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USTAWA O EDUKACJI LUDNOŚCI RDZENNEJ: PANACEUM KANADYJSKICH ABORYGENÓW?

Streszczenie: Artykuł koncentruje się wokół sytuacji Aborygenów kanadyjskich, głównie ich edukacji. Stara się przedstawić kwestię poprawienia edukacji tej ludności poprzez odpowiednie działania rządu federalnego, władz lokalnych, organizacji społecznych, przywódców plemion. Powstała „Ustawa o edukacji ludności rdzennej” być może stanowi panaceum na edukację narodów i może stać się atutem rządu podczas rozwiązywania problemów ludności rdzennej Kanady.

Słowa kluczowe: aborygeni kanadyjscy, “Ustawa o edukacji ludności rdzennej”, Indianie, Metysi, Inuici.

At any time education has been among the highest priorities of the state. Canada is not an exception. However, a very dangerous trend takes place in the society: according to the Assembly of First Nations, data shows that First Nations high school graduation rate is 36%, compared to 72% in Canada overall. A First Nations youth is more likely to end up in jail than graduate high school [Woods <http://o.canada.com>]. The new First Nations Education Act, which should be passed after public discussion in September 2014, is designed to change and improve the situation. In this paper we will not focus on such obvious things as the importance of education. We will not consider the issue at a pedagogic angle either. Our aim is to analyze the socio-political realities in Canada related to the current level of the indigenous peoples' education.

According to the 2011 Census, 1,400,685 people had an Aboriginal identity, representing 4.3% of the total Canadian population [Aboriginal Peoples in Canada <http://www12.statcan.gc.ca>]. The ancestors of these people lived in North America long before the arrival of Christopher Columbus and even before the arrival of the Vikings to

these lands. Indigenous peoples of that time led life with basics passed from generation to generation, from father to his son, from mother to her daughter.

Meeting the first ships of settlers from Europe, the indigenous peoples were not yet aware of how it would change their entire way of living. Clearly, Europe at that time was not offering enough for those who decided to travel to New World. These were people who were looking for opportunities and places to realize their ambitions. These ambitions could have been economic freedom, the ability to restart life, escape from the law or from religious persecution. All those people were characterized by extreme determination, obstinacy and desire to realize their dream.

An idea of owning land was completely uncommon for indigenous people. According to spiritual and cultural beliefs of indigenous people, land could not be bought or sold, so there was no sense of private property, a notion common to Europeans. This was a fundamental contradiction between the views of indigenous peoples and European settlers which formed the basis of today's actual economic inequality. We will not analyze in detail the historical aspects of income inequality between indigenous and non-indigenous peoples in Canada; more important for us is that this inequality generated more controversy between them, including the methods and goals of education (meaning assimilation), which has always been state's instrument in shaping the minds of young citizens.

Boarding schools can be named as one of the examples of such policy on indigenous peoples' education. These schools were a shameful phenomenon that originated from an "Indian Act" and deserved thorough study and further disclosure of those who experienced darkest pages in the history of the Canadian indigenous peoples. Funded by the federal government, by the 1870s many boarding schools had opened.

Aboriginal children aged five to sixteen were obligated to attend these schools. In fact, a network of schools that would become the government's assimilation tool was established in each Canadian province. Children were taken from their parents and forced to live at relatively long distances from their homes.

Obviously, neither the kids nor the parents were delighted, so we can say that kids were kept in these facilities against their will and the will of their parents. The boarding schools' management was taken over by the government with various civic and religious organizations. Their primary purpose was to teach young Aboriginals the basics of farming according to European model and force them to be useful

members of the society by European standards (meaning, of course, the society that government wanted to build).

Unfortunately, there are many indications that boarding schools were not only humiliating the self-esteem of young Aboriginals, they were destroying their culture, language and traditions. We believe this process could rightly be called the 'deculturalization of indigenous people in Canada'. In addition to the aforementioned, the students of these institutions suffered from such tragedies as tuberculosis (which living conditions contributed to the spread of), physical violence, and sexual abuse. Many of the children did not make it through school and never returned home.

Those who still resisted degradation in the literal and figurative sense, rather than becoming 'a useful member of society' as the government had wanted, graduated from the boarding schools with a sense that the government would take lifetime care of them. Many of those young Aboriginals have returned to reserves with lost sense of identity, without motivation for self-improvement, which led to alcoholism and drug addiction, suicidal tendencies, and crimes. Boarding schools are one of the most shameful pages in Canadian Aboriginal policy.

Returning to the present realities, we should evaluate some facts - it is an important socio-political aspect that Canadian indigenous people increase permanently at a rate that far exceeds the rate of growth of the Canadian population as a whole. As stated already, data from the National Household Survey shows that 1,400,685 people had an Aboriginal identity in 2011, representing 4.3% of the total Canadian population; Aboriginal people accounted for 3.8% of the population enumerated in the 2006 Census, 3.3% in the 2001 Census and 2.8% in the 1996 Census; the Aboriginal population increased by 232,385 people, or 20.1%, between 2006 and 2011, compared to 5.2% for the non-Aboriginal population [Aboriginal Peoples in Canada <http://www12.statcan.gc.ca>].

According to results of other studies published in April 2013 by Statistics Canada, with growth scenarios considered, the Aboriginal-identified population in Canada could be between 1.7 million and 2.2 million by 2031, representing between 4.0% and 5.3% of the total population.

The average annual growth rate of the Aboriginal population as a whole during this period would be between 1.1% and 2.2%, compared with 1.0% for the non-Aboriginal population [Population Projections <http://www.statcan.gc.ca>]. Moreover, all scenarios also show that the population of the three Aboriginal identity groups

(First Nations, Métis and Inuit) would remain younger than the non-Aboriginal population by 2031. The median age of Aboriginal people would rise from 27 years in 2006 to between 35 and 37 in 2031.

The youngest Aboriginal population group would be the Inuit and the oldest would be the Métis, as they are today. In comparison, the median age of the non-Aboriginal population in 2031 would be around 43 years.

The indigenous peoples suffer economically due to many reasons, including the lack of proper education, which leads to uncompetitiveness on labour market. Due to the economic growth of the country there will always be jobs for people with different levels of professional training, even for people without skills. However, in times of crisis everything changes. The labour market downturn that began in the fall of 2008 lasted longer for Canadian indigenous peoples than for non-Aboriginal people.

Employment declined by a similar magnitude in both 2009 and 2010 for Aboriginal people, resulting in a decline of 7.1% over the two years. This widened the gap in the rates of participation, employment and unemployment between both populations. As employment among Aboriginal people continued to decline in 2010, fewer Aboriginal people participated in the labour market. In 2010, 62.6% of the Aboriginal working-age population participated in the labour market compared with 67.1% of the non-Aboriginal population – a gap of 4.5 percentage points [Usakalas <http://www.statcan.gc.ca>].

Most researchers agree that the low standard of living is the root of all problems of Aboriginals. It is difficult to disagree. Thus, in terms of Canada's internal state evolution (and Canadian society as a whole), these problems could grow in proportion to their numbers. Poverty, alcoholism, drug addiction, crime, suicide: these problems are not specific to the Aboriginals, but affect Canadian society as a whole. That is why, these issues are extremely important and need immediate resolution. The first step in resolving the problems should be raising the standard for Aboriginal peoples' education.

At the beginning of our paper we mentioned awful statistics that prove that Aboriginal youths living on reserves for the most part do not even graduate from school. Guide cites excerpts from Status Report of the Auditor General of Canada to the House of Commons in 2011 [The 2011 Status Report <http://www.oag-bvg.gc.ca>]. Structural impediments severely limit the delivery of public services to First Nations communities and hinder improvements in living conditions on reserves. They are:

- lack of clarity about service levels,
- lack of a legislative base,
- lack of an appropriate funding mechanism, and
- lack of organizations to support local service delivery.

It is important to understand more specifically these ‘structural impediments’. Most of the services provided to people throughout Canada are the responsibility of provincial and municipal governments, but this is not the case on reserves. Under the Constitution Act of 1867, the federal government has exclusive authority to legislate on matters pertaining to “Indians, and Lands reserved for Indians”.

INAC has been the main organization exercising this authority. While the federal government has funded the delivery of many programs and services, it has not clearly defined the type and level of services it supports. Mainly through INAC, the federal government supports many services on reserves that are normally provided by provincial and municipal governments off reserves. It is not always evident whether the federal government is committed to providing services on reserves of the same range and quality as those provided to other communities across Canada.

Furthermore, provincial legislation provides a basis of clarity for services delivered by provinces. A legislative base for programs specifies respective roles and responsibilities, eligibility, and other program elements. It constitutes an unambiguous commitment by government to deliver those services. The result is that accountability and funding are better defined.

The federal government has often developed programs to support First Nations communities without establishing a legislative or regulatory framework for them. Therefore, for First Nations members living on reserves, there is no legislation supporting programs in important areas such as education, health, and drinkable water. Instead, the federal government has developed programs and services for First Nations on the basis of policy. As a result, the services delivered under these programs are not always well-defined and there is confusion about federal responsibility for funding them adequately.

Federal government uses contribution agreements to fund the delivery of services on First Nations reserves. Through these agreements, First Nations receive a certain level of funding to provide various programs and services in their communities. There are several problems with the use of this funding mechanism for the provision of core government services. The primary is that, while the agreements state

the services or actions to be provided, they do not always focus on service standards or results to be achieved.

Over the decades, provinces have established many organizations and structures to support local delivery of programs and services to communities. For example, provinces have developed school boards, health service boards, and social service organizations. These organizations can supply vital expertise, facilitate career advancement, and develop means of efficient and effective delivery of services.

Few similar organizations support service delivery within First Nations communities. The federal government established each First Nations band as an autonomous entity and provides separate program funding to each. Most of these First Nations are small, consisting of communities that often have fewer than 500 residents. There are more than 600 First Nations across Canada, many hampered by the lack of expertise to meet the administrative requirements for delivering key programs within their reserves. They often do not have the benefit of school boards, health boards, or other regional bodies to support the First Nations as they provide services to community members.

A proposed, the First Nations Education Act would provide a framework for achieving better results through reform by:

- clarifying roles and responsibilities;
- strengthening governance and accountability; and
- addressing the need for stable and predictable funding.

Because of this, improving graduation rates for First Nations students is an objective the government shares with First Nations parents, educators and leaders. In 2011, the government and the Assembly of First Nations launched a National Panel, which made a number of recommendations for reforming First Nations education in its February 2012 report.

In Economic Action Plan 2012, the government committed to working with First Nations to have in place by September 2014 a First Nations Education Act. This legislation would establish the structures and standards necessary to ensure stronger, more accountable education systems on reserve. The government also committed to exploring mechanisms to ensure stable, predictable and sustainable funding for First Nations elementary and secondary education.

The government of Canada is committed to funding schools that create quality learning environments for First Nations students on reserves. Of the \$275 million committed in the Economic Action Plan 2012 for First Nations education, \$175 million will be used to build and renovate schools on reserves, providing First Nations

students with a better learning environment. The remaining \$100 million will be used to provide early literacy programming and other supports and services to First Nations schools and students and to strengthen their relationships with provincial school systems [First Nation Education <http://actionplan.gc.ca>].

The question is whether or not the requirements to education of the indigenous peoples and the government's attempts match.

First, let's examine which targets and requirements indigenous peoples pose to the education system. Assembly of First Nations defines them as follows:

- 1) Reconciliation – the federal and provincial governments must reconcile our [Aboriginal] rights within education acts across the country to ensure consistency with constitutional provisions.
- 2) First Nations Education Guarantee – a secure fiscal framework is needed for funding for education.
- 3) Sustainability – statutory funding arrangements based on real costs, indexation and appropriate treatment for northern and remote communities.
- 4) Systems – First Nation education must be supported through professional and accountable institutional supports delivering second and third level supports.
- 5) Support and Partnership – creating a learning environment in our communities and linking with organizations, the public and private sector to invest in our [Aboriginal] schools and for our kids [AFN Policy Areas <http://www.afn.ca>].

After the first consultations with the AFN on the implementation of the First Nation Education Act, the requirements of indigenous peoples could be narrowed down to the following:

- 1) First Nations are entitled to adequate and predictable funding that meets the needs of every native on reserve.
- 2) Any legislation that affects first Nations education on reserve must have the consent of the chiefs before it can be introduced into Parliament, much less passed by it.
- 3) The preservation of native culture, especially native languages, must be at the heart of any native curriculum [Ibbitson <http://www.theglobeandmail.com>].

First Nation Education Act is shaping up to be the next jurisdictional battleground with the federal government for First Nations leaders who fear it will be federally imposed without adequate consultation. Some are walking away from the negotiating table. The government started consultations on legislation late 2012; they also published a discussion guide on the matter [Developing <http://www.aadnc-aandc.gc.ca>].

It is important to note that the First Nation Education Act from the first sentence clearly states that the responsibility for raising the level of education among the indigenous peoples lies not only at the federal government, but also at indigenous peoples themselves.

We emphasize that proposed First Nation Education Act would create a strong and accountable First Nation education system by establishing a limited number of mandatory universal standards for all First Nation schools.

The proposed Act would require that services to students and schools typical in provincial systems be available in First Nation education systems. Standards for teachers, curriculum, graduation, assessments, safety and daily operations would need to be consistent with those of the provinces. This would permit the same degree of local flexibility that currently exists throughout provincial systems. First Nations would be able to develop and tailor curriculum materials; they would determine a course of instruction and programming that addresses local needs.

On the other hand, we cannot say that improving the situation of indigenous peoples in Canada requires only a change in the education system. It has become increasingly popular to suggest that in order to overcome poverty the Aboriginals only should stay in school longer. While greater educational attainment among Aboriginal people would overcome some portion of existing income inequality – and increased support for education may be the single most important investment that can be made to improve the economic opportunities for Aboriginal people in Canada – education in itself will not redress ongoing inequalities.

Fundamentally, the higher proportion of non-Aboriginal Canadians with university degrees does not explain why those with college diplomas, trade certificates, high school and even those who did not finish high school, all earn more than Aboriginal people with those same levels of education.

Aboriginal people with university degrees are earning more than they have in the past and are employed at rates more closely resembling other Canadians, but it remains to be explained why Aboriginal people must get a Bachelor's degree before they can expect incomes and employment rates similar to other Canadians with no greater qualifications [Wilson, Macdonald <http://www.policyalternatives.ca>]. Clearly, the First Nations Education Act is not the silver bullet to income equality. While education is a driver for income levels in all groups, Aboriginal and non-Aboriginal, no community consists entirely of university degree-holders, nor should they be expected to be.

The First Nations Education Act is a necessary legislative implementation of the changes required by Canadian indigenous peoples in the education system. But now, public discussion around the Act shows that most of the indigenous peoples perceive the First Nations Education Act without enthusiasm. Some chiefs say that meetings with a select few people (up to 30 per session) do not give indigenous peoples enough say in developing their own education system, and they worry the government will not take various First Nations' diverse needs into account.

Morley Googoo, the Assembly of First Nations regional chief for Nova Scotia and Newfoundland, who also holds the organization's education portfolio, said: The government is doing a one-size-fits all Education Act, which absolutely is not working. At the end of the day, it's an education system designed for us, not by us. They're going to take seven consultation sessions and say, 'we've consulted.' And draft the legislation and send it out like they promised, but with no guarantees changes will be made, and tell Canadians, 'What more can we do? We talked to them and gave them a draft. Now this is what we think is best for them, so we're going to pass this, because they can't make up their minds [[Woods http:// o.canada .com](http://o.canada.com)].

Besides the fact that the Act does not include a wide range of features in more than 630 Canadian aboriginal tribes, there is another fundamental error: the Act is being imposed by authorities. After the chiefs of Ontario declared they will not participate in the consultation process, Ontario Regional Chief Stan Beardy said: The process is inherently disrespectful and is restricted to the topics that the federal government wants to talk about. They will not address the discriminatory funding gap that exists and it is clear that the outcomes have been predetermined.

We can summarize that every First Nation community is left on their own to try to develop and deliver a range of educational services to their students. First Nation schools operate without any statutory recognition or authority. Federal policy to guide efforts in this regard is, at best, ad hoc and piecemeal.

The Department requires First Nations to educate their students at levels comparable to provincial and territorial jurisdictions, and yet provides them no meaningful supports by which to do so. No one knows who is ultimately accountable for the educational outcomes and services provided to First Nations students. This situation is, quite frankly, incomprehensible [[Reforming First http://www.parl.gc.ca](http://www.parl.gc.ca)].

All who have examined this issue agree that reform of First Nations education is urgently required. In order to obtain the best possible education for First Nations

children, it must be recognized that education cannot merely be a local administrative concern. It is time to move from the current ad hoc, non-system of First Nations control for education and toward First Nations' full legal responsibility for a comprehensive system of elementary and secondary on-reserve education.

We believe that the goals of improving education must include reversing the dependency inherently built into the Indian Act, and ensuring the long-term self-reliance of First Nations. A properly resourced First Nations-run education system could pave the way towards academic success and the cultural renewal necessary to lead First Nations out of dependence and toward the full partnership that the treaties guarantee.

For equality to exist throughout the range of people who make up a community or a country, there must be jobs available across sectors, pay levels must be roughly equivalent and workforce entrants must be greeted without bias and suspicion. These conditions do not appear to pertain to aboriginal peoples in Canada.

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FIRST NATIONS EDUCATION ACT: PANACEA FOR ABORIGINAL CANADIANS?

Abstrakt. What led to such a low level of indigenous peoples' education? What are socio-political aspects of this issue? What are the Aboriginals' demands? What exactly should the Canadian political elite (federal government, local authorities, NGOs, tribal leaders) do to improve the situation in the sphere of education? What are the methods the Canadian government has chosen to implement First Nations Education Act? All of these issues are important and require thorough analysis. In the end, we will try to understand whether the First Nations Education Act is indeed the panacea for Aboriginal Canadians, and if education could become government's trump card in the fight against the indigenous peoples problems.

Key words: Canadian Aborigines, First Nations Education Act, Indians, Metis, Inuits

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