

**Indian Residential Schools Resolution Canada
Media Clips**



**Résolution des questions des pensionnats indiens Canada
Actualité**

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April 2, 2007

Appeals Court approves settlement legal fees

Ottawa disputed payment in residential schools settlement

[Anne Kyle, Saskatchewan News Network; Regina Leader-Post](#)

(appeared in 4 other sources) (March 31)

REGINA -- The federal government must pay the **Merchant Law Group** (MLG) a guaranteed minimum of \$25 million for the legal work it did on the multibillion-dollar Indian **residential school** class-action **settlement agreement**.

"The \$25 million is no longer an amount that can be disputed. The court has said we're entitled to pursue the other \$15 million to come to the total of \$40 million that was originally agreed to by the federal government as a payment for our work," said Evatt Merchant with MLG.

On Friday, the Saskatchewan Court of Appeal dismissed a federal government appeal over the disputed payment of legal fees to MLG.

In December, Queen's Bench Justice Dennis Ball certified the **residential schools** class proceedings and approved a **settlement agreement**. In endorsing the settlement, Ball also examined the fee arrangements concerning MLG.

In approving those arrangements, Ball interpreted the Merchant Fee Verification Agreement as meaning MLG was to be paid no less than \$25 million, and upon proper verification, as much as \$40 million.

"The action that will be commenced in respect to the remaining \$15 million is a claim we will have to bring before the courts in Saskatchewan and will be decided by a judge in Saskatchewan," Merchant said.

The federal government disputed Ball's interpretation of the fee agreement and argued no money should be paid to MLG until the law firm opened its books to federal auditors and verified the firm's client numbers and billable hours.

The Appeal Court sided with Ball, calling the fee agreement "straightforward and unambiguous" and approved the class-action settlement in its entirety including the fee structure.

"It would have been entirely understandable for the parties to include a guaranteed minimum payment in the fee agreement," Appeal Court Justice Robert Richards wrote on behalf of justices Gary Lane and Gene Anne Smith.

"It is, after all, difficult to see why Mr. (Tony) Merchant would sign an agreement which did no more than cap the potential amount of his firm's fees and oblige him to justify, by reference to unspecified criteria, an entitlement to every dollar paid to it.

"This would have left MLG in a position where its right to compensation was solely in the discretion of the federal representative.

"It seems more reasonable that, in the circumstances, the parties would have agreed that MLG would receive some guaranteed minimum amount but was also obligated to prove its entitlement to anything more than that amount, up to a limit of \$40 million."

Evatt Merchant said MLG was pleased with the decision.

"There has been a great deal of work done over the course of 10 years by dozens of our lawyers in cities all across Canada and this is a payment that is reasonable when you consider that it has been 10 years of work all on (contingency-type) files where we weren't getting paid until a settlement was made," Merchant said.

"We agreed to a fixed fee because we wanted to see this matter settled as soon as possible for our clients."

Despite the court ruling, Merchant said his firm will not likely see any money until sometime next year.

"It is our view the clients should receive their compensation first, and then we would be paid," he said.

While Merchant said he doesn't anticipate the federal government will appeal this decision, he said claimants aren't likely to begin receiving their compensation cheques until this fall unless the government expedites the claims process.

Valerie Hache, a spokesperson for Indian **Residential School** Resolution Canada, said the agency is reviewing the decision and had no comment.

As to suggestions the government could fast-track processing claims, Hache said that is being looked at.

"We are looking at the possibility of having the (compensation application) forms available before the implementation date so that the process can move faster. No decision has been made yet, but it is one option that is being looked at," she said.

An estimated 80,000 former students are eligible for compensation under the **residential schools** settlement package, which is expected to cost the federal government about \$5 billion.

Will lawyers apologize?

Fear of legal action can handcuff progress

[MARIANNE MEED WARD](#) The Toronto Sun (page 33) (April 1)

The federal government has a lot of apologizing to do. But why stop at **residential schools**?

I don't mean to make light of the trauma inflicted upon **natives** at these **schools**. In previous columns, I've supported their quest not only for an apology for the abuse they endured, but also financial compensation for the promising lives that were derailed into addiction and **poverty**. The **residential schools**, for all their lofty ambition to give **natives** a "good Christian **education**" (and that itself was problematic), contributed to the decimation of native culture, native pride and in far too many cases individual native lives.

The government contracted with churches to run the schools. The Roman Catholic and United Churches ran most of them, with a few Anglican and Presbyterian-run schools scattered around. Their goal wasn't simply to educate **natives**. It was to convert them from their native spirituality to Christianity. But this was a harsh Christianity influenced by the harsh realities of life in Canada from the late 1800s, when the **schools** first opened, to the 1970s when the last one was closed.

In that time, the country endured two world wars, a Great Depression, social upheaval in the home as women demanded equal access to politics and employment, and challenges to religious authority.

LACED WITH PREJUDICE

In that time, faith was influenced more by judgment than grace; instruction was guided more by discipline than patient instruction; and social intercourse was laced with prejudice. We shipped our domestic "enemies" off to remote internment camps and stole their property, we barred Jews fleeing Hitler's madness from landing on our shores, and we prevented the ones already living here from frequenting many of our parks and businesses.

It's no wonder that those characteristics of punishment and prejudice pervaded **residential** schools, too. This is not to excuse the **schools**, or their masters. Our society is different today than it was then because a number of people, even then, said this is no way to run a country, a society, a church or a Christian school. Those people were in the minority, so change took time. But the alternatives were present, even then. Faith calls us to change our culture, and too often the **residential schools** mirrored culture instead of influencing it for the better.

Churches have apologized, and paid out huge sums, for their role in the **residential school** scandal. The leaders at the time, though they were not personally responsible for the schools, recognized that the estate of the church, which they represent, was responsible. The same is true for the federal government -- current leaders not only represent a current regime, but also represent the estate of democracy, which predates all parties. And I fear the estate of democracy is fraying, which brings me to the other apologies we are owed. Lawyers seem to be running our country, not elected officials. If the government formally apologizes not simply for the abuse but for the **schools** themselves, does it become financially liable for additional claims?

SETTLEMENT PACKAGE

The government's settlement package includes a "common experience" payment to everyone who attended, worth about \$2 billion in total. Additional amounts are owed to students who suffered physical and sexual abuse, bringing the total compensation package to \$4 or \$5 billion.

If the **schools** themselves are problematic, will the common experience payment need to be upped to the level of abuse survivor? You can bet there's a lawyer somewhere who'd be willing to make that argument. Speaking of lawyers, they stand to collectively earn about \$100 million from the package, with a whopping \$25-40 million going to one firm in Regina, the **Merchant Law Group**, which kick-started the payouts with a class action suit covering about 10,000 **natives**. The feds have appealed that amount.

As one native said after the ruling and ensuing appeals -- it's really the lawyers who win here. The federal government wouldn't have come to the table without lawyers forcing them there, and they're reluctant to do the right thing because of legal implications. It's a lawyer's world, and our ethics as a country and our democracy are suffering. I want an apology for that.

Court OKs fees, residential school deal can proceed

CBC.ca (March 30)

Another legal hurdle was cleared Friday in Ottawa's proposed multibillion-dollar residential school settlement when the Saskatchewan Court of Appeal dismissed a federal government challenge of legal fees.

The dismissal means Regina-based Merchant Law Group will receive at least \$25 million and as much as \$40 million for working on residential school cases.

The federal government had challenged part of a lower-court ruling on fees, arguing the original judge didn't have enough evidence to conclude Merchant's fees were fair and reasonable. Federal lawyers wanted the firm, headed by Regina lawyer Tony Merchant, to open its books before fees were calculated.

The court rejected the federal arguments.

Justice Bob Richards, who wrote the decision on behalf of the three-judge panel, which included justices Gary Lane and Gene Anne Smith, suggested that if the government of Canada had had its way on the fee challenge, the entire settlement agreement would have been jeopardized.

"In other words, once the Merchant fee agreement is interpreted as guaranteeing a minimum of \$25 million in fees, that amount must be found to be fair and reasonable and in the best interests of the class [residential school claimants] as a whole," he wrote. "If it is not, the residential schools settlement fails."

The ruling means Ottawa must pay Merchant a minimum of \$25 million with as much as \$15 million in additional fees to be determined later.

The residential school settlement approved by nine superior court judges earlier this year calls for Ottawa to make about \$2 billion in "common experience" payments to the roughly 78,000 aboriginal people still living who attended the schools during the 20th century.

There's additional money to compensative people who were sexually or physically abused while they attended the schools, which were typically run by churches. There's also money for healing and commemorative programs.

In total, the compensation deal is worth \$4 billion to \$5 billion, according to court documents filed in Regina.

There's a waiting period, but barring any further legal challenges, compensation payments will begin flowing in October.

The federal government could still appeal Friday's court decision to the Supreme Court of Canada, but there's no word yet on whether it plans to do so.

Plaintiffs deserved more -- and sooner

[Dennis Johns, The Leader-Post](#) (page B8) (March 31)

Re: **residential schools** settlement, let's summarize the payment schedule in one sentence: the average victim will receive about \$25,000 (if he doesn't die first), while a law firm reaps \$25,000,000. How does that seem fair or just?

Also, do you really think the law firms must wait for their fees to be paid? My guess is that they'll be settled long before the last victim receives his or her compensation!

I read a while back that, early on in this bureaucratic process, we had spent more on legal fees than we had on the victims. I always thought the lawyers did not get paid until after the settlement.

Yes, the lawyers worked to help win these claims, but I get tired of hearing that some are paid hundreds or thousands of dollar per hour. I believe that it is excessive for the glorified clerical work that most will end up doing in this judgment -- if they haven't already pawned it off on a law student or legal secretary!

I, for one, am tired of seeing some people live through the all suffering while others come along for the ride and the windfall. Our current system of justice in North America is "all about the money" with little regard for true justice and fairness. As I indicated long before the O.J. Simpson trial started, his trial was never about race; it was about wealth, and whether he had enough to afford the best defence that money could buy. How many times, even locally, have we seen rich defendants basically "walk" when they have done terrible crimes?

I would like to know how many law firms were really there at the beginning of this exercise and how many "jumped" on board after they figured out that the federal government was going to pay up -- knowing then that it was then a "sure thing".

What's fair is fair, but I don't think this is.

Dennis Johns

Regina

Radio-Canada: Pensionnats autochtones - Le processus d'indemnisation remis en marche

Pensionnats autochtones

Le processus d'indemnisation remis en marche

Radio-Canada / Alberta

Lien : <http://www.radio-canada.ca/regions/alberta/2007/03/30/004-pensionnats-indemnisation.shtml>

Un important obstacle vient d'être franchi dans l'entente de compensation de 5 milliards de dollars pour les anciens pensionnaires autochtones. Vendredi matin, la Cour d'appel de la Saskatchewan a rejeté unanimement la requête du gouvernement fédéral au sujet des honoraires du groupe d'avocats régional Merchant Law Group.

Ottawa voulait d'abord examiner le travail de la firme avant de lui accorder les millions de dollars qu'elle réclame, ce que la cour a refusé.

La firme Merchant Law Group, qui défend environ 10 000 anciens pensionnaires autochtones, se réjouit de la décision. Selon l'avocat Evatt Merchant, il s'agit d'une victoire pour les ex-pensionnaires. « La plus grande victoire pour nos clients, c'est de savoir que leurs informations sont protégées », souligne-t-il.

Cette poursuite judiciaire a freiné le processus d'indemnisation aux victimes des pensionnats autochtones, puisqu'aucun paiement ne pouvait être distribué tant que ce dossier n'était pas réglé.

De plus, le cabinet d'avocat recevra au moins 25 millions de dollars pour ses années de travail dans cette affaire. La firme souhaite encaisser cette somme qu'une fois que ses clients auront reçu leur dû d'Ottawa.

Cette procédure prendra au moins cinq mois, période au cours de laquelle les victimes devront décider si elles acceptent l'offre gouvernementale ou se retirent du recours collectif.

Le bureau du procureur général du Canada étudie présentement la décision de la Cour d'appel. Il a 60 jours pour porter le jugement en appel. La cause serait alors entendue en Cour suprême.

Pendant plus d'un siècle, quelque 80 000 enfants autochtones envoyés dans des pensionnats ont perdu leur langue et leur culture. Plusieurs d'entre eux ont également été victimes d'abus physiques et sexuels.

Bevington calls for apology for **residential school** abuses

Says it's 'imperative to the healing process'

[Jason Unrau Northern News Services NWT](#)

Since it's not stipulated in the **residential schools** settlement, don't expect an apology from the federal government any time soon, according to **Indian Affairs Minister Jim Prentice**.

"There is a comprehensive agreement that was arrived at," said Prentice during question period in the House of Commons in Ottawa on Tuesday. "(The settlement) deals in specifics with the **truth and reconciliation commission**, with advanced payments, with all of the matters that have been negotiated. An apology did not form part of the contractual provisions at that time... and we will implement the agreement as it has been negotiated."

He was responding to the NDP critic for **Aboriginal** Affairs, Jean Crowder, who had asked Prentice why Conservatives refused to offer a formal apology for the Canadian government's role in forcing **aboriginal** children to attend **residential schools**, in addition to the estimated \$1.9 billion compensation package.

Western Arctic MP Dennis Bevington insisted an apology from the Prime Minister was "imperative to the healing process of those victimized."

"This Conservative government's refusal to offer an apology is unacceptable," said Bevington. "And Minister Prentice's answers to my colleague's question in the house today was bureaucratic and mean-spirited."

At its peak in the early 1930s, the **residential school** system was a state-sponsored, church-run network of 80 **schools** with an enrollment of more than 17,000.

Earlier this year NWT Chief Justice Ted Richard called the **residential schools** "a tragic and shameful chapter in the history of our country's relationship with its **aboriginal** peoples," in a court document explaining his reasons for approving the settlement.

The package itself - a massive class-action settlement - involves payments of \$10,000 for the first year spent at **residential school** and \$3,000 for each year thereafter. It is estimated that average payments will be about \$23,000 per person.

As well, former students who suffered sexual or physical abuse can apply for further compensation up to \$275,000 for proven harm from abuse and up to \$250,000 for proven loss of income due to the harm received at the **schools**.

Semantics of 'sorry'

[ERIC W. RICKER](#) Globe and Mail (page A24) Letters (March 31)

Isn't the central problem of apologizing for **residential schools** finding a way to do it without dishonouring the many teachers who did their best to help, not harm, native children (Why To Apologize For The **Residential Schools** -- editorial, March 28)? Here's my suggestion for the government: "We apologize. Our leaders and our society of another time were mistaken. They read the future incorrectly. They saw it as one of social homogeneity based upon shared white Anglo Saxon and Christian Values. That was the zeitgeist of their age.

"Mercifully, it did not last. The world is a much richer place because those who were destined to be assimilated, including Canada's many **aboriginal** communities, refused to capitulate to the will of the majority. In the course of decades of resistance to forced assimilation through residential and federal day **schools**, many **aboriginals** suffered unbearable hardship, heartache and loss. For that, we unreservedly apologize.

"At the same time, we recognize many, if not most, of those who served as front-line workers in the implementation of a generally accepted policy were motivated by a sense of duty and commitment to values that were seldom questioned in their day. The shame of those who abused students in their care should not diminish the memory of those who did their best to assist native students to realize their potential."

Court upholds \$25M payment to Regina law firm over residential schools

Canadian Press Newswire (March 30)

REGINA (CP) _ The Saskatchewan Court of Appeal has ruled that a Regina law firm should get at least \$25 million for the work it did on the \$5 billion **residential school** settlement.

The ruling upholds an earlier decision by a Court of Queen's Bench Judge in a fee dispute between the federal government and the **Merchant Law Group**.

The federal government had argued that the Queen's Bench judge did not have enough evidence to conclude that the \$25 million minimum payment to the firm was both fair and justifiable.

But the Appeal Court found that the record, while slim, was sufficient to make that decision.

The Appeal Court also noted that Queen's Bench judge didn't err when he ruled \$25 million was the minimum owed to the **Merchant Law Group**, based on an agreement it had with the federal government.

The **residential schools** settlement announced last year is expected to see the federal government pay as much as \$5 billion in restitution to 80,000 claimants.

Healing a Nation

Camp brings people together to enjoy traditional activities.

[Amanda Vaughan Northern News Services Somba](#)

Be'sha Blondin beams with joy at the mention of Nats'eju' Dahk'e's healing camp.

"Let me tell you a story," she says. The story is that of a facility in Old Fort Rae, which is about 20 minutes by boat out of Yellowknife.

Accessible only by boat in the summer, it belongs to the **North Slave Metis Alliance** and is used for cultural purposes such as language programs and sharing of traditional knowledge. It is the new home to the Sacred Fire Healing Camp.

According to Blondin, a healing camp encompasses many angles of holistic healing involving many traditional **aboriginal** activities.

From craft making, tanning and sweat lodges to workshops designed for personal, family and community development, she says the aim is to heal the nation when it is not healthy.

And it takes a lot of work and participation to heal a nation.

Nats'eju'Dahk' e, which translates into "a place of healing," is a charity organization, which has been running programs just like this since 2002.

Blondin says they had an office in Yellowknife, but there frequently weren't enough of the organizers around to justify keeping an entire office, so they moved their Sacred Circle programs to the offices of the Healing Drum Society. There they run men's and women's talking circles, drum circles and sewing circles.

Nats'eju' Dahk'e typically gets its funding piecemeal from the federal and territorial governments, the city, various businesses in Yellowknife and several churches in town.

However, Blondin, who is the Keeper of the Lodge for the charity, says it can be difficult to get funding for her type of organization.

This is why they held a fundraising dry dance at the Tree of Peace Friendship Centre on Thursday evening, to help raise money for the Sacred Fire Healing Camp.

"We just thought, why should we wait (for outside funding)," said Blondin. She said that the motivation to hold the dance was also just to simply have a good time.

"We wanted to make a difference in Yellowknife, to bring the community together and just have fun," she said with a smile.

The healing value of just bringing people together to do things that bring them joy is reflected in a lot of the activities that Blondin describes. Nats'eju' Dahk'e aims its programs at **residential school** survivors, and their families, but Blondin says that the healing camp is open to people of any age and race, noting that they also do a lot of work with youth. The camps are simply for people who need healing.

"To use Yellowknife as an example, you see so many people out on the streets, so many people with this anger," she says, going on to say that many people's problems are tied in with their family. Blondin explains, "to heal one person, you have to heal the family."