an example, it is possible to prevent their survival over the short term simply by preventing people from using them, as was the case in the residential school era. However, as a longer-term measure, the same goal can be achieved simply by denying the First Nations schools the resources they need for adequate language teaching.

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<sup>14</sup> <http://www.inews880.com/Channels/Reg/LocalNews/story.aspx?ID=1064476>

### **1. Criterion regarding under-funding**

Proposed criterion:

Maintenance by the State of a significant gap between funding of First Nations schools and funding of schools in the dominant society.

Measures:

- Inexistence of an adequate formula that can take account of all costs and adjustment factors that are taken into account for the provincial schools.
- Accumulation of evidence through the number of studies on the issue.
- Accumulation of evidence through the number of sources which conclude the existence of under-funding (universities, parliamentary committees, First Nations working groups, joint First Nations/federal government working groups, independent researchers, Auditor General, etc.).

### **2. Criterion regarding favouritism towards schools in the dominant society**

Proposed criterion:

State-funding of institutions in the dominant society greater than the funding of First Nations institutions for serving First Nations members.

Measures:

- Much higher level of funding provided to a provincial school than to a First Nation school for serving the same student living on-reserve.
- Non-recognition of diplomas awarded by a First Nation high school.
- Non-recognition of diplomas or degrees awarded by a First Nation post-secondary institution.

### **3. Criterion regarding language protection**

Proposed criterion:

Absence of measures for protecting the languages of First Nations.

Measures:

- Absence of legislation for protecting endangered languages.
- Under-funding of First Nations language teaching.

#### **4. Criterion regarding abusive management requirements**

Proposed criterion:

Burdensome and unnecessary administrative requirements.

Measures:

- Fragmented funding conditions requiring an enormous number of unnecessary and burdensome reports, according to credible sources (Auditor General).
- Requirements that are not in accordance with normal practices in the systems of the dominant society.
- Imposition of a fiscal year that does not correspond to the school year.
- Absence of measures comparable to those in the dominant society for supporting the implementation and operation of modern and effective management and accountability systems.

#### **5. Criterion regarding abuse of procedures**

Proposed criterion:

Recourse by a State of abuse of procedures to avoid following up on multiple studies conducted by multiple sources.

Measures:

- No follow-up action taken on a large number of recommendations made by a large number of studies from various sources.
- Systematic rejection of a large number of action plans and projects presented by First Nations.
- The State repeatedly ignores recommendations made by its own bureaucracy as well as those made by parliamentary committees and joint First Nations/federal government working groups.
- The State continues to demand more studies and more evidence despite the already large number of studies that are shelved without follow-up action taken.
- Absence of feedback and analyses concerning positions expressed by First Nations.



## **6. Criterion regarding the State as judge and jury**

Proposed criterion:

The State serves as judge and jury, leaving First Nations with no recourse to any form of arbitration.

Measures:

- Absence of consultations that respect the protocol.
- Number of decisions that First Nations consider to be unilateral.
- Threats to freedom of expression.
- Absence of an executable arbitration method.

## **7. Criterion regarding living conditions**

Criterion:

Existence of a significant gap in living conditions.

Measures:

- Various indices for measuring living conditions.
- Persistence of an important gap between the claimed objectives in officially-declared policies and the real living conditions of members in the communities.
- Gaps in education, housing, health conditions, economic development, etc.
- Mechanisms for monitoring the impact of policies on the lives of people and on the communities.
- Absence of measures that takes account of what must be done to bridge the gaps.







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