

BILL S-3: CULTURAL GENOCIDE

Introduction: background on “genocide” and the United Nations:

The term “genocide” was coined by scholar Raphael Lemkin after the events of the Holocaust and is in reference to the deliberate physical destruction of a particular group based on characteristics such as race or ethnicity. As a response to the atrocities of WW2 and the Holocaust, the United Nations held a Convention on the Prevention and Punishment of Genocide in 1948. Although Lemkin was a proponent for the inclusion of reference to cultural genocide to be adopted in the UN Declaration on Genocide, it ultimately was not accepted. The official definition of “genocide” according to this declaration is as follows:

“In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such :

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.** (“Convention on the Prevention and Punishment of Genocide”).

**Canada is party to this declaration; ratified September 3, 1952.*

Lemkin also believed that the cultural destruction of a group was as important as the physical destruction of a group. He stated:

“The destruction of a nation ... results in the loss of its future contribution to the world. . . . Among the basic features which have marked progress in civilization are the respect for and appreciation of the national characteristics and qualities contributed to world culture by different nations—characteristics and qualities which . . . are not to be measured in terms of national power or wealth” (“Cultural Genocide”).

However, Cultural Genocide was not incorporated into the final definition of the UN Declaration on Genocide. This was due to the fact that colonial states such as Canada, the US, France, the UK and Australia, objected to its inclusion for fear of potential prosecution for their historical treatment of their minority and Indigenous populations (Shamiran).

“Cultural Genocide” and the Federal Government of Canada:

- “The indigenous experience in settler societies has been vital in defining cultural genocide in reference to the non-physical destruction of a group” (Shamiran, 176).
- “For colonial administrations, cultural genocide became the most expedient way for tackling indigenous integration without the physical annihilation of aboriginal peoples” (Shamiran, 177).

- Cultural Genocide can be broadly defined as a systematic plan to destroy a group over a period of time; **“the end may be accomplished by forced disintegration of political and social institutions, of the culture of the people, of their language, their national feelings and their religion. It may be accomplished by wiping out all basis of personal security, liberty, health and dignity.** When these means fail the machine gun can always be utilized as a last resort” (Shamiran, 182).
- Lemkin firmly believed that **“culture was an intrinsic component of individual and group well-being in human societies; thus, threats or violations to a group’s culture would ultimately result in the group’s disintegration, assimilation, and physical destruction”** (Shamiran, 180).
- The passage of Bill S-3 threatens the survival of the culture of Indigenous people across Canada.

Bill S-3: Violation of the United Nations Declaration on the Rights of Indigenous Peoples:

- **Bill S-3 also violates several articles laid out in the United Nations Declaration on the Rights Indigenous Peoples (UNDRIP);** a declaration in which Canada endorsed in 2010. Firstly, it violates *Article 19*, which states:

“States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.”

- The Federal government of Canada did not obtain the Indigenous peoples free, prior and informed consent to adopt Bill S-3. Bill S-3, *An Act to amend the Indian Act in response to the Superior Court of Quebec decision in Descheneaux c. Canada*, goes far beyond the Descheneaux court case decision. Canada did not conduct adequate consultations with Indigenous peoples on the amendments or its pursuant impacts.
- In fact, in November 2016, the Senate Committee on Aboriginal Peoples asked for feedback from various First Nations and their organizations across the country. The three most common themes they received as feedback were:
 1. “Disappointment at the Minister’s decision to continue to use the framework of the Indian Act as the legislation that determines who is and is not an indigenous person in Canada;
 2. The government’s failure to solicit fulsome consultation on Bill S-3;
 3. Going forward, a desire for the government to look for solutions outside of the Indian Act in dealing with band membership and other issues facing Indigenous peoples in Canada.” (Hogg).

- The passage of Bill S-3 also violates *Article 33.1* of the UNDRIP, which declares:

“Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live”.

- In Kahnawà:ke’s case, it is viewed that the approach Canada has taken on Bill S-3 as an attempt by the federal government to appropriate the inherent right of Indigenous Peoples to determine who their own members are. The passage of Bill S-3 allows the federal government to create new “status Indians,” who will be tied to the Mohawks of Kahnawà:ke. This does not respect the fact that Kahnawà:ke has a mechanism in place to create laws through community input and consultation, nor does it acknowledge the fact it is up to the community and members to determine our own membership. Bill S-3 is a huge imposition by Canada on the issue of membership and residency identification in Kahnawà:ke. No Nation, including Canada, is entitled to impose criteria for belonging onto another nation.

- In addition, Bill S-3 also violates *Article 8* of the UNDRIP:

1. *“Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their cultures”*

2. *“States shall provide effective mechanisms for the 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”.

- **Response to a):** Bill S-3 has the effect of depriving Indigenous peoples in Canada of our integrity as a distinct peoples. According to Statistics Canada, there are currently 1.6 million aboriginal people in Canada, which accounts for 4.9% of the total Canadian population (Statistics Canada). This clearly illustrates that Indigenous people in Canada are a distinct minority population.

- A study conducted by Stewart Clatworthy indicated that the proposed “6(1)A All the Way” amendment, which has now passed but not yet in force, would **extend registration entitlement under section 6(1) to all those individuals who can trace their ancestry to at least one person who was entitled to registration prior to April 17, 1985** (Clatworthy). This will clearly extend Indian Registration to millions of people, many of

whom were not raised with an Indigenous identity, traditions, language, customs, etc., and therefore transforms the very fabric of what it means to be an Indigenous person in Canada.

- **Response to b):** With the dramatic increase in the population entitled to “Indian Status” in Canada, this will undoubtedly put enormous stress on reserve lands and resources. According to Clatworthy, about 99% of the increased “Indian” population will be made up of persons residing off reserve. For Kahnawà:ke, this is a major concern, as communal land and resources are already becoming sparse. Bill S-3 will definitely cause those persons with newly acquired “Indian Status” to want to relocate to our community, as we are considered to be an “urban” reserve and are in such close proximity to a major Canadian city; Montreal. At present, based on Clatworthy’s study, it is projected that 35,000 to 65,000 individuals will be added to the Federal Indian Registry under the Mohawks of Kahnawà:ke. To put this into perspective, only about 8,000 people currently live on the territory. The community cannot and will not sustain an influx of population; it will dramatically and quickly deplete our lands and resources.
- **Response to d):** Creating millions of new “Indigenous people” who may have very little to no connection to Indigenous practices, languages and cultures and granting them status, is a form of assimilation. Over time, the integration of millions of people who are presently considered non-Indigenous into our small Indigenous communities throughout Canada will erode our culture, languages, and identities, and ultimately, the entire Indigenous population of Canada. **This is a form of forced integration, which the community of Kahnawà:ke does not accept.**

Conclusion

Historically, the federal government of Canada has made direct attempts to eliminate Indigenous peoples. In the official definition of genocide adopted by the United Nations, to which Canada is party, it states that “forcibly transferring children of the group to another group,” is a specific intent to destroy a particular group based on race, ethnicity, sex, etc. It is evident that Canada did attempt to commit genocide against Indigenous peoples through the residential school system, which was in place from the late 1800s up until 1996. Indigenous children throughout Canada were subject to being taken from their homes and forced to attend residential school, where they were stripped of their language, traditions, culture and their overall identity. However, since Indigenous people throughout Canada still exist and practice their cultures, it is evident that the Federal governments’ attempts at genocide failed. In addition, since the residential school system is no longer deemed acceptable by Canadian society, the government has sought new ways to eliminate Indigenous cultures.

This paper has examined the new tactic used by the Federal government to eliminate Indigenous people; through cultural genocide. Although it is not included in the official definition on genocide, cultural genocide can be broadly defined as a systematic plan to destroy

a group over a period of time. “The end may be accomplished by forced disintegration of political and social institutions, of the culture of the people, of their language, their national feelings and their religion. It may be accomplished by wiping out all basis of personal security, liberty, health and dignity (Shamiran, 182). “Threats or violations to a group’s culture would ultimately result in the group’s disintegration, assimilation, and physical destruction” (Shamiran, 180). As stated previously, the imposition of Bill S-3 onto Indigenous peoples by the Federal government is both a threat and violation to the survival of Indigenous culture. This is proven through the analysis provided in this paper on the violations of several articles in the United Nations Declaration on the Rights of Indigenous Peoples, which Canada has endorsed. Without our culture, language, traditions and practices, there will no longer be any Onkwehón:we left on Turtle Island.

Works Cited

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