

Advancing Dignity for the Lenape: Some Recommendations in Light of Recognition

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**Dignity Rights Practicum
Delaware Law
Spring 2017
Professors Daly & May**

For the Lenape Indian Tribe of Delaware

This paper serves to evaluate some of the dignity consequences of state recognition for the Lenape Indian Tribe of Delaware.

Introduction

Human Rights dignity as for the Lenape Tribe is that they are human beings, they should have the potentiality to grow as a persons physically, psychologically, spiritually and emotionally in a free and healthy environment. They deserve to be treated like all other human beings and be the citizens of this nation. They suppose to have all the rights and privileges like all other residents of United States of America.

Because their history tells us that their ancestors existed here before anyone else, it belonged to them but the others came and occupied in the name of doctrine of discover. They innocently allowed them to hunt, fish, and build and coexist together. They fought in American's wars in the other countries, they served and saved this nation in WWII. Their ancestral prayers are the proofs that this nature is everything for them. They gave their lives to protect it and they hear their ancestor's voices in the nature. They treated all other beings as equal partners.

In the second chapter I throw light on their struggles for existence and fight for their human rights and dignity. Looking at those struggles today one feels that they have been so dehumanized and treated as subhuman to this day vilified and discriminated systemically. They were pushed away from the main stream of life. Their Native Land has been reduced to

"Reservations" that are continuously being trampled upon and even taken away in the name of development. They fought back to prove that they are the sons of this soil with all their historical records and documentation for getting their special status to reclaim their dignity with the federal recognition. So they feel that they are not yet gone away and still here.

Moving forward with the third chapter, I make the legal analysis to show how their special status would recognize them with all their rights like all other human beings and their privileges being as sons of this soil. I propose that they will have their just property rights restored which includes right of easement. They shall reclaim back to have Access, hunting, fishing and prayer. They shall have the right to choose his or her citizenship. To have participation in local and national politics. Their sustainable development is possible through promises of the federal funding programs. They can claim back all their ancestors lands through the procedural laws for being stately recognized. I would stress that it is the time to forgive and repair the damages and move on to their potentiality to grow as dignified human beings and honored and respected as citizen of this nation by having all their rights and privileges.

Finally, I would like to propose with all the comparisons of the other similar situations of human rights dignity violations and the good practices of appointing commissions to recollect, restore and rebuild their tribe with sustainable development given the special status in Delaware State. I would suggest there is a need for the state to appoint a commission to evaluate their present condition and assure their federal funding for sustainable development as well as to regain their ancestral property if there is any at issue with the state government.

I also try to understand the legal relationship between American Indian tribes and the United States government can be a difficult challenge. Because, they were considered as

foreigners in their own lands. But slowly and gradually supreme court has opened its doors for equal protection and more they gained their rights in the chapter of U.N.

Native Indians are human beings and the Lenape Tribe is recognized by the state government as Native Indian Tribe and hence they have all the rights and entitlements like that of all other Native Indians. Therefore, I would like to take this journey together with the Lenape Tribe and understand their history, present situation and way forward with their legal entitlements to protect their human rights dignity and suggest sustainable development for their wholesome growth as a Lenape Tribe and their special identity with the other nonnative Americans.

1. Honoring the Ancestors' Prayers

Prayer is a dialogue between human being and supreme spirit or the other beings. Hence, Native Indians had this dialogue with the natural elements and their ancestor's spirits whom they believed that they are united with these natural elements. This is an analysis of how their union with the supreme spirit began and the oneness with it.

The area of worship cannot be delineated from social, political, culture[al], and other areas of Indian life-style, including his general outlook upon economic and resource development . . . [W]orship is . . . an integral part of the Indian way of life and culture which cannot be separated from the whole. This oneness of Indian life seems to be the basic difference between the Indian and non-Indians of a dominant society.¹

Native Indians believes that human beings are merely one of many beings and that makes their worship and prayers unique. Thus considered the earth and the other beings as equal

¹ *American Indian Religious Freedom: Hearings on S.J. Res. 102, Before the Senate Select Committee on Indian Affairs, 95th Cong., 2d Sess. 86-87 (1978)*(statement of Barney Old Coyote, Crow Tribe, Montana).

partners in their daily life. “In [their] mind, nature is not something apart from [them].”² That is how they perceived interdependency with other beings of the earth. Hence this oneness feeling made them responsible in their utilization of resources. They thanked the other beings for keeping them alive and honored them with their prayers. It has developed the habit of brotherhood with the other beings and so they started preserving the other beings³.

All these beings are interrelated and these relationships have a history as we look back to their myths. It is this history and the life-sustaining gifts of these beings that make particular land sacred to particular tribes. They are even conscious of their steps because of their sympathetic touch of their ancestors⁴. They trust that all life is awakening which shows the power that exists in the elements of the universe. This is how the sacredness towards the other beings of the earth arose. This relationship is at the core of Indian religions; it defines the identities of Native Americans. Sacred site litigation aims to preserve and protect such religious passions. Since they share a religious relationship with all their historic lands and so they protested to development of lands that are sacred to the tribe. Presumably, the first amendment protects such religious beliefs from government interference⁵.

Americans failed to understand their spirituality and their ancestor’s prayers and the way they are united to these sacred lands. Hence, their growth towards realization of full potentiality as a person was destroyed and their dignity as a human being was taken away. Lenape Tribe is part of that spirituality. They belong to that supreme spirit and they were forgotten for so long and now they are recognized. So I would like to present their history as I taken a step forward in this journey with them.

² Momaday, *Native American Attitudes to the Environment*, in *Seeing With A Native Eye* 84 (1976).

³ John Rhodes. “*An American Tradition: The Religious Persecution of Native Americans.*” *Montana Law Review* Winter, 52.13 (1991): 6 softcopy downloaded from Westlaw

⁴ *Id.*, 7

⁵ *Id.* 7

1.1 Historical background of Lenape Tribe

I would like to analyze about their history to learn about how they struggled to protect their tribe and their other beings that they loved so much. My first step in this journey is to present how it all began. Sometimes it is bitter and sad and I want to present that dark side of that history. Looking back to that dark side of the history, we might have many questions but feels like that there are no answers. I am convinced that there are answers for most of the questions that we could come across. Hence, I would come up with legal remedies at the end of my last chapter. I see that it continues to exist in a modern way and it is our responsibility and duty to suggest the involvement of the political leaders to protect their human rights and their dignity.

“The Nanticoke Lenni-Lenape Tribal Nation is an American Indian tribe comprised of members who descended from two separate groups, the Nanticoke and the Lenni-Lenape⁶. The Nanticoke, called the “tidewater people,” established territory in Delaware and Maryland, “along the eastern shore of the Chesapeake Bay.”⁷ The Lenni-Lenape were considered the “grandfathers” or “ancient ones” by other tribes and made their homeland “from southeastern New York through northeastern Delaware,” claiming land across New Jersey and much of eastern Pennsylvania⁸. The tribe traces its heritage through historical records reaching as far as the 1600s,⁹ sharing its “homeland with the Swedes and Finns, Dutch and British¹⁰.”¹¹ This sounds really peaceful and does not touch our heart and stimulate our emotions because it a kind

⁶ Our Tribal History, The Nanticoke Lenni-**Lenape**: An American Indian **Tribe**, <http://www.nanticoke-lenape.info/history.htm> (last visited Apr. 9, 2012).

⁷ The Ancient Ones, Nanticoke and **Lenape** Confederation Learning Ctr. and Museum (May 4, 2010), <http://nanticokelenapemuseum.org/museum/the-ancient-ones/>.

⁸ Id.

⁹ For a comprehensive timeline of the history of the Nanticoke Lenni-**Lenape**, see Rev. Dr. John R. Norwood, *We Are Still Here! The Tribal Saga of New Jersey's Nanticoke and **Lenape** Indians* 35-53 (2007), available at http://www.nanticokelenape.info/images/WeAreStillHere_Nanticoke_and_Lenape_History_Booklet_pre_release_v2.pdf [hereinafter *We Are Still Here!*].

¹⁰ About Us, Nanticoke Lenni-**Lenape** Tribal Nation, <http://nanticoke-lenapetribalnation.org/about/> (last visited Feb. 26, 2012).

¹¹ Harry S. Jackson, “*The Incomplete Loom: Exploring the Checkered Past and Present of American Indian Sovereignty*” *Rutgers Law Review*, winter 64.471 (2012): 13. Soft copy downloaded from Westlaw.

of chronology. But if you hear that they were claiming land and that should trigger our minds and they shared their homelands with others. They struggled so hard to get back their homelands and many lost their lives in the bargain of getting their natural resources back to them. Most of the tribes were divided in those days though there was brotherhood among them and now they feel the urgency of unity for protecting their human rights dignity. It is believed that some of the horrible crimes against the tribes were not included in the history books and not spoken about today. But I feel that it is good to bring back that history and honor that history and our future generations could learn about it and give due respect to them for who they are. (1782. 96 Native American Delawares were massacred). So as in all other states every event in the history some ones blood was shed and it continues today in the name of modern development. (Pipe line in North Dakota).

1.2 Forced into the other streams of life

I would like to take this second step to see how they were made to move from their land. “In the 1740s, due to increasing encroachments on tribal life, many Nanticoke and Lenni-Lenape migrated from the East Coast westward into Oklahoma¹². Some members of the tribe joined the French in the French and Indian War, and out of fear that the Lenape within New Jersey would join their brethren on the battlefield, the State of New Jersey offered a piece of land as a reservation in exchange for Lenape claims to land in the state¹³. Founded in 1758,¹⁴ “Brotherton”

¹² The Keepers of the Land, Nanticoke and **Lenape** Confederation Learning Ctr. and Museum (May 4, 2010), <http://nanticokelenapemuseum.org/museum/the-keepers-of-the-land/> (providing map that depicts the direction of **Lenape** migration towards Oklahoma); We Are Still Here!, supra note 222, at 37.

¹³ Unalachtigo Band of the Nanticoke Lenni Lenape Nation v. Corzine, 606 F.3d 126, 127 (3d Cir. 2010). Note--the **tribe** that serves as plaintiff in this case has no affiliation with the Nanticoke Lenni-Lenape Tribal Nation; however, the historical record developed by the court in this case is accurate to the tribe's history. See Unalachtigo Band of the Nanticoke-Lenni Lenape Nation v. State, 867 A.2d 1222, 1225 n.3 (N.J. Super. Ct. App. Div. 2005) (noting that this band had been sued by the Nanticoke Lenni-Lenape Indians of New Jersey (precursor title to “Tribal Nation”) for “damage to the reputation and good will” of the tribe).

reservation, the first and only reservation in New Jersey,¹⁵ allowed the State to keep an eye on the Lenape during the war and promised the Lenape safety from colonists who often “confused” friendly Indians with combatants.¹⁶ However, because relocation to Brotherton was voluntary, many New Jersey American Indians chose not to live there,¹⁷ with only about 100-200 members of the tribe living on the reservation.^{18,19} I tried to understand and feel what actually was the context and how this text is put in words. Those are summarized and summarized sentences from different authors to say in few words and lines the whole context of Lenape Tribe but I could see that each sentence and phrase might be a big book of all that facts how they were forced to accept their situation with fear and not to shed more blood. When we hear words like they moved voluntarily may not be true and it looks to me that their situation was made in such a way that they were forced to move.

1.3 Acceptance of Each other

“Remaining in their tribal homelands, just as they had in the early 1700s, some Lenape declined an invitation to move westward with the Mohican Indians on the New Stockbridge reservation when Brotherton was ultimately abandoned and disbanded in 1801. Evidence that a portion of the Lenape chose to stay in New Jersey and Delaware emerged from churches and schools run by the tribe in the 1800s. While many Nanticoke and Lenape converted to Christianity during this period, the groups retained their tribal spiritual values and control over

¹⁴ Corzine, 606 F.3d at 127; We Are Still Here!, supra note 222, at 13.

¹⁵ Mission & Tribal History, Brotherton Del. Nation of Indians, <http://brotherton-delaware.us/missiontribalhistory.html> (last visited Apr. 9, 2012).

¹⁶ David J. Silverman, Red Brethren: The Brothertown and Stockbridge Indians and the Problem of Race in Early America 77 (2010) (highlighting that the Brotherton Reservation was formed in order to prevent attacks from **Delaware** Indians in Pennsylvania on New Jersey colonials as well as to protect the Lenapes who were interested in remaining in New Jersey).

¹⁷ We Are Still Here!, supra note 222 at 13 (mentioning that many of the **Lenape** families refused to live within the boundaries of the Brotherton reservation).

¹⁸ Nanticoke-Lenni Lenape Nation, 867 A.2d at 1224.

¹⁹ Ibid., Harry S. Jackson.13-14.

their communities through tribal congregations. Surviving the “Termination Era” of the early 1900s, the tribe began to open up to the public during the 1960s and 1970s, electing a tribal government that functioned outside its traditional “family-clan style” churches.”²⁰

It is very clear that they have accepted Christianity and it was very hard to learn that the Christianity did not understand them and forced them to learn their language and their culture. The acceptance should be mutual respect but here we see that they were persecuted by Christians and the other nonnatives. So they had to retain their tribal spiritual values and then have control over their communities through their tribal congregations. I feel that they were controlled by the others and they lost their dignity which has been handed over to them by their ancestors.

1.4 Reparation of the broken souls

This is big question that raises in our minds and hearts is that how can we forgive and make the reparation for the sins committed against the humanity? There should be some way around where all can live in peace without any kind of police force and violent means of domination on the other. I would like to suggest that it should start from the school to teach in the classroom that the true history of Lenape Tribe and be forgiven. I would like to suggest to remove all the lessons that focusses that the nonnatives are superiors and the natives are not. Here comes the question of equality and dignity of the human being. Next their language is forgotten and I would like to suggest to bring that language back to the school and be thought in the schools. Their ancestor’s lands were degraded and where as the other nonnatives burial grounds are honored and protected. How can a native Indian feel today to see that situation? Hence, I would like to suggest to give due respect to their ancestral lands and protect their burial grounds. Hunting was the way of life for Lenape Tribes and let that be without charging them for

²⁰ Harry S. Jackson III. “*The incomplete loom: exploring the checkered past and present of American Indian Sovereignty.*” 64 Rutgers L. Rev. 471

licenses or permits. Today more than ever they are looking for love, care and peace. Finally, History once revealed cannot be forgotten but instead must be carefully taught so that the truth right, wrong or indifferent is out there for all to embrace. it's about how we perceive and treat people that are culturally, lingually and ethnically different; that effort manifests itself as a measure of forgiveness going forward. Being said that I would like to continue this journey into the present struggles that they are facing in this modern world.

2. The struggle for survival with the other

In this chapter I would like to take this journey with the Lenape Tribe with their present situation and how their dehumanized situation still continues to exist because they were not recognized as Lenape Tribe. I would like to bring to your notice with their own words and how they are using the world human rights platforms to voice out their struggles and hoping against hope that one day their dignity is restored and their injured wounds are healed.

2.1 Struggle within

“There’s this pie, and it’s the federal funding that goes to each tribe, so as each additional tribe comes on, that pie gets a little bit smaller for the other tribes,” said Lance Gumbs, former tribal chairman of the Shinnecock Indian Nation. “There’s an economic reason for it, and more often than not right now, it’s really having nothing to do with the cultural value of who we are as a people or the historical value. It’s really turning into the economic value of it now.”²¹ We can understand that natural way of struggle between brothers for ancestral property.

2.2 Dehumanized Lenape Tribe by the others

²¹ <http://america.aljazeera.com/articles/2014/1/17/tribal-nations-are-tired-of-waiting-for-uncles-am-to-recognize-them.html>

"We consumed your resources, dehumanized your people and disregarded your culture," the Rev. Robert Chase, a minister in the Collegiate Church, told representatives of the Lenape tribe at a "healing" ceremony at Bowling Green. "We express sorrow for our part in these actions," he said. The ceremony, marking Native American Heritage Day, brought tribe members together with congregants of the Collegiate Church, formerly the First Dutch Reform Church. "I had to dig deep in my heart and ask, can I truly forgive?" said Lenape elder Carmen McKosato Ketcher, her voice shaking. "Yes, we forgive you," she added. "But don't forget, we are alive and well."²² This is one of the many dehumanized factors to show how their human dignity is destroyed mercilessly but yet forgive others with humble heart and soul for coexistence.

2.3 The struggle for Lenape Tribe's human rights and dignity

Here are their struggles in their own words which were addressed by their chief. Yonaguska at UN in the year 2010. Basing his stand on strongly proclaimed, followed and practiced Universal Declaration of Human Rights and addressed the UN. He strongly voiced out that their basic human rights are violated which are set forth in the Universal Declaration of Human Rights. He narrated their ancestors struggle to live in New Jersey and Delaware, how the others joined them and pushed them away and they struggled and fought to enter into treaties with early Europeans, sovereign to sovereign. "These treaties kept certain rights unto us, including land, water, hunting, fishing and coastal areas being amongst them. The United States, at the end of the Revolutionary War, as part of the agreement to end hostilities, agreed to honor and maintain these international treaties by accepting to act as a trustee. They even went as far

²² <http://www.nydailynews.com/new-york/400-years-collegiate-church-apologizes-lenape-native-american-tribe-article-1.419530>

as to enact federal legislation to ensure that our rights would be protected. However, by 1802, the newly formed “State” of New Jersey had completely disregarded these treaties and federal laws, and most importantly, our basic human rights to even exist. Over the next few decades, in an unsolicited invasion, our ancestral lands were seized, our people forcibly removed or slaughtered. Those that survived were forced into hiding, in and around the lands that for millennium sustained us. Not only were federal laws completely ignored by New Jersey, but they had no legal right to even act as a state, as they had not ratified their own state constitution until 1842. All the while, the United States Federal Government turned a blind eye toward us, refusing to exercise their trust relationship with us that they had decades before accepted. As the only remaining “First Contact” Indian people on the eastern seaboard to legally address this gross misconduct, the stakes are very high. We claim rights to the land and vast natural resources along the entire coastline of New Jersey, inland to the Delaware River. Our ancestral home for thousands of years include, what is now called Port Elizabeth, Newark, Atlantic City, and Trenton. Just to name a few. Also of importance is the fact that under these seized lands lies the largest fresh water aquifer along the north east seaboard. Other “First Contact” tribes have settled their claims after decades of legal battles, but none have had the tremendous impact of ours. After years of failed attempts to reconcile with the State of New Jersey, we were forced to take the state to Federal Court to prove our claim. Unfortunately, because of the magnitude and the implications of the case, it has been purposely stalled and ignored in an attempt to defraud us and dispense with our international treaty rights. We have even, in the course of the case, brought forth evidence that the State of New Jersey itself, in court, legal opinion and internal documents, admits that our lands have been seized illegally. Various major archaeologists, universities, historians and other specialists are in agreement as to our claim and rights.” He

clarified in his speech that it is not their intention to interfere with the continuity of the United State, or its national security and also stated that it is their intention to fight for their rights at every avenue available to them up to and including international intervention, and the World Court if necessary. He stated that their mere existence is stake and so their intention is to keep voicing out for their rights until they have the human right dignity restored which is promised to them. Hence, he called upon the international communities to support and assist in whatever manner in having International rights respected and restored. He expressed his hope and prayer that this astute body and the global community will hear their long suppressed cry, and then come to their aid. He stated the truth in his thunderous voice and yet the same time urging the humanity to hear their humble cry.²³

2.4 Recognized and Granted Special Status

Finally Delaware state recognized Lenape Tribe and given them the special status. So this is the first step for them to regain their lost identity, dignity and work towards their full potentials as a human person. This gives legal power to protect their ancestral property through the courts. This special status empowers them to seek for justice in all that they lost in all these years. This special status may be a remedy for all those struggles for what they are fighting for. They are fighting for protecting their ancestral property, fighting for their cultural identity, fighting for their religious values, fighting for protecting the environment and fight for education for their children, fighting for health care and economic development. Now is the democratic process of restoring their human dignity with Delaware State. Being said that it leads me to another chapter of analyzing how they can use this special status to regain their human dignity.

3. Comparison, Recollect and Renewing laws for Reconstruction of Lenape Tribe

²³ <http://nativeamericannetroots.net/diary/476>

Here I would like to make comparison with relevant situations where in human beings fought for their dignity. The others realized what they did was wrong and injured the other. So there should be compensated and the compensation that they give materially would be never equal to restore their human dignity but can gradually heal the injury when they have the self-sustainability.

The legal development of the federal recognition started with The Marshall Decisions (1823-1835). We have mention the three Supreme Court decisions of the early 1800s that are the foundation which opened the gates for native Americans to be recognized to have the special status with them. 1. Tribal property rights, 2) tribal political status in relation to the states, (3) tribal status in relation to the federal government, and (4) the international standing of tribal treaty rights. Here Marshall brought Doctrine of Discovery and this discovery doctrine and redefined the unique tribal-federal relationship. In *Cherokee Nation v. Georgia*, Chief Justice Marshall wrote that American Indians “are acknowledged to have an unquestionable, and heretofore unquestioned, right to the lands they occupy, until that right shall be extinguished by a voluntary cession to our government,” and that the relationship between American Indians and the United States resembled a “ward to his guardian.”²⁴. Then followed by the other developments lead to Congress reaffirmed in the Federally Recognized Indian Tribe List Act of 1994 (“List Act”). In 1901, the Supreme Court established common law criteria for determining the existence of an American Indian tribe.

²⁴ *Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1, 17 (1831). Marshall explains his “ward” classification further: “They look to our government for protection; rely upon its kindness and its power; appeal to it for relief to their wants; and address the president as their great father.” *Id.*

In *Montoya v. United States*, the plaintiff petitioned the United States and the Mescalero Apache Indians to recover the value of stolen livestock that were allegedly taken by a band of Mescalero Apache Indians²⁵.

3.1. South African Reconciliation after Apartheid and Lenape Tribe after Special Status

I would like to make a comparison between South African reconciliation after Apartheid and Lenape Tribe after the special status. In this case I agree with the declaration of F.W. de Klerk and Nelson Mandela that there should reconciliation between whites and blacks is a fundamental first step toward healing historic wounds and rebuilding the nation. Thereafter, South Africa passed legislation creating the Truth and Reconciliation Commission of South Africa ("TRCSA") to (1) establish a comprehensive record of the nature, causes, and extent of the gross human rights violations between 1 March 1960 and 10 May 1994; (2) establish the fate and whereabouts of victims of apartheid and restore their dignity; (3) determine the motives of the perpetrators; (4) decide on whether to grant amnesty; (5) recommend measures of reparation and rehabilitation; and (6) recommend measures to establish a culture of human rights and prevent further abuses. The diverse, seventeen-member TRCSA, chaired by Archbishop Desmond Tutu, heard direct and indirect testimony first from more than 14,000 victims and then from alleged perpetrators for a period of almost two years in a victim-friendly yet fair and transparent forum. Animated by the African principle of "ubuntu," or interconnectedness, TRCSA, which published a five-volume final report in October 1998, recommended that the government appoint an entity to oversee implementation of the following: (1) individual remedies, including issuance of death certificates, exhumations and reburial of the disappeared, clearing of criminal records, and granting of compensation in acknowledgment of suffering; (2) community remedies, including construction of memorials and repair of damaged medical,

²⁵ 180 U.S. 261 (1901).

educational, and housing infrastructures; and (3) national remedies, including renaming public facilities, designation of a national Day of Remembrance and Reconciliation, and reform of institutions to prevent future abuses. Most of the recommendations, including creation of the monitoring body and constitutional reform in recognition of the self-determination of black South Africans, have been implemented. After examining the Lenape Tribe situation and struggles and continue to struggle is in the same situation. Hence, in order to heal the historic wounds and reconstruct the Lenape Tribe, Delaware State should pass the similar legislative commission to bring sustainable development and heal their wounds and restore their dignity²⁶.

3.2. New Zealand/Aotearoa: Waitangi Tribunal and Lenape Tribe State Recognition

I would like to make this second comparison between New Zealand/Aotearoa: Waitangi Tribunal and Lenape Tribe State Recognition. In the year 1975 New Zealand successor state to Great Britain created the Waitangi Tribunal in acknowledgment that the indigenous Maori had been injured for more than a century by British cultural assault and land seizure in violation of the 1840 Treaty of Waitangi. Amended in 1985 to grant any Maori claiming prejudice by any government policy standing before it, the Tribunal is charged with investigating legislative or executive actions that violate Treaty principles, reporting facts, and making recommendations for redress. Once a claim is registered the Tribunal initiates research, separately or jointly with the claimant, prior to formal hearings. If findings support the claim, the Tribunal recommends remedies. From 1985-1998 the Tribunal, a public body with Maori and Paheka members, accelerated its research and claim evaluation process, and its expert jurisprudence fostered an enhanced public "understanding, . . . not only of Crown actions and Maori losses, but also of Maori society and interactions with the Crown and with settlers." Although critics point to a

²⁶ William Bradford, *"With a Very Great Blame on Our Hearts": Reparations, Reconciliation, and an American Indian Plea for Peace with Justice*, 27 Am. Indian L. Rev. 1 * (2002/2003).

fiscal cap of \$ 1 billion on the aggregate compensation available under the organic legislation and call for a series of reforms, a number of settlements providing land restoration, apologies, and promises of political and legal reform 686 have led to a "growing confidence that historical grievances can be worked through in ways that are manageable"²⁷. In the context of Lenape Tribe this model may be applied for Lenape Tribe faced the similar struggles and suffering. If the Delaware State could come up like this Tribunal the remedy for healing and restoring the human dignity is possible.

3.3. Native Hawai'ians and Lenape Tribe

I would like to make this comparison between Native Hawai'ians and Lenape Tribe. On November 23, 1993, President Clinton signed a joint resolution formally acknowledging and apologizing for the overthrow of the Hawai'ian monarchy and the annexation of Hawai'ian territory by U.S. military forces in support of agricultural interests. A broader commitment to the reconciliation of U.S.-Hawai'ian relations developed when in March 1999 Senator Daniel Akaka (D-Cal.) requested the Secretary of the Interior and the Attorney General to commit their respective agencies to a process of reconciliation between the United States and Native Hawai'ians. In December 1999, the United States, through the Departments of Interior and Justice, held a series of public meetings to lay the foundation for this process at a "crucial time" in Native Hawai'an history. By August 2000, the United States acknowledged, in a Draft Report released for public notice and comment, a pattern of dishonorable dealings with Native Hawai'ians and stated, "as a matter of justice and equity," that Native Hawai'ians were entitled to self-determination and to the benefits of a trust relationship with the United States. The final report, although it insists that "case-by-case litigation would not be the most productive avenue for reconciliation," acknowledges the harms inflicted by the United States 694 and recommends

²⁷ Id.

proposals, summarized as follows, to effect redress: (1) passage of federal legislation to create a relationship with Native Hawai'ians predicated upon consent and mutual sovereignty, 695 (2) establishment of a Native Hawai'ian Advisory Commission to consult with all federal and state agencies that manage Hawai'ian land or affect cultural issues, and (3) recognition of an ongoing moral responsibility to supervise reconciliation of U.S.-Hawai'ian relations and provide for the general welfare of Native Hawai'ians²⁸. This is more accurate for the situation of Lenape Tribe for being close to the United States and how United States have developed its special status with the Native Hawai'ians.

Finally, since all these years without their special status they did not have an access to health, education, development of their language, culture and economic development. Reclaim their ancestral property and the ancestral monuments. Consideration for amending the constitution for inclusive of Lenape Tribe in Delaware and so

- i) I would like to suggest to the state government to appoint a judiciary commission to resolve all the legal disputes they were not able to resolve due to lack of STATE recognition. The commission should consist of a local community members as part of the commission.
- ii) I would like to suggest the state government to appoint a commission to introduce the language, their suggested history lessons and culture as state school curriculum syllabus.
- iii) I would like to suggest to state government to appoint a commission to economic development and other developmental programs so that there could be sustainable development.

Conclusion:

²⁸ Id.

This State recognition is the first step to begin to provide the healthy environment for the Lenape Tribe to grow fully as a human being. The legislation need to bring more amendments in the constitutionality in the state for giving more access to the Native Indians so that they are not alienated out of the main stream of life. There are so many Native Indians in the reservations are suffering and struggling for existence. The national focus should be on these neglected people instead of focusing on the wars of the world. When we have so much to deal within why should we be wasting our time and energy and money on the other countries?.

Throughout my journey with Lenape Tribe from past to present I observed that their human rights dignity is violated and alienated from the main stream of life. Hence, I would like to emphasize on the saying that justice begins at home and that is with Lenape Tribe in Delaware State. Bringing justice unto Lenape Tribe in Delaware State is the first step for the nation to begin that justice. I hope this state special status would lead them to be recognized as Natives and giving them federal recognition and eventually will resolve and restore their dignity and honor the American creed of liberty and justice for all. If we do not realize and recognize the gaps between Lenape Tribe and Delaware State then the struggles continues to exists and so the state policy needs to focus on healing the injured and restoring the human dignity for Lenape Tribe. During the struggles for their special status as Lenape Tribe with the constituent American peoples have also wounded grievously and so the reestablishment of justice requires not only formal commitment to the rule of law but a broader commitment to restoration with federal recognition and federal aids for their self-sustainability. This can only happen in a healthy atmosphere to grow as a fully human being. By treating the relationship between Lenape Tribe and non-Indian as the fundamental objective of recollect, reconciliation and renewal will allow forming of expansive remedies, such as land restoration, legal reform, and reinfusion of

Lenape Tribe with powers of self-determination, in such a manner as to nurture, rather than destroy, rapprochement.

I agree in all the comparison I made that the painful stories were told and now here too painful stories and lessons will have to be told and learned with the commissions appointed. Moreover, Lenape Tribe is forgiving and patient. I believe that reconciliation will consume time, energy, resources and might occur misunderstandings on this land but that is the best way forward for healing and restoration of human dignity for Lenape Tribe. Our destiny is to live together in the justice and peace we deserve as inherent aspects of our dignity and that should start with here and now with Lenape Tribe.

Bibliography

Primary Sources

Books

1. *American Indian Religious Freedom: Hearings on S.J. Res. 102, Before the Senate Select Committee on Indian Affairs*, 95th Cong., 2d Sess. 86-87 (1978)(statement of Barney Old Coyote, Crow Tribe, Montana).

2. Momaday, *Native American Attitudes to the Environment*, in *Seeing With A Native Eye* 84 (1976).

3. *Unalachtigo Band of the Nanticoke Leni Lenape Nation v. Corzine*, 606 F.3d 126, 127 (3d Cir. 2010). Note--the tribe that serves as plaintiff in this case has no affiliation with the Nanticoke Leni-Lenape Tribal Nation; however, the historical record developed by the court in this case is accurate to the tribe's history. See *Unalachtigo Band of the Nanticoke-Leni Lenape Nation v. State*, 867 A.2d 1222, 1225 n.3 (N.J. Super. Ct. App. Div. 2005) (noting that this band had been sued by the Nanticoke Leni-Lenape Indians of New Jersey (precursor title to “Tribal Nation”) for “damage to the reputation and good will” of the tribe).
4. David J. Silverman, *Red Brethren: The Brothertown and Stockbridge Indians and the Problem of Race in Early America* 77 (2010)

Electronic Resources

5. Our Tribal History, The Nanticoke Leni-Lenape: An American Indian Tribe, <http://www.nanticoke-lenape.info/history.htm> (last visited Apr. 9, 2012).
6. The Ancient Ones, Nanticoke and Lenape Confederation Learning Ctr. and Museum (May 4, 2010), <http://nanticokelenapemuseum.org/museum/the-ancient-ones/>.
7. For a comprehensive timeline of the history of the Nanticoke Leni-Lenape, see Rev. Dr. John R. Norwood, *We Are Still Here! The Tribal Saga of New Jersey's Nanticoke and Lenape Indians* 35-53 (2007), available at http://www.nanticokelenape.info/images/WeAreStillHere_Nanticoke_and_Lenape_History_Booklet_pre_release_v2.pdf [hereinafter *We Are Still Here!*].
8. About Us, Nanticoke Leni-Lenape Tribal Nation, <http://nanticoke-lenapetribalnation.org/about/> (last visited Feb. 26, 2012).

9. Harry S. Jackson, *"The Incomplete Loom: Exploring the Checkered Past and Present of American Indian Sovereignty"* Rutgers Law Review, winter 64.471 (2012): 13. Soft copy downloaded from Westlaw.

10. The Keepers of the Land, Nanticoke and Lenape Confederation Learning Ctr. and Museum (May 4, 2010), <http://nanticokelenapemuseum.org/museum/the-keepers-of-the-land/> (providing map that depicts the direction of Lenape migration towards Oklahoma); We Are Still Here!, *supra* note 222, at 37.

Mission & Tribal History, Brotherton Del. Nation of Indians, <http://brotherton-delaware.us/missiontribalhistory.html>

11. <http://america.aljazeera.com/articles/2014/1/17/tribal-nations-are-tired-of-waiting-for-uncles-amt-to-recognize-them.html>

12. <http://www.nydailynews.com/new-york/400-years-collegiate-church-apologizes-lenape-native-american-tribe-article-1.419530>

13. <http://nativeamericannetroots.net/diary/476>

Secondary Sources

Articles from different journals that are related Native Americans

14. John Rhodes. *"An American Tradition: The Religious Persecution of Native Americans."*

Montana Law Review Winter, 52.13 (1991): 6 softcopy downloaded from Westlaw

15. John Rhodes, *AN AMERICAN TRADITION: THE RELIGIOUS PERSECUTION OF NATIVE AMERICANS*

16. William Bradford, *"With a Very Great Blame on Our Hearts": Reparations, Reconciliation, and an American Indian Plea for Peace with Justice*, 27 Am. Indian L. Rev. 1 * (2002/2003).

17. *American Indian Religious Freedom: Hearings on S.J. Res. 102, Before the Senate Select Committee on Indian Affairs*, 95th Cong., 2d Sess. 86-87 (1978)(statement of Barney Old Coyote, Crow Tribe, Montana).

18. John Rhodes. “*An American Tradition: The Religious Persecution of Native Americans.*” *Montana Law Review* Winter, 52.13 (1991): 5 softcopy downloaded from Westlaw

19. We Are Still Here!, supra note 222 at 13 (mentioning that many of the **Lenape** families refused to live within the boundaries of the Brotherton reservation).

20. *Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1, 17 (1831). Marshall explains his “ward” classification further: “They look to our government for protection; rely upon its kindness and its power; appeal to it for relief to their wants; and address the president as their great father.”

21. Harry S. Jackson III. “*The incomplete loom: exploring the checkered past and present of American Indian Sovereignty.*” 64 Rutgers L. Rev. 471

William Bradford, “*With a Very Great Blame on Our Hearts*”: *Reparations, Reconciliation, and an American Indian Plea for Peace with Justice*, 27 Am. Indian L. Rev. 1