

Evolving an International Fourth World Strategy for Land and Culture

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ABSTRACT

Fourth World nations receded into the background of international affairs in the 19th century as states assumed a stronger and eventually dominant place in the international space. By the mid-20th century Fourth World nations began to resume their role as subjects of international law and discourse; and during the years following the end of World War II, these nations claimed and began to request and then demand a place in international relations. As global subject matter emphasized human rights and then later emerging problems of biodiversity and climate change, Fourth World nations became an identifiable subject identified as “indigenous peoples.” This article examines the changes in global discourse, organization, and emphasis on the rights of indigenous peoples revealing a gap between Fourth World nations and UN Member States in which the subject of sovereign authority and self-government became a point of contention. Beyond human rights, the political rights of Fourth World nations evolved to the point where these nations are themselves being challenged to assume a role of political equality with states at the United Nations. Whether the nations are prepared to accept the role that they have claimed they want is the challenge they must meet as they form an international Fourth World Strategy.

During the last 75 years, states’ governments have been wrestling with the Fourth World problem that won’t go away: The persistence of 1.3 billion indigenous peoples in more than 5000 bedrock nations occupying territories that contain 80% of the world’s remaining life-supporting biodiversity. Nations as large as the 25 million Naga (North Eastern India/North Western Burma) and as small as the 175 Hoh (Pacific Northwest Coast, USA) demand to exercise their own governing powers and to freely choose their social, economic, political, and cultural future without external interference.

Central to the question of the future of Fourth World nations is whether they are exercising their full powers of self-government and whether they can occupy international space to engage in dialogue with states’ government partners to formulate international policies

that ensure the continuity of Fourth World nations in harmony with all other peoples in the world.

America’s Fourth World nations are essential players in what has become an emerging international agenda in large measure due to the political and strategic dominance of the United States of America and the place nations play in its domestic affairs. In other words, what the United States government proffers often influences global political trends and this is no less true in the field of international Fourth World relations. The actions and decisions of the more than 560 nations in the United States have an energizing influence on the decisions and actions of nations inside other UN Member States. That influence has favored nations protecting their lands, cultures, and way of life through the exercise of self-government. Relations between US Fourth

World nations and the United States government have had and will continue to have a profound influence on the direction of Fourth World domestic and international policies.

In the following discussion I recall some key international events and decisions taken by the United States and various Fourth World nations that have helped shape the emerging international Fourth World agenda from 1941 to 2015. Whether this agenda includes the voice of Fourth World nations in the future depends wholly on whether those nations proactively enter the global dialogue to exercise their political power as self-governing nations. Indeed, a new strategy may be called for to activate the political power and influence of the world's thousands of nations to create a "place at the table" in the international space.

Fourth World Nations inside the United States

Despite popular rhetoric to the contrary, there are no fully self-governing Fourth World nations inside the boundaries of the United States. This is so due to the strongest colonial influences any state in the world has imposed on Fourth World nations. For two generations, Indian leaders have stressed the paramount importance of Indian nations governing themselves, and U.S. government leaders have increasingly given lip-service to the idea of Indian self-government. Still, it was not until 1987 that any concrete political action was initiated to begin the process of formally instituting Indian self-government as a reality. Ten Fourth World nations, including the Quinault Indian Nation, Hoop Tribe, Jamestown S'Klallam Tribe, and the Lummi Indian Nation took the first cautious step toward formalizing self-government through a self-governance planning process. Agreements to begin this process were negotiated with key U.S. Congressional representatives, and the

U.S. government enacted its own laws authorizing the process.

The unprecedented agreements in 1987 and 1988 began the Tribal Self-Governance Demonstration Project, and ten Fourth World nations¹ began the planning phase in preparation for making a decision whether to enter into a Self-Government Compact with the United States government. Unlike any previous arrangement involving U.S./Indian Affairs legislation, the Tribal Self-Governance Demonstration Project is a product of active tribal initiatives. The existence of the initiative is primarily dependent upon the sustained commitment of individual Indian governments, and only partially on the commitment of the United States government. If Indian governments lose interest and do not persist in carrying out the self-governance process, the whole process will simply evaporate. Indian governments negotiated and defined the shape and framework of the self-governance process. The United States government, however, is only willing to continue the process as long as Indian governments continue their commitment. Indeed, while there were only a few key U.S. Congressmen fully committed to the process, the U.S. executive branch (particularly the Department of the Interior and the Bureau of Indian Affairs) were willing to lend very limited commitment. Though the Interior Department seemed willing to tolerate the process, the Bureau of Indian Affairs worked to obstruct and even defeat the process.

The continuation and potential success of the self-governance process after a generation hangs on a very thin thread, and frequently wavers between real progress and utter defeat. The reality is that with American Indian government persistence there is a significant possibility of success resulting in the resump-

1. Hoopa Tribe, James Town S'Klallam, Lummi Indian Nation, Quinault Indian Nation, 1988

tion of self-government for several nations and a reduction of U.S. Bureau of Indian Affairs (B.I.A.) powers over those nations.² On the other hand, if Indian governments pull back, they risk the rapid increase of B.I.A. powers and a substantial further reduction of Indian government powers. Furthermore, the possibility of increasing tribal self-government powers in the future would have been substantially reduced. Clearly the self-governance process within the bureaucratic environment of a US governmental agency is a very risky proposition.

These were the political realities faced by Fourth World nations involved in the self-governance process. Virtually all of the momentum achieved in the self-governance process depends on tribal persistence and U.S. government political tolerance and bureaucratic restraint. The achievements to-date have depended solely upon direct tribal and U.S. commitments within the framework of U.S. institutions and laws.³ These institutions were created in 1620 in the form of the Department of Indian Affairs under the Continental Congress before United States became a state in 1789. These institutions are under U.S. governmental control and it is within this political environment that Indian nations exercise a

very limited range of powers. The only leverage Indian governments have that may cause the United States government to continue the self-governance process (that always lingers on expansion and contraction) to a satisfactory conclusion of full self-government revolves around Indian political commitment and persistence and the potential for their full entry into the international arena. The U.S. Congress, executive branch, and the U.S. judiciary remain hostile to Indian nations exercising self-governing powers without U.S. interference, but the evolving international environment, though chaotic appears to offer the greatest potential for developing political leverage for self-government. .

It is quite obvious that the extremely limited leverage nations have in the US domestic environment is not enough to ensure that the United States government will actually observe Self-Governance Compacts under terms acceptable to Indian governments. The more than 300 Fourth World nations that negotiated a bilateral self-government agreement in 1992 with the United States will need a great deal more political leverage than currently exists to achieve full powers of self-government.

The need for greater political leverage becomes even more apparent when the US government remains unofficially reluctant to enter into acceptable Self-Governance Compacts that reflect customary international standards of relations between nations and states. While appearing to foster Fourth World nations' "self-determination" the United States government is actively working to defeat Indian self-governance at the international level through the U.S. Department of State. In this analysis I discuss the international dimensions of Indian nations' self-governance—those decisions and events outside U.S. boundaries which directly bear upon tribal self-governance. I suggest that consideration of the international dimensions

2. Felix Cohen in the *Handbook on Federal Indian Law* (1941). Fourth printing (1945) <http://thorpe.ou.edu/cohen.html> notoriously chastized the US government for "governing Indian tribes by a US government agency." It was this remark that contributed to Cohen's efforts to promote the Indian Reorganization Act of 1934 originally intended (but failing) to recognize tribal self-governance.

3. The US federal courts, executive agencies (Department of the Interior, Department of Justice, Department of Health and Human Services) combined with the assertive legislative authorities of the US Congress constitute that framework where tribal communities are generally ruled by these political bodies usually in a non-coordinated fashion. The Department of the Interior has adopted for Bureau of Indian Affairs management more than 10,000 rules, regulations and procedures governing limitations on Indian communities.

is necessary for these reasons:

The United States government has for two generations had the benefit of international protection from political pressure and criticisms concerning its treatment of Fourth World nations, but with settlement of the Helsinki Final Act of 1975, including provisions for applying the right of self-determination to indigenous peoples, governments have become more accountable under international agreements for their treatment of indigenous nations.

Due to increased political activity by indigenous nations in the international arena since 1971, international opinion favoring indigenous nations' self-determination, self-government, and sovereignty is better informed about the potential advantages enjoyed due to the exercise of self-government.

Increased political initiatives by indigenous nations in the international arena have helped create new opportunities for Indian nations to directly participate in the formulation of new international laws affecting the future relations between Indian nations and states' governments.

The United States government, in cooperation with Canada, the United Kingdom, Belgium, and Australia, is within the framework of United Nations organs working to limit or defeat international recognition of indigenous peoples' right to self-determination, self-government, and sovereignty consistent with the UN Charter and internationally codified and customary law of nations.

In conjunction with Canada, Australia, and New Zealand, the United States government has organized an "English Speaking" block of countries willing to exchange policy experience aimed at increasing states' government control over indigenous peoples.

As a member of the Inter-American Indian Congress with Central and South American

states' governments, the United States government seeks to promote multi-lateral cooperation in the Western Hemisphere to assert and maintain domestic control over indigenous populations and their territories.

In cooperation with Canada, the United States government diligently worked to limit the scope of the United Nations Declaration on the Rights of Indigenous Peoples (2007).

The International Labour Organization considered partial revisions to the 1957 Convention Concerning the Protection and Integration of Indigenous and other Tribal and Semi-Tribal Populations in Independent Countries (I.L.O. Convention 107) in a new convention, the United States in cooperation with other states' governments worked to limit or remove the use of self-determination, self-government, territories, and peoples as terms of reference applied to indigenous nations.

Establishment of the United Nations Permanent Forum on Indigenous Issues on 28 July 2000 gave indigenous peoples greater international visibility—though significantly constrained by Member State structures, procedures, and power arrangements.

While the United Nations Declaration on the Rights of Indigenous Peoples (2007) is considered influential in international debate, it is perceived as an aspirational document with no enforceable provisions. Only one state (Bolivia) has incorporated provisions of the Declaration into its domestic law.

Advocacy and diplomatic initiatives by indigenous non-governmental organizations and perhaps 10 indigenous governments promoted and encouraged states' governments to conduct a Plenary Session of the UN General Assembly to convene a one and a half day-long meeting to consider and approve the World Conference on Indigenous Peoples Outcome Document that essentially created United Nations institutional obligations, but

no enforceable action requirements for states' governments or indigenous governments.

These conditions combine to illustrate the magnitude of effort presently under way in the international arena either to advance indigenous self-government or defeat it. Clearly, if indigenous nations succeed in formalizing an international consensus, which favors indigenous peoples' self-determination, self-government, and sovereignty, American Indian nation's self-government interests will be served. However, if states' governments succeed in formalizing limitations, Indian nations will suffer serious set-backs to their relations with the United States, and Fourth World nations the world over will see tightening restrictions on their rights even though the UN Declaration on the Rights of Indigenous Peoples proffers an expanding international space.

Fourth World Nations in the International Environment

Unlike conditions within U.S. boundaries where American Indian nations have limited leverage to achieve their social, economic, and political aspirations, the international environment provides the opportunity to secure greater political leverage. This is so, in part, since Fourth World nations have greater political mobility and flexibility in the international environment—freer from colonial constraints. Fourth World nations assume a greater position of relative political equality with states' governments when they actively pursue their political objectives. Because there is a smaller likelihood that all institutions, states' governments, and international opinion will share a common approach toward indigenous nations, Fourth World nations stand a better chance of building a bloc of international support favoring their interests. Such a bloc provides opportunities and considerable political leverage when combined with the limited political

leverage now available to Indian peoples in relations with the United States and similar limitations for Fourth World nations in other states.

HISTORICAL OVERVIEW

1. Expanding External Indian Affairs

Because Fourth World peoples make up distinct nations, all of their external relations (public and private) actually involve international relations—though few nations think in these terms. When the Cherokee Nation entered into a treaty in 1787 and the Lummi Indian Tribe and Snohomish entered into the Point Elliot Treaty in 1855 with the United States, they engaged in international relations. When the Quinault Nation, Yakama Nation, and the Makah participated in the U.S./Canada Salmon Fisheries Treaty negotiations they engaged in international relations. When an American Indian nation sends a delegation to represent it at meetings of the Affiliated Tribes of Northwest Indians or the National Congress of American Indians, it engages in international relations. In these respects, Fourth World nations throughout the Americas share this common reality.

Nearly one quarter of all indigenous nations in the United States engaged in a Self-Governance Planning process beginning in 1988. They entered into what constituted new treaties with the United States government in the form of Self-Governance Compacts.

Even with the self-governance compacts there are now no fully self-governing indigenous nations inside the boundaries of the United States. Virtually all Fourth World nations exercise very limited self-government, or no self-government at all. Rebuilding self-governance institutions by the slowly emerging "self-governance tribes" has already caused ripples of controversy internally, in neighboring county and state communities, and in

the government of the United States. Similar ripples are felt in the councils of the United Nations, the Organization of American States, the World Bank, and other such international organizations.

Fourth World nations' external interests have been growing steadily since the 1940s (See Figure 1). The dominant themes of these interests have been guaranteeing territorial rights, preserving culture, preservation of tribal sovereignty, arranging satisfactory U.S./Tribal relations and protection of Indian rights. Disputes with the United States government, State governments, and neighboring populations caused many nations to expand their external horizons. From a long period of concentrating on internal affairs, American Indian nations began to re-emerge as active participants in international affairs. Self-Governance became the all-encompassing emphasis of external activities. Whether nations became concerned with fishing, timber, water, education, health, or law enforcement issues, the main emphasis was always on re-establishing tribal self-governmental powers.

In the one hundred years between the mid-1840s and the mid-1940s Fourth World nations went from functioning as a major factor in continental political change to becoming politically invisible to the world. It was in this period that the United States of America moved to internalize Indian nations. Before the 1840s, indigenous nations throughout North America had both an internal personality and an external personality known by their neighbors and many countries around the world. Indigenous nations in the North American/North Atlantic region functioned as the pivotal political influence in European and American Nation conflicts to control the Ohio Valley from 1609 to 1760. Similarly, nations played pivotal influences throughout the middle plains and southwestern part of the United States

from 1529 onward. Like a great shroud pulled over a table hiding it from view, the United States imposed its will over American Indian nations. By so doing, the United States worked to absorb nations and occupied their territories, thus cutting contact between nations and the rest of the world. Economic, social and political ties between American Indian nations, and other nations and countries in the world were blocked by the United States. United States' obstructions rendered each nation wholly dependent on the United States of America. The strongest expressions of self-government by each Fourth World nation—social, economic, and political self-rule—came to a halt with the signing or promulgation of confiscatory treaties. Absent the power to rule them, some nations disappeared while the remainder became mere shadows of their former political existence—they lost all elements of an external political personality.

In the late 1930s political conditions began to change. The world was in an economic depression and the United States, like virtually all other countries was seriously weakened. New political winds were blowing in Washington, D.C. and in the capitals of the western hemisphere. The United States government was a neutral party to the growing conflicts in Europe. A revolution had been fought in Mexico, ending with the emergence of a government heavily influenced by a large Indian population. The civil war in Mexico resulted in a government that promised restructuring of the land tenure system. This meant land reform for millions of Indians in Mexico. Similar promises were made throughout the Americas with the institution of the Inter-American Indian Institute created as a result of the Inter-American Treaty on Indian Life.

The United States government regarded the changes in Mexico as important to the strategic, economic, and political interests of

the United States. To serve its own interests, the United States accepted an invitation from Mexico's new President to open discussions about a treaty that would deal with Indian land tenure and the preservation and protection of Indian peoples. The result of these discussions was the conclusion of the Inter-American Treaty on Indian Life in 1941. This treaty established an Inter-American Indian Congress with representatives from seventeen western hemisphere countries, which would meet every four years. It also established the Inter-American Indian Institute with the responsibility for conducting research and publishing reports on Indian peoples in the western hemisphere. This was the first internationalization of Indian Affairs since before 1840. States' governments considered matters associated with "indigenous populations" as domestic and internal.⁴

The Inter-American Treaty on Indian Life of 1941 proved to be a catalyst for the re-emergence of Indian nations into international affairs. By 1944, Fourth World nations formed the first inter-tribal organization that involved

nations from across the country. This organization became the National Congress of American Indians. Until 1944, American Indian nations had been dealing with one another through loosely organized local inter-tribal groups. The most active of these were the Society of American Indians⁵ and the Northwest Inter-Tribal Council.⁶

At the end of World War II, the United States government became an active promoter of what would become the United Nations. The new international organization would eventually replace the weakened and failing League of Nations, which had been formed in 1919. A major idea underlying the formation of the United Nations was that "peoples should freely determine their own social, economic, and political future without external interference." Furthermore, the United Nations world is based on the principle that all peoples should be self-governing. This process for achieving self-government is self-determi-

4. Since the end of World War I and the Treaty of Paris in 1918, state governments have repeatedly affirmed and reaffirmed the principle of "non-intervention" in the internal affairs of states. Indeed, this principle is deeply rooted in European international relations. The Peace of Westphalia in 1648 ended the Thirty Years' War and defined the basic rules of relations between states. Chief among these rules were affirmation of the territorial boundaries of states, proclaiming state sovereignty and a recognized policy of non-interference in the domestic affairs of other states. Contemporary restatements of these principles effectively eliminated any perceived need for multi-lateral treaties concerning indigenous nations. This was particularly true of the U.S. because of its youthfulness as a state. Only after World War I did other states governments regard the U.S. as a significant player in international affairs. This new role as a player on the international stage gave rise to the U.S. government needing to affirm its basic identity as a state. Indian Affairs was considered an "internal matter." This view remained unexamined until BIA Commissioner John Collier began to work toward extending President Franklin Roosevelt's "New Deal" to Indian Affairs in the late 1930s and early 1940s. It was in these years that the international dimension was added to Indian Affairs.

5. The Society of American Indians was a "pan-Indian" organization (1911- 1923) that advocated American Indian citizenship, and opened the legal door for the U.S. Court of Claims to litigate Indian land rights. Securing US citizenship (1924) for American Indians was considered a major achievement. The organization was formed by "progressive and educated Indians" April 3-4, 1911 at Ohio State University with Dr. Charles Eastman (Santee Dakota), Dr. Carlos Montezuma (Yavapai-Apache), Thomas L. Sloan (Omaha), Charles E Dagenett (Peioria), Laura Cornelius Kellog (Oneida), Henry Standing Bear, (Oglala Lakota) and Arthur C. Parker (Seneca) attending. The conference released four points describing the reasons for the conference, that last of which stated: "The white man is somewhat uncomfortable under a conviction that a century of dishonor quote has not been redeemed. If it any degree can convince himself and his red brother that he is willing to do what he can for the race whose lands he has occupied, a new step toward social justice will have been taken." With that they formed the American Indian Association—the early steps leading to the formation of the National Congress of American Indians in 1944.

6. Headed by Snohomish Tribal leader Frank Bishop. Bishop was a strong advocate of Indian self-determination following the strong advocacy of this principle advanced by the Haude-nosaune in their 1920s bid for a seat at the League of Nations.

nation.

Such discussion had a liberating affect on Fourth World leaders. By 1948, the National Congress of American Indians called for the self-determination of Indian tribes. The external agenda of Indian nations was beginning to take shape. Indian tribal freedom from control by the Bureau of Indian Affairs took on the quality of a mission. Indian leaders demanded that the Bureau of Indian Affairs reduce its influence and give Indian tribes greater freedom to decide their own social, economic, and political priorities.

Through the late 1940s and throughout the 1950s indigenous nations expanded their external agenda to include active use of the U.S. courts to turn back encroachments by states, the B.I.A., and other external government agencies. The U.S. responded by introducing new laws aimed at the termination of U.S. responsibilities to Indian tribes. Indians were being relocated from their reservations to seven cities. Here they were being encouraged to take up residence and employment. These and other actions of the U.S. government caused Indian nations to become involved in broader external activities to defend against what was called the Termination Policy.

While the U.S. was pressing for the break up of Indian tribes and the integration of tribal citizens into the general U.S. population, the International Labour Organization (I.L.O.) had formed a Committee of Experts on Indigenous Labour. This committee held two meetings (in 1951 and 1954) to consider the conditions under which “forest-dwelling indigenous peoples” lived and worked. The Committee concluded from its inquiries “that populations of this kind in independent countries faced increasingly serious threats to their existence as ethnic, cultural, and economic entities...”The Committee also paid attention to the nature of indigenous land rights, and

the legal and administrative problems resulting from the existence of tribes which overlapped international frontiers. At the same session in 1954, the Committee of Experts considered concepts of ‘integration and artificial assimilation.’”

The Committee finished its inquiries into the living and labor conditions of indigenous peoples and made recommendations to the 1956 and 1957 Sessions of the International Labour Conference. From these recommendations the International Labour Organization drafted and approved the Convention concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries—known popularly as I.L.O. Convention 107.

The “termination and assimilation policies” begun by the United States in 1949 became “allowable and dignified” by provisions of the 1957 I.L.O. Convention 107. Of particular importance to the United States was Article 2 of the Convention: Governments shall have the primary responsibility for developing coordinated and systematic action for the protection of the populations concerned and their progressive integration into the life of their respective countries. Congratulated by the I.L.O. and other countries, the United States pressed ahead with its termination and assimilation policies.

Indian leaders vigorously opposed U.S. termination⁷ and assimilation policies in the

7. The US government’s “termination policy” began in the 1940s with the passage of laws intended to reduce or eliminate tribal sovereignty and ending the political (treaty) relationship between tribes and the federal government. The intention was to grant American Indians the rights and privileges of US citizenship, reduce their dependence on a bureaucracy whose mismanagement had been documented, and eliminate the expense of providing services for native people. Several public laws were passed by the US Congress conveying jurisdiction from the Federal government to states over criminal or some criminal matters on reservations within several states. President Truman created the Hoover Commission in 1949

Declaration of Indian Purpose (1961).⁸ In part because of Indian opposition, but more because of the problem of resolving multiple-heirship problems on Indian land, the United States government officially ceased efforts to terminate Indian reservations in 1961 and with President's Lyndon Johnson and Richard Nixon offering to reverse the policy in the late 1960s and early 1970s that the policy was "wrong," "harmful" and the "effect the policy had" on tribes maintaining a relationship with the United States. Assimilation policies, however, continued to persist in the form of bureaucratic inertia.

In 1970, U.S. President Richard Nixon announced his Administration's Indian Affairs policy, which rejected the termination policies of the past and emphasized Indian self-determination. Apparently unrelated to this, the U.S. government began talks with the U.S.S.R. as part of the U.S. detente foreign policy. This activity pointed to the eventual negotiations of the Helsinki Accords binding the U.S., the Soviet Union, Canada, and European states to a series of Human Rights principles. Though unknown by Indian leaders at the time, there

that included specific recommendations to move tribal communities from federal protection and "integrating" Indians into the "mainstream society." This latter point mean removal of individual Indians from reservations and relocating them to cities such as Albuquerque, New Mexico, Denver, Colorado and Los Angeles, California. More than 100 Indian tribes were terminated and 2.5 million acres of land were resold mainly to non-Indians in states such as Oregon, Minnesota, Wisconsin, and Kansas.

8. The American Indian Conference convened in 1961. Beginning with the founding of the National Congress of American Indians in 1944, American Indians established national organizations to demand a greater voice in determining their own destiny. In 1961, some 700 Indians from sixty-four tribes met in Chicago to attack termination and formulate an Indian political agenda and a shared declaration of principles. Lucy Covington of the Colville Confederated Tribes, Joe Garry of the Couer D'Alene Tribe and Walter Wetzal of the Blackfeet were among the leading voices seeking the reversal of the US termination policies.

was a direct connection between Mr. Nixon's Indian self-determination policy announcement and meetings with the Soviet Union. The United States government frequently relied on Mr. Nixon's Indian policy statement in discussions with the Soviet Union and other European states. As a counter to U.S. government charges of Soviet mistreatment of Jews, Soviet representatives charged the U.S. government with mistreating Indians. United States representatives simply pointed to Mr. Nixon's Indian self-determination policy statement as an example of how Indians received positive treatment. Self-determination for Indians was presented as a positive demonstration of U.S. compliance with international Human Rights standards. Under the Helsinki Final Act the principle of self-determination was embedded in the Accord as Principles VII and VIII. The United States and Russia were obliged to report quarterly on its treatment of Indian peoples and treatment of Jewish peoples respectively. Each government and other signatory governments were required to report to their respective Helsinki Commission and ultimately to the Commission on Security and Cooperation in Europe.⁹

While the U.S. was pressing its detente policy with the Soviet Union, the National Congress of American Indians (N.C.A.I.) and the National Indian Brotherhood (N.I.B.) of Canada concluded an agreement of mutual cooperation. N.C.A.I. and the N.I.B. opened the door for expanding Indian nations' external agenda beyond the boundaries of the United States. In 1971, the International Indian Affairs Agenda broke all barriers to the complete

9. In the 1980s the CSCE was converted into a standing body with the name of Council on Security and Cooperation in Europe. Its mandate includes issues such as [arms control](#) and the promotion of [human rights](#), [freedom of the press](#) and fair elections. It employs around 400 people in its secretariat in [Vienna, Austria](#), 200 in its institutions, and 2,100 field staff.

re-emergence of Indian nations into international affairs. The right of Indians to cross the U.S./Canada border without obstruction became an important issue. Border crossings between the United States and Mexico was also an agenda item. Coincident with N.C.A.I. and N.I.B. cooperation, the United States government and the Canadian government began annual consultations on Indian Affairs.

The achievement of an expanded international agenda did not come too soon. Indeed, just as N.C.A.I. and N.I.B. developed their international efforts, the United States, Soviet Union, and other European states intensified their efforts. They considered the rights of Indians in their discussions in Helsinki. International non-governmental organizations like the International Commission of Jurists organized an international conference concerning Indian rights with the participation of a number of individual Indians and called for international respect for Indian rights. The NGO conference also called upon the United Nations Commission on Human Rights to undertake a study of indigenous peoples and their treatment by states' governments. In 1971, the U.N. Commission on Human Rights authorized a Study of the Problem of Discrimination Against Indigenous Populations and commissioned Jose R. Martinez Cobo to direct the study as the United Nations Special Rapporteur. In 1973, the National Congress of American Indians adopted its Declaration of Sovereignty. Thus began the rapid growth of a wholly new dimension to Indian nations' external affairs. Not only would Indian nations' external affairs include issues and events within the domestic environs of the United States, but from 1971 onward, Indian nations would assume a role of increasing importance in the United Nations and similar international agencies. Of equal importance, Indian nations would assume a greater position of significance in the

relations between the United States and other states' governments.

II. Re-Emergent Nations on the International Stage

In the seventy-five years since the United States and other western hemisphere countries concluded the Inter-American Treaty on Indian Life, and the forty-five years since the N.C.A.I. and N.I.B. agreement, global issues have become a significant concern to indigenous nations. The National Congress of American Indians and the National Indian Brotherhood cooperated in the formation of the World Council of Indigenous Peoples (1977). For the first time in modern history, indigenous leaders traveled to Central America, South America, the South Pacific, and Europe to meet with their counter-parts in other indigenous nations. Indigenous leaders began delivering presentations before international conferences and meetings of international agencies. The self-governance agenda and pressures for indigenous rights began to be heard in the broader international arena.

The diagram below (International Indian Affairs Agenda 1941 – 2002) illustrates the growth of international activity affecting Indian Affairs and not incidentally Fourth World nations the world over. It is noticeable that meetings between Fourth World nations increased significantly after 1970 (note the orange icons). At the International Labor Organization, UN Member States began generating policies and increasing the number of subjects directly related to Fourth World nations (see green icons). In forty-five years it is clear that the relevance of Fourth World nations to states' government concerns began to touch on environmental, health, labor, economic, security, and cultural issues as well as political relations.

As a direct consequence of increased

activities by indigenous nations on the international plain, the United Nations expanded its ten-year study (Cobo Study) of the situation of indigenous populations. The U.N. established in 1982 the Working Group on Indigenous Populations (Economic and Social Council Resolution No. 1982/34 - 7 May 1982) and it now regularly considers recommendations and proposals concerning indigenous peoples by four U.N. organs in addition to the UN General Assembly.¹⁰

The Sub-commission on the Prevention of Discrimination and Protection of Minorities (part of the Economic and Social Council) discusses indigenous rights issues regularly. The Council on Human Rights regularly hears direct presentations from indigenous representatives challenging Member State policies. The most important United Nations organ next to the General Assembly and the Security Council, the Economic and Social Council, received at least one and sometimes more recommendations concerning indigenous peoples for its action each year. In 1985, the United Nations General Assembly voted in favor of establishing a Voluntary Fund for Indigenous Populations to help support the participation of indigenous nations in the deliberations of the Working Group on Indigenous Populations. This was the first time the U.N. ever approved funds specifically for use by indigenous peoples. The International Labour Organization is considered and drafted a partial revision of I.L.O. Convention 107. The World Bank now has an agenda item relating to its Tribal Economic Development policy, which was adopted in 1982. The Organization of American States began considering issues relating to indigenous nations, as did the Organization of African States.

10. The Economic and Social Council, the UN Permanent Forum on Indigenous Issues, The Third Committee (Social, Humanitarian and Cultural Affairs), Council on Human Rights.

No fewer than six international organizations now regularly place on their agenda issues relating to the interests of Indians in the United States and indigenous peoples around the world. Seven non-governmental organizations representing the interests of indigenous peoples regularly participate in international debates on indigenous rights. The scope of Indian nations' external agenda broadened substantially as the N.C.A.I. submission to the U.N. Working Group on Indigenous Populations in 1983 indicated.

The Fourth World International Agenda now includes the goal of securing global recognition and acceptance of indigenous nation's sovereignty with the proposal of seating Fourth World nations as part of the United Nations.¹¹ The principal method for achieving this goal requires that indigenous nations to meet directly with states' governments on an international plain. It requires that indigenous nations pressure and negotiate new rules of conduct between indigenous nations and states' governments. At the same time, indigenous nations can now use international forums to apply political pressure on states' governments to secure concessions in their bi-lateral relations.

Since 1971, the framework within which indigenous nations have pressed their agenda has been outside of that of states' governments in organizations like the United Nations, the Organization of American States, the Council for Security and Cooperation in Europe, and

11. The May 2013 Statement of 72 Indigenous Nations presented to the United Nations Permanent Forum on Indigenous Issues by Tonawanda Seneca Nation representative Darwin Hill recommended, "that action be taken to give indigenous peoples, especially indigenous constitutional and customary governments, a dignified and appropriate status for participating regularly in UN activities. Indigenous peoples deserve to have a permanent status for participation in the UN that reflects their character as peoples and governments." Eleven other Fourth World governments

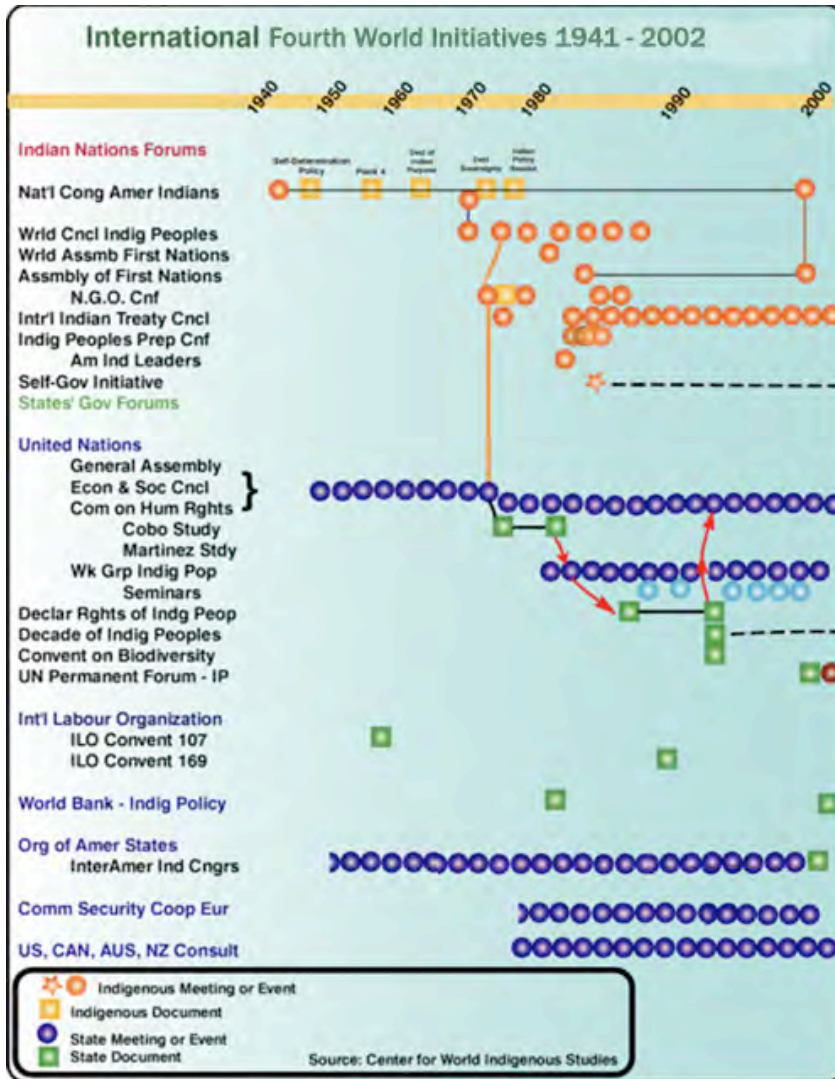


FIGURE 1 The Fourth World emergence into the international arena

new bodies such as the World Trade Organization and the Intellectual Property Organization. For the most part, this time has been used to acquire experience at the international level for interested indigenous spokespersons. However, that experience is now used to increase nations' direct participation in the formulation of new, international laws and apply political

pressures on states' governments notably by the International Indian Treaty Council and the Inuit Circumpolar Council.

Three major initiatives affecting international rules of conduct have been the focus of the International Indian Affairs Agenda. In 1977, the World Council of Indigenous Peoples called for the development and adop-

tion of an international declaration on the rights of indigenous peoples. Non-governmental organizations joined in support of this call. By 1984, international opinion began to agree with the 1977 WCIP call for a declaration. The United Nations Working Group on Indigenous Populations took up the challenge and announced that it would begin drafting the language for a United Nations Declaration on the Rights of Indigenous Peoples. With the concurrence of the U.N. Economic and Social Council and the U.N. Commission on Human Rights it was agreed that a declaration on the rights of indigenous peoples would be placed before the United Nations General Assembly for its consideration. While work continued to progress on the Declaration, plans were made to ask the United Nations General Assembly to act on the final Declaration in 1992—marking 500 years since Spain entered the western hemisphere.

A second major initiative intended to change the international rules of conduct between indigenous nations and states' governments involved partial revisions of I.L.O. Convention 107. In large part due to the growing visibility of indigenous nations on the international plain and actions by the United Nations (specifically the Working Group on Indigenous Populations) the International Labour Organization began consideration of changes in Convention 107. In its deliberations, the I.L.O. made special note of its desire to "decrease the possibility of conflict between a revised I.L.O. Convention and the declaration presently being examined by the Working Group on Indigenous Populations." Indeed, in a Meeting of Experts the Director of the Centre for Human Rights pledged the United Nations' cooperation "in a common endeavor to strengthen the level of international protection for indigenous populations."

A third major initiative was the United Na-

tions Study of the Significance of Treaties and Agreements and Other Constructive Agreements. Originally recommended by Special Rapporteur Jose R. Martinez Cobo in his ten-year Study of the Problem of Discrimination Against Indigenous Populations for the United Nations Commission on Human Rights, the U.N. Treaty Study was formally authorized by the United Nations in 1988. The three-year study of treaties and agreements between indigenous nations and states' governments focused on the validity of such agreements and the degree to which they are enforced.

While the United Nations and the International Labor Organization actively include Indian Affairs issues in their agendas, the Inter-American Indian Congress focused on Indian Affairs as its primary agenda item. Every four years, eighteen Member States from the Western Hemisphere meet to give direction to the Inter-American Indian Institute and to exchange policy on treatment of Indian nations. The hemispheric countries participating in the Inter-American Indian Institute could not clearly determine whether the Institute should function as an academic body or a political body leading to its effort to function as an "expert agency." The Inter-American Indian Institute plays a major role as an "expert agency" advising the United Nations and the International Labour Organization on their policies toward Indian and other indigenous nations. Particular emphasis has been placed on the development of the Universal Declaration on the Rights of Indigenous Peoples and partial revision of I.L.O. Convention 107. With the advent of the Organization of American State (OAS) efforts in the decade of 200 to develop the American Declaration on the Rights of Indigenous Peoples Inter-American Indian Institute member countries declined financial support sufficient to maintain the Institute. In 2009 the Institute was closed down.

The new Declaration was generally thought to serve as a working substitute for the Institute—the records of which were transferred to the National Autonomous University of Mexico Multicultural Nation University Programme,

After eighteen years (1997-2015) during which Organization of American States' members considered the American Declaration on the Rights of Indigenous Peoples, the draft preamble to the American Declaration on the Rights of Indigenous Peoples was submitted to American states for their consideration in April 2015. The Declaration remains as of this writing unapproved by the OAS. It was not the treaty of 1940 that prompted the OAS Declaration, but the United Nations and the International Labor Organization adoptions of new instruments.

III. Self-Government Demonstration Project/ International Agenda

Just as self-government is the central issue of concern to Fourth World nations in their relations with the United States, the exercise of self-government by indigenous nations is the dominant issue of the International Indian Affairs Agenda. It was made so by indigenous leaders from North America, Central America, South America, and leaders from the South Pacific, Western Pacific, Southern Asia, and Europe.

As a result of three Indigenous Peoples' Preparatory Sessions (I.P. P.S.) convened in Geneva, Switzerland in 1985, 1987, and 1988 the issue of indigenous peoples' self-determination, thus the right of self-government, received concentrated attention in the early drafting sessions for the Universal Declaration on the Rights of Indigenous Peoples. In the I.P.P.S. Declaration of Principles indigenous representatives urged the adoption of twenty-two principles in the Universal Declaration on the Rights of Indigenous Peoples. Recommen-

dations 2, 3, 5, and 9 specifically reflect the self-governance agenda of indigenous nations in the United States:

2. All Indigenous Nations and peoples have the right to self-determination, by virtue of which they have the right to whatever degree of autonomy or self-government they choose. This includes the right to freely determine their political status, freely pursue their own economic, social, religious and cultural development, and determine their own membership and/or citizenship, without external interference.

3. No State shall assert any jurisdiction over an Indigenous Nation and people, or its territory, except in accordance with the freely expressed wishes of the Nation and people concerned.

8. Rights to share and use land, subject to the underlying and inalienable title of the Indigenous Nation or people, may be granted by their free and informed consent, as evidenced in a valid treaty or agreement.

9. The laws and customs of Indigenous Nations and peoples must be recognized by States' legislative, administrative and judicial institutions and, in case of conflicts with State laws, shall take precedence.

In connection with the I.L.O. partial revisions of Convention 107, representatives of indigenous nations pressed for fundamental changes in the language of this agreement between states' governments. They noted that Convention 107 contained language, which established "integration as the fundamental objective of all activities undertaken by (states) governments in relations to indigenous and tribal populations." I.L.O. Meetings of Experts were urged to adopt the term of self-determination as more appropriate to the aspirations of indigenous peoples. They noted that the term should not be construed to imply any form of political independence from countries

within which indigenous peoples live.

Additionally relevant to partial revisions of Convention 107, indigenous representatives urged that the theory of terra nullius (used in Roman Law to declare territories vacant and open for colonial occupation) and unilateral states' government legislation ought never to legitimize States claims to indigenous territories.

In 1984, the World Council of Indigenous Peoples developed four basic principles concerning indigenous territories, which the International Labour Organization was urged to adopt as a part of its revisions of Convention 107:

Indigenous people shall have exclusive rights to their traditional land and its resources, and where the lands and resources of the indigenous people have been taken away without their free and informed consent such lands and resources shall be returned;

The land rights of an indigenous people include surface and subsurface rights, full rights to interior and coastal waters and rights to adequate and exclusive coastal economic zones within the limits of international law;

All Indigenous peoples may, for their own needs, freely use their natural wealth and resources in accordance with the two principles mentioned above; and

No action or course of conduct may be taken which, directly or indirectly, may result in the destruction of land, air, water, and ice, wildlife, habitat or natural resources without the free and informed consent of the indigenous peoples affected.

Some of the W.C.I.P. adopted principles were incorporated in the final proposed revisions of Convention 107. The United States Department of Labor's Bureau of International Labor Affairs received the newly proposed International Labour Organization Convention Concerning Indigenous and Tribal

Peoples in Independent Countries on March 8, 1989 and it entered into force September 5, 1991. Originally the proposed Convention was published in the Federal Register on March 8, 1989, requesting comments from tribal governments before April 7, 1989. While the U.S. Department of Labor with the assistance of relevant agencies prepared the U.S. government's response to the International Labour Organization, there is no evidence that any tribal governments responded to the Federal Register request. The International Labour Organization considered adoption of the new Convention on June 7, 1989 in Geneva, Switzerland. Subsequent to adoption, countries were asked to ratify the Convention. A request for ratification by the United States Senate was anticipated in late 1989 or early 1990.

The current debate between indigenous nations representatives and states' government representatives in both the United Nations and the International Labour Organization have special relevance to the self-governance planning process that began in 1988. Indeed, the outcome of the self-governance process in the United States had an influence on the final language of both the Universal Declaration on the Rights of Indigenous Peoples and the revised Convention 107. Similarly, the debates in Geneva, Switzerland and other international fora concerning indigenous self-determination, self-government, and territorial rights had a direct bearing on how the United States government negotiates with self-governance tribes.

I noted earlier that in the last forty-five years, American Indian nations and other indigenous peoples around the world assumed a more activist role in international events outside U.S. boundaries. The Emerging International Indian Affairs Agenda 1941 - 2002 diagram illustrates that American Indian nations' international initiatives have been more than matched by expanded activities by the

government of the United States. The United States government is now actively involved in Indian Affairs questions in bi-lateral discussions with the State of Canada. It is also involved in the Inter-American Indian Congress and the Organization of American States; and all of the United Nations organs including the United Nations Working Group on Indigenous Populations. The U.S. deals with Indian Affairs issues in the Commission on Security and Cooperation in Europe (created by the Helsinki Final Act), the International Labour Organization, and to a lesser degree in its human rights negotiations with the Soviet Union. Since the increased visibility of indigenous nations on the international plain, the United States joined with Australia, Canada, and New Zealand in a series of meetings every two years that I call the "English Speaking Symposium."

Expanding the external Indian Affairs agenda beyond U.S. boundaries resulted, in part, in the United States government dramatically increasing its own international Indian Affairs agenda. Not only has the U.S. government become directly involved in International Indian Affairs issues under the Helsinki Final Act, it widened its participation in the Inter-American Indian Congress, expanded bi-lateral talks with Canada to multi-lateral talks with Canada, Australia, and New Zealand. The U.S. has become a consistent participant in the U.N. Working Group on Indigenous Populations, and an active influence in the I.L.O. partial revisions of Commotion 107.

Much of the U.S. government's increased activity can be directly traced to increased indigenous activities on the international plane. In addition, more states governments seek the U.S. government's assistance in the development of internal indigenous policies and mutual cooperation combating the affects of challenges by Indian leaders before international forums. As Fourth World nations in-

creased their activity, the U.S. and other states' governments increased their activity too.

The international debate, and thus the Fourth World agenda, pits the interests of indigenous nations against the interests of internationally recognized states. The basic questions are;

Are states' governments abiding by internationally established human rights standards in their treatment of indigenous nations and peoples?

Should indigenous nations have the right of self-determination: The right to freely choose a social, economic, political, and cultural future without external interference?

Should indigenous nations exercise political and legal control over territories, exclusive of states' government control?

Do treaties and other agreements between indigenous nations and states' governments have the same standing as any other international agreement, and should they be enforced in accordance with international standards?

Do indigenous nations have the right to self-government without external interference?

Are indigenous nations comprised of peoples with a distinct social, economic, and political identity, or are indigenous nations populations similar to minorities subordinate to a state population?

Should indigenous nations have representation in the United Nations and if so under what rules?

Indigenous nations generally assert that they are distinct peoples and should have the right to freely enjoy self-determination and exercise full self-government without external interference in the same manner as other peoples in the world. Increasingly active and vocal states' governments view this position as a threat to the stability of existing states. As noted the states of Canada, United States, United Kingdom, Belgium, and Australia have

been particularly active in their opposition to the position presented by indigenous representatives. The focus of this nation and state contest is on the actual language of a Universal Declaration on the Rights of Indigenous Peoples and the ability of indigenous nations to capitalize on political openings and state weaknesses offered by the language.

As described in the next section, the debate over language to be contained in the Declaration on the Rights of Indigenous Peoples and the I.L.O. Convention 169 bear directly on Fourth World nations' self-governance and the self-governance of indigenous nations around the world. The United States, Canada, Australia, Belgium, and other vocal states' position favoring strict limitations on indigenous nations for Convention 169, suggested an attempt by states' governments to create a firewall on the rise of indigenous governments' acquiring political power. It is clear the United States government powerfully influences other states' governments to restrict the exercise of self-government by indigenous nations.

IV. Nations' & States' Sovereignty: A Clash of Interests

Fourth World nations and the United States of America have been engaged in a protracted struggle since before the signing of treaties in the late 18th century and more so since the 1840s when the bulk of treaties began. The contest has been over the question of sovereign domain. In other words: Who will govern the territory and people that makes up the Indian nations? The United States of America claims to have original sovereignty and original powers of self-government. American Indian nations claim to have original sovereignty and original powers of self-government. The United States government asserts that a separate sovereignty inside its boundaries is inconsistent with its political interests. Indian nations assert

that the intrusion of U.S. sovereignty into the indigenous sphere of authority is inconsistent with their political interests. Both the U.S. and Fourth World nations seek to achieve a perfection of sovereign power within each of their domains.

A demonstration of this contest occurred recently when the Lummi Nation (in the Pacific Northwest United States) rejected U.S. government attempts to impose one of its taxing powers on the economic activities of Lummi fishermen. Similarly, when the U.S. wanted to claim the right to control Lummi salmon fisheries, the Lummi—along with other indigenous nations—pressed a U.S. federal court to resolve the dispute. This dispute resulted in Lummi having control over fifty-percent of the salmon fishery in its waters. Now the Lummi Nation seeks to resume wider self-governing powers, the consequence of which would mean a lessening of U.S. governing powers inside the Lummi domain. Like neighbors trying to determine the location of a fence between their properties, the Lummi and the United States have engaged in a push and shove over issues of governing powers.

Virtually all of the confrontations between indigenous nations and the United States occurred inside American Indian territory or in U.S. territory. Each of the confrontations involved negotiations to either reduce tensions or resolve the debate. Direct negotiations or negotiations in the federal courts or U.S. Congress have been the pattern. The emerging international Indian Affairs agenda has created yet another context within which the struggle between Indian nations' interests and U.S. interests continues. Within a growing web of international linkages, the United States government has for the last twenty years been able to shape the international Indian Affairs agenda without having to directly confront Indian nations. Indeed, few Indian nations inside

U.S. boundaries have actually participated in the twenty-year process of developing the international Indian Affairs agenda. Indigenous nations from Canada, Central America, and South America and indigenous nations from Northern Europe, the Pacific and Western Pacific, and Asia have led in this process. Only Haudenosaunee, Hopi, and Lakota Nations have consistently and actively pressed their interests at the international level outside U.S. boundaries from the 1920 to the present. Their contemporary presence, combined with initiatives of individual Indians from inside the U.S. and the added political pressures from Germany, Norway, and Russia caused the United States to deal with its treatment of Indian nations in the international arena.

The persistence of Haudenosaunee and Hopi Nations, and the occasional presence of other nations like the Western Shoshone, Choctaw, and Navajo during the decade of the 1970s, helped advance the self-determination aspirations of Indian nations in the increasingly involved international Indian Affairs debate.

Just as the many confrontations between the United States and American Indian nations have involved the issue of political sovereignty in direct negotiations and in the courts and Congress, the same issue figures prominently in the international arena. While Fourth World nations have experienced numerous achievements and setbacks confronting the United States within the framework of U.S. laws, they have always been at a disadvantage. Most of the rules for dealing with U.S./Indian nation confrontations have been of the U.S. government's making and not of Fourth World nations. The international arena offers Indian nations the opportunity to deal with the U.S. on a "level playing field" in a climate of relative equality. In addition, Indian nations have the opportunity to directly participate in the making of the rules on an equal basis with the

United States. Instead of being the dominant rule maker in the international arena, the U.S. government is merely one of many which may participate in the rule-making process.

Unfortunately, where Indian nations have had some measure of success promoting their sovereign interests inside the boundaries of the United States, they may lose whatever gains have been previously achieved as a result of decisions and events at the international level. The actuality of a "level playing field" is only a possibility. By virtue of Indian nations' decisions individually and collectively, they have given the United States government the advantage by not participating in the international Indian Affairs debate. Indian nations in the United States generally are neither promoting nor defending their interests in the international arena. Even as the Indian nations seek to promote and defend their interests within the framework of U.S. laws, the United States government is actively pressing for language in new international agreements, which will defeat Indian aspirations.

Fourth World nations in the United States have embarked upon the most ambitious effort to secure their social, economic, and political future since the League of Nations policy of self-determination in 1919. Nations are working to resume self-governmental powers after negotiating a Self-Government Compact with the United States government. While a major focus of ongoing negotiations are on the quantification of funds for direct transfer to the Indian governments from the U.S. government, wider issues of self-determination will remain a persistent theme. Since Quinault President Joe DeLaCruz along with the Lummi Nation's Chairman Larry Kinley¹² initiated discussions with U.S. Congressional representatives

12. The Quinault Indian Nation and the Lummi Nation are both located in the Pacific Northwest region of the United States along the Pacific Ocean.

to begin the self-governance process in 1987, the Bureau of Indian Affairs has persistently worked to narrow the scope of the self-governance process. The Bureau of Indian Affairs wants to stress a simple transfer of funds from the United States to Indian tribes in the fashion of a block grant where the B.I.A. retains strict administrative oversight. The central issue for the Bureau of Indian Affairs is its ability to remain in control of the Indian tribes through the fund transfer process. B.I.A. officials demonstrate great reluctance to consider the broader “self-governance issues” so carefully crafted into the foundations of the self-governance process by Lummi and Quinault.

The tendency to “narrow the scope of self-governance” by the Bureau of Indian Affairs is not shared by key U.S. Congressional representatives. Indeed, the late Congressman Sydney Yates and the late Senator Daniel Inouye were strongly committed to a broad interpretation of self-governance for Indian nations. These two Congressmen applied leverage to the Bureau of Indian Affairs and the executive branch generally to ensure honorable and good faith negotiations with the various Indian nations. Past experience suggests, however, that when matters of such magnitude are considered, political leverage from the U.S. Congress is not enough. The Bureau of Indian Affairs remains free to delay and narrow the scope of self-governance by simply out-lasting all parties concerned. In other words, the Bureau of Indian Affairs is doing what bureaucracies do best: delay action. For indigenous leaders and administrators there is the option to resist such delays with pro-active counter pressure of their own or they may engage in passive-aggressive indulgence of BIA demands, or they may simply buckle under the pressure and passively accept BIA dictates.

The International Option

Since the late 1970's the United States government along with a number of allied governments like Canada, have worked to gain international acceptance for narrowing the scope of tribal self-governance. U.S. and Canadian efforts to limit the self-determination of Fourth World nations accelerated after 1982 when the United Nations established the Working Group on Indigenous Populations. Since beginning work on the draft of a Universal Declaration on the Rights of Indigenous Peoples, the U.N. Working Group on Indigenous Populations has become a primary focus of U.S. efforts to place strict limits on tribal self-determination. When the International Labour Organization began consideration of partial revisions to I.L.O. Convention 107 in 1985, efforts to restrict tribal self-determination began to be focused here, too.

Indigenous representatives meeting in international forums have consistently stressed the need for international law to recognize the right of self-determination and self-government for indigenous nations. To meet this increased pressure, the United States, Canada, and many other states' governments began to directly counter indigenous representatives' growing influence on the international plane.

Speaking for itself and many of the states' governments including the U.S. at the Fifth Session of the U.N. Working Group on Indigenous Populations in 1986, Canada's representatives made the following revealing assertions:

The Canadian Government is providing a fair and equitable process for Indian populations to secure protected rights under the Canadian Constitution.

Canada's aboriginal peoples are not in the international sense, but they are more accurately characterized as ethnic groups or minorities.

The right to self-determination of Canada's aboriginal peoples is not a guaranteed inter-

Nations' Terms		States' Terms	
Self-Determination	vs.	Social & Economic Decisions	
Self-Government	vs.	Local Decision-Making	
Sovereignty	vs.	Civil/Minority Rights	
Territory	vs.	Land & Title	
Peoples	vs.	Populations/Ethnic Groups	
Collective Rights	vs.	Property Rights	

Table 1: Terms of Reference: Indigenous Nations vs States' Governments

national right—it is barred as a result of the United Nations Declaration on Friendly Relations and Cooperation among States (1970). This declaration asserts that actions “which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination” is unacceptable. As Canada stated in its remarks: ‘If the right of peoples to self-determination were interpreted so broadly that many smaller groups within a democratic and independent state were entitled to establish unilaterally a separate political system, then both the political unity and perhaps the territorial integrity of many non-colonial, democratic and independent States members of the United Nations would be in jeopardy.’”

By virtue of these remarks, the Canadian government with the concurrence of the United States drew a line in the dirt. Canada and other states' governments said in effect that “we will not accept language in new international law which accepts tribal sovereignty, tribal self-determination, tribes defined as peoples, or tribal self-government.” Instead, states' governments are pressing for language that effectively formalizes Fourth World nations as minorities or ethnic groups

under their direct control. The countries most visibly taking this position included: Canada, United States of America, Peoples Republic of China, Great Britain, France, Belgium, Australia, India, Brazil, Nicaragua, Sri Lanka and Indonesia. Countries willing to take a more flexible view of the rights of indigenous nations to determine their own future include: Germany, Cuba, Peru, Panama, Tanzania, Denmark, Norway, Sweden, Vanuatu, and the Netherlands.

There was a distinct division between states' governments over questions of indigenous nations' sovereignty. Indigenous nations and generally supportive states' governments began to line up on one side of the debate. While mainly states' governments lined up on the opposing side. Within the framework of the I.L.O. Convention 107 revisions and the Universal Declaration on the Rights of Indigenous Peoples the debate centered on the usage of specific terms in the proposed new laws. The difference in terms between indigenous nations and states' government is shown in Table 1.

As the list of terms above indicates, the terms being advanced for use in the Declaration by indigenous nations would clearly enhance Indian self-governance. The terms states' government advance would clearly defeat

Indian efforts to resume self-government. The Bureau of Indian Affairs is plainly committed to defining indigenous nations in accord with states' government terms. If the Universal Declaration on the Rights of Indigenous Peoples becomes heavily slanted toward the states' government position, the Bureau of Indian Affairs position of narrowing the meaning of self-government will receive a strong boost. The Indian position will be weakened.

There is evidence that a compromise between the terms used can be worked out. The proposal for the partial revision of I.L.O. Convention 107 clearly makes concessions to both the position of indigenous nations and the states' governments. It should be noted, however, that the terms sovereignty, self-determination, and self-government are not used in the revised Convention. It should be further noted that specific references to the term "peoples" is explained as not to be "construed as having any implications as regards to the rights which may attach to the term under other international instruments." By including this clause in Article 1, Paragraph 3, the revised Convention clearly signals the political power of this term in international relations. States' governments recognize the significance of this term and oppose its application to indigenous nations.

As new international law is currently drawn, only peoples have the right of self-determination because of their social, economic, cultural, and political distinctiveness. The term is also widely recognized in the international community as identifying a class of human beings who may choose their own social, economic, and political future without external interference. The term is used in the United Nations Charter and virtually every other international instrument, which purports to promote self-determination, self-government and social, cultural, and political rights.

By denying that indigenous nations are

peoples, states' governments believe they can maintain absolute control of indigenous populations even without their consent. Upon close inspection of the U.S. government's 1979 report to the Commission on Security and Cooperation in Europe (Helsinki Final Act), we find that it is on this very point the United States presents an opposite view. According to the National Congress of American Indians submission to the U.N. Working Group on Indigenous Populations in 1983:

In accord with Principle VIII of the Helsinki Final Act, the United States of America has solemnly pledged itself to applying and upholding international covenants including the United Nations Charter in its dealings with organized Indian and native nations and communities. (Page 4)

In a curious turn, the United States government pledged in 1979 that international laws do apply to its relations with Indian nations, and it announced this position as a part of an agreement it has with 37 states' governments. In 1983, President Reagan reaffirmed that position in his announced "government to government" policy. However, in 1985 the United States was working in the International Labour Organization, United Nations and the Inter-American Indian Congress to advance a contrary position.

The United States government does not serve indigenous interests as it presses to narrow the meaning of Indian self-government at the international level. Indeed, if the U.S. government and other states' governments succeed in an absolute denial of self-determination for Fourth World nations, self-government initiatives will be rendered meaningless in a worst-case scenario. These initiatives would be rendered counterproductive in a best case.

Political (Strategic and Tactical) Significance of Self-Governance Compacts

The idea of an indigenous nation negotiating a treaty, compact, or other agreement with a states' government is not new. Indian nations in Canada negotiated more than thirty treaties with Great Britain between the 1700s and the 1920s. Indian nations in the United States negotiated more than 400 such treaties with Holland, France, Spain, Great Britain, and the United States up to 1871. Similarly, scores of treaties and agreements were negotiated between Africa's indigenous nations and the states of Spain, Belgium, Portugal, Great Britain, Germany, and Italy throughout the colonial period. There is a well-worn path of nation/state treaties created over a period of five hundred years. Indeed, these treaties and agreements provide the foundation for international law.

Treaties, compacts, and agreements between Fourth World nations and the United States have been a rare occurrence since 1871. The potential for negotiated Self-Governance Compacts (SGC) now radically alters the 118-year treaty hiatus. The prospect of negotiated SGC's between Indian nations and the United States does not happen in a vacuum. Many other indigenous nations and states' governments began the process of seeking negotiated settlements to unresolved disputes in the 1980s. Political Status Compact negotiations between the United States and representatives of the Federation of Micronesia, Belau, and the Marianas continued or were concluded to restore self-government to these indigenous peoples. To resolve long-standing territorial and political disputes between Aboriginal peoples and the state of Australia, discussions began in 1981 to negotiate the Makarata Treaty. In 1980, the Inuit peoples of Greenland and the government of Denmark entered negotiations of a Greenlandic Home Rule Compact restoring internal self-government to Greenland. Many Indian nations and the

state of Canada began talks and negotiations concerning territory and self-government in 1982. The government of Sri Lanka and the Tamil began negotiations in 1987 to end a war in that island country. In 1984, the government of the Republic of Nicaragua and representatives of the Miskito, Sumo, and Rama Indian nations began peace treaty negotiations aimed at bringing an end to the Indian/Nicaragua war. In 1988, the Swedish government and the Nordic Sami Council announced the beginning of negotiations of a treaty to restore self-governance to Sami territories. Indigenous nation and states' government negotiation of new treaties, compacts, and agreements elsewhere in the world demonstrates a growing pattern. Instead of depending solely on states' court systems, legislative systems, and outright violent confrontations, direct nation/state negotiations has become an increasingly acceptable alternative.

The last two decades of developing nation/state negotiations produced only limited successes for indigenous nations. Not all of the negotiations were completed with agreement. Many negotiated agreements, particularly those in Canada, resulted in unbalanced agreements, which favored Canadian interests. A notable example of an agreement in Canada that put an indigenous nation to serious disadvantage involved the Sechelt people of British Columbia. This was the first "self-government agreement" concluded between an indigenous nation and the Canadian government (1987). The agreement provided for "direct transfer payments" to the Sechelt government, and effectively placed the Sechelt under provincial government jurisdiction concerning social, economic, and natural resource matters.

So satisfied was the Canadian government with the agreement in 1987 that it decided to use what became known as the Sechelt Formulae as the approach it would use in future

negotiations with other Indian nations. Other indigenous nations did not share Canada's satisfaction. Widespread opposition to negotiating "self-government and transfer agreements" grew rapidly because of the tendency for these agreements to be used as an indirect method for placing Indian nations under direct control of provincial governments instead of affirming separate self-rule in an Indian government. Despite opposition, many Indian nations are now engaged in negotiations with the Canadian government.

Though viewing the Sechelt Formulae as fundamentally unacceptable, several Indian nations in Canada have decided to enter self-governance negotiations—but with some caveats. The Stlatlimx nation located in south-central British Columbia decided to open negotiations with the government of Canada on the basis of sovereign equality. They decided in advance that no provisions allowing provincial jurisdiction in their territory would be accepted. The Haida Nation and Nuxalk Nation have chosen to pursue self-governance negotiations on the same basis.

Virtually all of the treaty and compact negotiations begun or concluded to-date involve four issues (from the indigenous nation point of view): political sovereignty and self-government, establishment of formal government-to-government relations, territorial demarcation, and direct transfer payments from the state government to the indigenous nation. From the state's government point of view negotiations involve these issues: direct transfer of payments from the state government to the indigenous nation, establishment of local government administration under the jurisdiction of the state's government, and confirmation of the state's sovereignty over the people and territory of an indigenous nation. The difference is the desire of an indigenous nation to formalize its distinct social, econom-

ic, and political identity apart from the state, and the state's desire to socially, economically, and politically assimilate the indigenous nation under its political sovereignty.

These are virtually the same conditions, which prevail around the Self-Governance Demonstration Project and the potential negotiations of Self-Government Compacts. Many self-governance nations seek to maximize the political significance of a Self-Government Compact to not only establish a procedure for "direct funding from the U.S. government," but to restore its self-governing powers and formalize government-to-government relations with the United States. Several strategic and tactical initiatives undertaken by the Fourth World nations may be decisive in the conclusion of a balanced Self-Governance Compact, which meets most of what the indigenous peoples want. Indian nations' incorporation of the following in an expanded external agenda would give the indigenous peoples added political leverage to meet the United States government in negotiations on more equal terms:

Undertake formal government-to-government Self-Government Compact negotiations with the United States government at the earliest possible date. These negotiations ought to be based on "a mutual recognition of sovereign identity." Consider negotiating the involvement of third-party observers (invited representatives of the U.N. Working Group on Indigenous Populations and perhaps several representatives of other Indian nations).

Establish an on-going diplomatic monitoring and representational capability for participating in United Nations dialogues on the formulation of the Universal Declaration on the Rights of Indigenous Peoples. This external diplomatic capability ought to include inserting the Indian nations as major participants in the United Nations Study on the Significance of Treaties and Agreements and Other Con-

structive Arrangements.

The Indian governments ought to actively press the U.S. Congress to ratify the partial revisions of I.L.O. Convention 169 with specific reservations for interpreting the term "peoples."

Adding the international dimension to Fourth World nations' external agenda in connection with the self-governance process will give Fourth World nations more political flexibility and much more political leverage. Also, going into negotiations requiring that the U.S. accept the condition of "sovereign equality" will provide the means to expand the scope of negotiations to include those issues of importance to the indigenous nations. The key strategic importance of elevating bi-lateral negotiations with the United States has the dual benefit of broadening the scope of negotiations with external leverage and influencing the international dialogue to support the sovereignty of Fourth World nations.

Background of UN Initiative 1973 - 1988

In 1971, the United Nations Commission on Human Rights authorized the Sub-Commission on Prevention of Discrimination and Protection of Minorities to undertake a Study of the Problem of Discrimination Against Indigenous Populations. Over more than a decade, Special Rapporteur Mr. Jose R. Martinez Cobo conducted the study and the final report was submitted to the Sub-Commission in 1983.

In 1977, representatives of indigenous nations and various non-governmental organizations conducted an international meeting in Geneva, Switzerland, which, among other things, called upon the United Nations Commission on Human Rights to establish a special working group to inquire into the international standards for the protection of the rights of indigenous populations. The United Nations Economic and Social Council

finally considered and adopted Resolution 1982/34 of May 1982, which authorized the Sub-Commission on Prevention of Discrimination and Protection of Minorities to establish a pre-session Working Group on Indigenous Populations. The Working Group on Indigenous Populations was directed to conduct annual sessions to "review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous populations, including information requested by the Secretary-General from States Governments, specialized agencies, regional inter-governmental organizations and non-governmental organizations in consultative status, particularly those of indigenous peoples. The Council also decided that the Working Group "shall give special attention to the evolution of standards concerning the rights of indigenous populations, taking account of both the similarities and the differences in the situations and aspirations of indigenous populations throughout the world."

The Working Group on Indigenous Populations convened its first session in the summer of 1982 under the Chairmanship of Norwegian Human Rights authority, Mr. Asbjorn Eide. The first session saw Mr. Eide joined by the following members sitting on the Working Group: Mr. Mohamad Yousif Mudawi, Mr. Ivan Tosevski, Mr. Ahmad Saker and Ms. Maria de Souza. Member States of the United Nations observing the session included Argentina, Australia, Brazil, Canada, India, Morocco, New Zealand, Nicaragua, Panama, Sweden, United States of America, and Yemen. Non-governmental organizations and specialized agencies and U.N. bodies were also represented. Indigenous nations represented included: Haudenosaunee, Lakota Treaty Council, Nishanawbe-Aski Nation, Grand Council Treaty No.9, Native Council of Canada, Standing Rock Sioux Tribal Council,

Santcioi Maoaiomi Mikmaoei, and the South American Indian Council. This session emphasized organization and the laying down of working principles.

The Working Group Sessions in 1983, 1984, and 1985 were convened in a like fashion except that Working Group membership was changed in 1985. Ms. Erica-Irene A. Dam of Greece became the new Chairman/Rapporteur. The 1985 session included participation of the following Working Group members in addition to the Chairman/Rapporteur Mr. Miguel Alfonso Martinez, Ms. Gu Yijie, Mr. Kwesi B.S. Simpson and Mr. Ivan Tosevski. The following states' governments were represented: Argentina, Australia, Bangladesh, Brazil, Canada, China, France, Honduras, India, Indonesia, Mexico, Nicaragua, New Zealand, Norway, Peru, Sri Lanka, Sweden, Turkey, United States of America, and Vietnam. An observer also represented the Holy See. About sixty indigenous nations and indigenous organizations were represented at this session.

At the conclusion of the Fourth Session (1985), the Working Group on Indigenous Populations met during several private sessions and decided that it should aim its efforts toward the development of a draft declaration on indigenous rights, "which might be proclaimed by the General Assembly" of the United Nations.

The Working Group prepared Annex II of its 1985 report to the Sub-commission containing preliminary wording for "Draft Principles" as a basis for a declaration. The principles were stated as follows:

- The right to the full and effective enjoyment of the fundamental rights and freedoms universally recognized in existing international instruments, particularly in the Charter of the United Nations and the International Bill of Human Rights.

- The right to be free and equal to all other human beings in dignity and rights, and to be free from discrimination of any kind. The collective right to exist and to be protected against genocide, as well as the individual right to life, physical integrity, liberty, and security of person.
- The right to manifest, teach, practice and observe their own religious traditions and ceremonies, and to maintain, protect, and have access to sites for these purposes.
- The right to all forms of education, including the right to have access to education in their own languages, and to establish their own educational institutions.
- The right to preserve their cultural identity and traditions, and to pursue their own cultural development.
- The right to promote inter-cultural information and education, recognizing the dignity and diversity of their cultures.

As may be determined, these "Draft Principles" were redundant and very general. Between Session V in 1987 and Session VI in 1988, the Working Group's Chairman/Rapporteur prepared a working paper, which elaborated on these seven principles into twenty-eight statements of principle.

Review of Session V

During Session V in 1987 the first intervention was a technical statement addressing the Draft Principles on Indigenous Rights prepared by the Working Group at the Fourth Session. The second statement was delivered by the Canada representative and specifically gauged to deal with what states' governments perceive to be a political threat by the indigenous nations within its boundaries.

A minor functionary delivered the first statement from the Canadian Mission in Geneva. The second statement, however, was delivered by the head of the delegation that traveled from Ottawa. Mr. Scott Serson, Assistant Secretary to Cabinet, Privy Council Office, delivered a six-page statement defending Canadian government initiatives to promote “aboriginal self-government,” and announced a kind of Canadian government policy directed at limiting the definition of “Indigenous Nations as peoples.” The Canadian Head of Delegation also emphasized the view that self-determination cannot “permit groups unilaterally to establish their own governments within a particular state.” These positions were directly contrary to the positions taken by indigenous nations and organizations.

The more activist behavior of Canada at the Working Group proceedings appeared to be in direct proportion to the number of indigenous nations and organizations present at the Session. Of the 48 indigenous nations and organizations present, 14 (or about 30%) of the delegations came from Canada.

Canada’s sensitivities to statements by indigenous nations or organizations were heightened by remarks made by the Union of British Columbia Indian Chiefs led by Mr. Saul Terry, Treaty 6 Chiefs led by Chief Ed Burnstick, and Haudenosaunee led by Chief Oren Lyons. These statements were most harshly critical of the Canadian government. On balance, however, the remaining eleven statements from indigenous nations or organizations were mild and even complimentary toward the Canadian government.

The United States delegation congratulated the Canada submission and offered the view that the presentation was “tempered and timely.”

Review of Session VI

During Session VI, Canada assumed a primary role as defender of the limited states’ government position on indigenous self-determination. The United States delegation only again extended its congratulations for a well thought out presentation. Yet a review of Canada’s comments and actions reveals the hand of the United States.

Mr. J.D. Livermore of Canada’s Human Rights and Social Affairs Division of the Department of External Affairs headed a five member Observer Delegation. He and his delegation entered three separate interventions during the proceedings. The first of these addressed agenda item #4 on “review of developments.” His second intervention addressed agenda item #5 on “standard setting.” The third intervention was an unusually direct commentary on item #6 concerning the U.N. Treaty Study. Canada’s Observer Delegation can be said to have been dominant as spokesman of the other estimated 27 state observer delegations. No other state delegation was so formally active, or active in the informal corridors.

Under agenda item #4, Canada’s Observer Delegation stressed the state government’s progress under “Constitutional initiatives” and “non-Constitutional initiatives.” In both categories, Canada portrayed itself as engaged in other constructive arrangements to promote “strengthening the special relationships between Canada and its aboriginal peoples.”

Special emphasis was placed on attempts by the Canadian government to “entrench a self-government amendment” in the Canadian Constitution. Noting that neither Indian leaders nor the March 1987 First Ministers’ Conference expressed sufficient support for such a proposal, Canada’s Observer advised that the Max Minister “has indicated his commitment to a constitutional amendment ... and his willingness to convene another First Ministers’

Conference to that end”

The actions of the Canadian government and Canada’s Observer Delegation remarks at Session VI of the Working Group regarding entrenching self-government in the Constitution demonstrated the folly of past efforts to entrench Indian self-government in Canada’s Constitution. Like other states’ governments present, Canada was intent upon politically absorbing Indian nations in line with the Sechelt Formulae. This course of action demonstrates Canada’s intent to dissolve the sovereignty of Indian nations over people and territories through “self-government agreements.” Through such agreements Canada was able to assert that Indian nations have consented to the dissolution of their sovereign authority and their acceptance of minority status within Canada. Combined with its desire to establish “Indian consent for the dissolution of Indian sovereignty,” Canada sought to create not only political dependence on its government but economic dependence through “funding agreements.”

Canada also indicated its intent to broaden its political and economic absorption policy to include social absorption. One Canadian observer advised this would be achieved through the “development of an aboriginal languages program” and the establishment of a “Canadian broadcasting policy” with more aboriginal content in operations and programming.

Canada was undertaking perhaps the most ambitious effort of any state in the world to politically, economically, and socially absorb indigenous nations. Such effort is in the strategic, economic, and political interest of Canada. Perhaps more aware than any country, Canada knows that it does not, in actuality, have full political, economic, and strategic control over its claimed territory. The principal obstacle to this control is Fourth World nations that continue to claim and assert their separate

political sovereignty. It should be no surprise, therefore, that Canada is going to such lengths to establish a comprehensive process of absorbing indigenous nations.

It should be noted that Canada demonstrates its deep concern over its ability to successfully absorb all Indian nations. This is illustrated by two comments made at the Sixth Working Group Session. First, Canada noted “Unfortunately, at that time, there was insufficient support among governments and aboriginal leaders to proceed with a proposal to entrench a self-government amendment.” This was first in the March 1987 First Ministers’ Conference. Secondly, Canada actively pressed in May 1988, at the U.N. Commission on Human Rights for descriptive language in the title of the U.N. Treaty Study which would seem to sanction its Constitutional and non-Constitutional processes for absorbing Indian Nations. It also pressed to narrow the debate concerning the Universal Declaration on the Rights of Indigenous Peoples and the I.L.O. Convention 107 revision to the rights of individual indigenous people and the use of lands instead of territories.

In the U.N. Commission on Human Rights debate concerning the U.N. Treaty Study, Canada pressed for language (and succeeded) that changed the study title from “The Status of Indigenous Treaties” to: “Study of the Significance of Treaties and Agreements and Other Constructive Arrangements.” Despite the fact that the U.N. Economic and Social Council had in March 1988 authorized the study with the former title, Canada succeeded in forcing the title change in the U.N. Commission on Human Rights resolution in May.

Based on what is known about Canada’s policy toward indigenous nations (absorption through self-governance and funding agreements, constitutional amendments, etc.), its desire to display these actions as progres-

sive during the Sixth Session of the Working Group and its fundamental need to establish its sovereign domain over Fourth World territories which make up about 1/3 of upper North America could only be seen as a way of further protecting what I call the Canadian Indian Absorption Sham! The U.N. Treaty Study promises to expose Canada's Indian Absorption Sham.

When the study was first proposed in the Cobo Study, it was proposed to determine:

1. If Treaties and Agreements between indigenous nations and State governments have international standing and, therefore, should be enforced according to international standards, and
2. If future Treaties and Agreements between Indigenous nations and states' governments should have international standing and be enforced according to international standards. If agreements between Canada (or any other state for that matter) and indigenous nations are to be held up to international standards and scrutiny, Canada's hold on two-thirds of the upper North American continent would possibly evaporate. Canada's sovereignty over Fourth World territories would be called into question. Indeed, Canada's sovereignty generally would be called into question.

Canada has no treaty with indigenous nations in the vast portion of its claimed territory. If the U.N. Treaty Study concluded that international standards must be used in relations between indigenous nations and states governments, this would put enormous pressure on the Canadian government. It would probably have to open treaty negotiations with most Fourth World nations inside the boundaries of Canada. These negotiations would not be within the framework of the Canadian govern-

ment (hidden from international scrutiny), but rather they would have to take place within the international environment. Canada would have to establish treaties with all those nations, which it wanted to have within Canadian sovereign domain. Without such treaties, Fourth World nations like Lil'Wat¹³ would be internationally recognized as separate and distinct from Canada—outside her sovereign domain.

Canada and the United States, Australia, and Belgium were also eager to insert narrowing language in the developing Draft Declaration on the Rights of Indigenous People. Canada, as did the United States, opposed the use of the terms self-determination, sovereignty, peoples, and territory in connection with the rights of indigenous peoples. The presence of such terms in the Declaration would place enormous pressure on the Canadian government to deal with Indian nations according to international standards. At present, self-governance and funding agreements need not contain provisions, which normally would be required under international standards. These "domestic agreements" need only reflect Canadian constitutional requirements. Under this circumstance, Canada retains absolute control over the meaning and interpretations of such "domestic agreements." U.N. Human Rights standards, or World Court standards need not apply. Canada is left to do what ever is in its own political, economic, and strategic interest—even though Indian nations may be the losers. Indeed, when given the opportunity to join 193 other states approving the Outcome Statement of the 2014 World Conference on Indigenous Peoples, only Canada submitted a statement to the United Nations rejecting the self-determination and self-government principles.

The conditions which surround Self-Gover-

¹³ This is a small nation in Southwest Pacific Canada located north of the City of Vancouver.

nance Compacts negotiated by Indian nations from 1992 - 2000 with the United States can be described in the same way. These “domestic” instruments have limited significance in terms of the full expression of self-government and hold little sway under international standards.

The I.L.O. Convention 107 is of relatively equal importance to the Compacts since it is an existing international convention, which binds the Canadian government. Narrowing or limiting language perpetuates the original character of this Convention—integration, individual rights, and land rights, as opposed to self-determination, collective rights, and territorial rights—all concepts essential to Canada’s absorption policy.

Canada’s external and internal policies regarding indigenous nations are remarkably well coordinated and consistent. This is unusual for most states—even the United States government does not have such close coordination between its internal policies and external policies. Such consistency shows how fundamentally important to the security and political stability of Canada the question of indigenous rights is. Canada is working on three fronts internally: self-governance agreements, funding agreements, and constitutional amendments. Externally, Canada is working on a broad range of fronts including: the U.N. Commission on Human Rights (in 1989 Canada became a full member), the International Labor Organization in connection with I.L.O. Convention 107, the U.N. Working Group on Indigenous Populations in connection with the Universal Declaration on the Rights of Indigenous Peoples, the “English Speaking Symposium” consultations between Canada, U.S.A., Australia, and New Zealand every two years; the Inter-American Indian Institute meeting every four years (Canada became a formal member in 1989); and negotiations between

Yapti Tasba¹⁴ and the government of Nicaragua where Canada is a guarantor state.

The above discussion illustrates that states’ governments increasingly regard the outcome of decisions in the U.N. Working Group on Indigenous Populations as critical to their political interests. This level of concern increases as the time drew near when a final draft of the Universal Declaration on the Rights of Indigenous Peoples came before the U.N. General Assembly.

Active Indigenous Nations in International Dialogue

What follows are some insights into the involvement of indigenous representatives (non-governmental organizations and community representatives) in efforts to shape language in international instruments during the active years of the UN Working Group on Indigenous Populations (1982 – 1990).

Over a five-day period preceding the convening of the Sixth Session of the U.N. Working Group on Indigenous Peoples, representatives of observer indigenous nations and organizations met in the Third Session of the Indigenous Peoples’ Preparatory Meeting. Participating indigenous delegations came from Asia, Southern Asia, Melanesia, Northern Europe, the Pacific, North America, Central America, and South America. No legations represented Central Asia, the Middle East, Southern Europe, the Atlantic, or Africa. A review of these discussions may be instructive while revealing the scope and content of these increasingly important sessions. The Preparatory Meeting Agenda focused on the following items:

- The Draft Universal Declaration on the Rights of Indigenous Peoples

14. This is that name of the territory occupied by the Miskito people on the northern Atlantic Coast of Nicaragua.

- Progress on Revisions to the I.L.O. Convention 107
- Study of the Status of Indigenous Treaties
- Reports from attendees indicated that participation in the Indigenous Peoples' Preparatory Session declined in 1988, though the substance of the session was much more focused. Shortage of funds and higher exchange rates favoring the Swiss Franc were cited as reasons for the lower level of participation.
- UN Declaration on the Rights of Indigenous Peoples

Efforts were initiated to "modify the Preparatory Session's 1987 Draft of the Declaration on the Rights of Indigenous Peoples." Opinion on this subject was divided. Some suggested that modifications were necessary to accommodate the "political realities" of state opposition, and "getting any declaration" was better than getting none from the U.N. General Assembly. Specific note was made of the fact that some states' governments had begun to organize their efforts to promote a declaration which contains references to "individual rights," "land rights" and political integration of indigenous peoples into the various states. These terms met vigorous opposition from many indigenous observers. Indigenous observers strongly reaffirmed the need to include language in the Declaration which advances indigenous "self-determination," "territorial rights," and autonomous self-government. The Preparatory Session did not resolve these differences, but left their consideration to working sessions during the Working Group Session in the following week.

International Labor Organization Convention #107

A similar debate arose over the two-year

long International Labor Organization revision process of Convention 107 (see Attachment 4.1). Appearing before the Preparatory Session, the I.L.O. representative advised that final language for the Revised Convention #107 would be submitted for states' government and Labor Organization ratification in July 1989. I.L.O.'s representative noted that recommendations from the U.N.'s Special Rapporteur, Mr. Martinez Cobo to change "the orientation of the Convention away from the integrationist approach adopted in 1957, to respect for the cultures, ways of life, and very existence of indigenous and tribal peoples, and of incorporating requirements for consultation and participation" were heard and some states' government indicated their general willingness to agree.

I.L.O.'s representative also advised "no agreement has yet been reached on two important issues." The first of these is whether to designate indigenous nations as peoples or populations. Though there was considerable debate, no agreement was achieved. The second issue was whether to use lands or territories. Some states' observers indicated fears that the term territories "might carry implications beyond a mere description of the way in which indigenous and tribal peoples see their relationship to the territories they occupy." In more direct terms, the fears were that indigenous nations might exercise sovereignty over territories while they may simply exercise ownership and use over lands. This issue is of critical importance since the use of a specific term may connote sovereign competition, while another term would mean permanent state sovereignty over indigenous lands.

An adjunct to the second issue was the question of "the extent to which and the way in which these peoples will be protected against involuntary removals from their lands, and from exploration for and exploitation of

non-renewable resources.” Like the terminological debate, this too was left unresolved and deferred to 1989.

The I.L.O. representative advised that revision committee members were frequently reminded “the Conference was engaged in drafting a Convention, which when ratified would create binding legal obligations. ... [it is] necessary to ensure that the provisions included in the draft not be such as to make it difficult for countries to ratify the Convention.” In other words, I.L.O. revision committee members were being cautioned to keep the revised language as non-threatening to State sovereignty as possible. Members were frequently advised that the standard setting activities of the U.N. Working Group on Indigenous Populations are of a “complimentary nature” to the work of the International Labor Organization. This invocation seemed to suggest that the U.N. Working Group on Indigenous Populations should serve as the “barometer of states’ government sentiments”—whichever path the Working Group takes, the I.L.O. could follow with its revisions to Convention 107.

Outline of the Status of Indigenous Treaties

One of the recommendations of the ten-year U.N. Commission on Human Rights Study of the Problem of Discrimination Against Indigenous Populations (1983) was for the Commission to undertake a study on the status and significance of treaties between states’ governments and indigenous peoples. At the March 1988 meeting of the U.N. Human Rights Commission, the study proposal was raised for consideration and authorization. The proposal was made to allow Mr. Miguel Alfonso Martinez (a member of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, and a member of the U.N. Working Group on Indigenous Populations) to serve as the Special Rapporteur for

the Study on the Status of Indigenous Treaties (see Attachment 3.1).

The U.N. Economic and Social Council had adopted Resolution 1988/56 in March to authorize the U.N. Treaty Study. This resolution empowered the U.N. Commission on Human Rights to designate a Special Rapporteur to undertake the study. Since the Sub-Commission on the Prevention of Discrimination and Protection of Minorities has a standing authority to conduct studies, it was designated as the official body responsible for the U.N. Treaty Study. Mr. Martinez’s role as the Special Rapporteur evolved from his role in the Sub-Commission and the U.N. Working Group on Indigenous Populations.

Though not a member of the U.N. Commission on Human Rights, the Government of Canada strenuously refused to allow Mr. Martinez to undertake the study. Apparently taking some instructions from the United States government, the Canadian representatives argued that Mr. Martinez, who is from Cuba, could not be relied on to give states in the western bloc with indigenous treaties a fair hearing. Other states’ government members of the U.N. Commission on Human Rights agreed. Still other governments, notably Belgium, expressed concerns about the possible outcome of the study. They expressed concern that treaties between indigenous peoples and states governments might be granted international standing. Ted Moses representing the Cree of Quebec had denounced Canada’s efforts as a “slick and sleazy” maneuver. The outcome of the May debate was an agreement to permit Mr. Martinez to develop and present an “Outline on the Significance of Treaties and Agreements and other Constructive Arrangements” between indigenous peoples and States. The Commission decided that Martinez’s outline must bear in mind “the socio-economic realities of states, and the inviolability of their sovereignty and

territorial integrity.”

Martinez was to present his outline at the Sixth Session of the U.N. Working Group on Indigenous Populations. The debate was to continue during the Sub-Commission’s session immediately following the Working Group Session in August. Reports circulated that Mr. Martinez intended to cause both the United States government and Canada “maximum embarrassment”—and he did.

Preparatory Session discussions centered primarily on how to demonstrate strong support for the U.N. Treaty Study at the Sixth Session of the U.N. Working Group on Indigenous Populations. It was noted that such strong endorsement of the study was necessary because of what was described as a “major clash” between the interests of states’ governments and indigenous peoples. Many observers noted that most governments view the U.N.’s growing interest in indigenous peoples as interference in their internal affairs.¹⁵ The specific character of the U.N. Treaty Study and the rapid development of a Universal Declaration on the Rights of Indigenous Peoples are increasingly considered by states’ governments to be a threat to their sovereignty and territorial integrity.

In sum, the Indigenous People’s Preparatory Meeting took on a much more serious and political focus, as the issues of controversy between indigenous peoples and states’

government are more sharply defined. As indigenous nations increased their pressures on states’ governments at home, they forced the U.N. into daring new feats of standard setting. Conversely, with their increased visibility at the international level, indigenous nations forced many states government to become more directly involved in an international dialogue about the future rights of indigenous peoples.

As the Human Rights Reporter observed in its Winter 1988 U.N. Watch:

The goals of native peoples range from outright independence at one extreme (some U.S. Indians, West Papuans, Kanaki) to a demand for equality and participation [in the state] at the other (some Latin American Indians). The majority fall somewhere in between. They want a form of self-determination which would fall short of outright independence, but allow control over land and natural resources. [Vol. 12, no.2]

The debates at the U.N. and in the International Labor Organization about the Declaration on the Rights of Indigenous Peoples, Revisions of the I.L.O. Convention 107, and the U.N. Treaty Study combined to sharpen the positions between states’ governments and indigenous nations—with the U.N. serving as the arbitrator of this debate. It became more intense between 1989 and 1992 as the Declaration proceeded to consideration by the UN Human Rights Council. It was in this four-year period that the Draft Declaration was carried through the U.N. to the General Assembly for final adoption by 2007. The I.L.O. revised Convention 169 remained under consideration for ratification by states’ governments. Perhaps most upsetting to states governments were the results of the U.N. Treaty Study authored

15. This is particular apparent with the Russian Federation that now claims, like the Peoples Republic of China, that it has no “indigenous peoples.” Increasingly states’ governments are adopting this posture suggesting that they have fully recognized such peoples as “Russians” or “Chinese” with full rights—eliminating the need to pay attention to the UN Declaration on the Rights of Indigenous Peoples. These postures account for the significant reduction in the UN recognition of indigenous peoples to 370 million (matching the member states’ policies) instead of the 1.3 billion identified in the CWIS Fourth World Atlas Project marking the location and population of more than 5000 nations.

Table 2: Chronology of International Initiatives 1941 – 2015

Year	International Activity affecting Indigenous Peoples' Interests
1941	Inter-American Treaty (U.S. & 17 Central & South American Countries) -establishment of the Inter-American Indian Congress and the Inter-American Indian Institute
1944	National Congress of American Indians founded
1948	N.C.A.-I. adopts Self-Determination Policy Resolution
1957	International Labor Organization Convention 107: Concerning Tribal and Semi-Tribal Populations in Independent States.
1958	N.C.A.I. Point 4 Program
1961	Chicago Conference. Declaration of Purpose
1957	2nd Inter-American Indian Congress
1960	3rd Inter-American Indian Congress
1964	4th Inter-American Indian Congress
1968	5th Inter-American Indian Congress
1968	U.S./Canada Talks on Indian Affairs
Beginning the International Indian Affairs Agenda	
1970	Nixon Self-Determination Policy
1974	U.S./Canada Talks on Indian Affairs
1971	N.C.A.I & Native Indian Brotherhood of Canada exchange agreement - Preparations for establishment of World Council of Indigenous Peoples
1971	U.S./Canada Talks on Indian Affairs
1971	Helsinki Negotiations (U.S./USSR and European States)
1972'	6th Inter-American Indian Congress - Brazil
1972	U.S./Canada Talks on Indian Affairs
1972	N.C.A.I./N.I.B. cooperation to form an international indigenous organization - later to become World Council of Indigenous Peoples.
1972	Non-Governmental Conference on Indian Rights; call for study of Indigenous peoples - Switzerland
1972	U.N. Commission on Human Rights authorizes <u>Study of the Situation of Indigenous Populations</u> directed by Special Rapporteur Martinez Cobo
1973	U.N. Study of the Situation of Indigenous Populations (begins) U.N. Commission on Human Rights
1973	U.S./Canada Talks on Indian Affairs
1973	N.C.A.I. Declaration of Sovereignty
1974	U.S./Canada Talks on Indian Affairs
1975	U.S./Canada Talks on Indian Affairs

Table 2: Chronology of International Initiatives 1941 – 2015 (continued)

Year	International Activity affecting Indigenous Peoples' Interests
1975	American Indian Policy Review Commission
1975	Formation of International Indian Treaty Council
1975	Formation of World Council of Indigenous Peoples – CANADA
1975	Helsinki Final Act (Organization on Security and Cooperation In Europe)
1975	Indian Self-Determination & Education Assistance Act - PL 638
1976	U.S./Canada Talks on Indian Affairs
1976	7th Inter-American Indian Congress - Panama
1977	U.S./Canada Talks on Indian Affairs
1977	2nd General Assembly WCIP - Sweden
1977	NGO Conference on Indigenous Rights - Geneva, Switzerland
1977	U.S. American Indian Policy Review Commission Final Report
1978	U.S./Canada Talks on Indian Affairs
1978	U.S., Canada, New Zealand, Australia begin consultations on the problem of Indigenous peoples - "English Speaking Symposium."
1979	U.S./Canada Talks on Indian Affairs
1979	U.N. Commission on Human Rights considers NGO proposal for establishment of U.N. Working Group on Indigenous Populations
1979	U.S. Report to Commission on Security & Cooperation in Europe - Helsinki Final Act regarding charges of Human Rights violations against American Indian
1979	Conference of Tribal Governments – announce "government-to-government" policy
1980	"English Speaking Symposium" Canada
1984	U.N. Economic and Social Council authorizes U.N. Commission on Human Rights to form Working Group on Indigenous Populations
1980	World Bank authorizes development of Tribal Economic Development Policy
1980	U.S./Canada Talks on Indian Affairs
1980	8th Inter-American Indian Congress - Ecuador
1981	3rd General Assembly WCIP - Australia
1981	U.N. Commission on Human Rights authorizes Working Group on Indigenous Populations
1981	U.S./Canada Talks on Indian Affairs
1982	"English Speaking Symposium" - New Zealand
1982	U.S./Canada Talks on Indian Affairs
1982	UN Working Group on Indigenous Populations First Session
1982	World Bank "Tribal Peoples and Economic Development Policy" Washington, D.C.

Table 2: Chronology of International Initiatives 1941 – 2015 (continued)

Year	International Activity affecting Indigenous Peoples' Interests
1983	NCAI Submission to UN WGIP - Geneva, Switzerland
1983	Reagan "Government to Government" Policy
1983	U.S./Canada Talks on Indian Affairs
1983	U.N. - WGIP Second Session - Geneva, Switzerland
1983	NCAI submission to the UN Working Group on Indigenous Populations – Geneva.
1983	NCAI delegate participation in Central American Regional Meeting of Indians - Mexico
1983	U.N. <u>Study of the Situation of the Situation of Indigenous Populations – M. Cobo</u> completed
1983	World Assembly of First Nations - Regina, Canada
1984	"English Speak Symposium" Warm Springs Reserve, USA
1984	4th General Assembly WCIP - Panama
1984	U.S./Canada Talks on Indian Affairs
1984	U.N. - WGIP Third Session - Geneva, Switzerland
1984	US Presidential Commission on Reservation Economies
1985	U.S./Canada Talks on Indian Affairs
1985	9th Inter-American Indian Congress (Canada & Australia observers) - Santa Fe, USA
1985	Lummi Submission to UN WGIP Geneva, Switzerland
1985	Quinault Submission to U.N. WO IP - Geneva, Switzerland
1985	U.N. Commission on Human Rights considers various recommendations from Working Group on Indigenous Populations; authorizes WGIP to formulate a Draft Universal Declaration on the Rights of Indigenous Peoples
1985	Indigenous Peoples' Preparatory Session I - Geneva, Switzerland
1985	U.N. - WGIP Fourth Session - Geneva, Switzerland
1986	U.S./Canada Talks on Indian Affairs
1986	"English Speaking Symposium" Australia
1987	ILO Convention I07 Revision Session 1- New York, USA
1987	U.S./Canada Talks on Indian Affairs
1987	Indigenous Peoples' Preparatory Session 2 - Geneva, Switzerland
1987	5th General Assembly WGIP - Bolivia
1987	UN - WGIP Fifth Session - Geneva, Switzerland
1987	International Silva-culturalists Conference - Indian Timber management - Yugoslavia
1987	U.S. Appropriation for Self-Governance Demonstration Project
1988	I.L.O. Convention 107 Revision Session 2 - New York, USA

Table 2: Chronology of International Initiatives 1941 – 2015 (continued)

Year	International Activity affecting Indigenous Peoples' Interests
1988	U.S./Canada Talks on Indian Affairs
1988	U.S. Department of Labor, Bureau of International Labor Affairs requests tribal government comments on draft revisions in I.L.O. Convention 107 - Federal Register October 28, 1988.
1988	U.N. Commission Human Rights debates and authorizes U.N. Indigenous Treaty Study 1988 "English Speaking Symposium" Canada
1988	Indigenous Peoples Preparatory Session 3 - Geneva, Switzerland
1988	U.N. - WGIP Sixth Session - Draft Universal Declaration on the Rights of Indigenous Peoples
1988	UN Treaty Study begins - Geneva, Switzerland
1988	NGO European Indian Support Groups Conference -Austria
1988	US Self-Governance Demonstration Project Planning Authorization
1989	10 th Session of the Inter-American Congress on Indian Life
1989	U.S. Department of Labor, Bureau of International Labor Affairs request tribal government comments on final draft or revisions in I.L.O. Convention 107 - Federal Register March 8, 1989.
1989	Organization of American States General Assembly asks the Inter-American Commission on Human Rights to prepare a legal instrument on the rights of "indigenous populations."
1989	International Labour Organization - 76th Session -June 7,1989 - Geneva, Switzerland Signing of I.L.O. Convention 169 on tribal and semi tribal populations.
1989	International Indigenous Peoples' Preparatory Session - V July 24 - 28, 1989 - Geneva, Switzerland
1989	U.N. Working Group on Indigenous Populations - Session VII. July 31, 1989 - August 4, 1989 - Geneva, Switzerland
1992	UN – Biodiversity Convention International Conference – Argentina
1993	11 th Session of the Inter-American Congress on Indian Life
1994	UN – Convention on Biodiversity comes into force with Article 8j concerning Indigenous nations.
1997	The Inter-American Commission on Human Rights issued the Proposed American Declaration on the Rights of Indigenous Peoples and sent the draft to the Organization of American States General Assembly
1997	12 th Session of the Inter-American Congress on Indian Life
1994 - 1999	Annual inter-sessionals scheduled for Indigenous nations to participate in "benefit sharing" discussions (Convention on Biodiversity)
1999	NCAI & Assembly of First Nations Joint Conference and Joint Cooperation Statement
2000	Inter-American Declaration on the Rights of Indigenous Populations – Organization of American States (Drafting). Working Group formed to be held with participation of indigenous peoples' representatives.

Table 2: Chronology of International Initiatives 1941 – 2015 (continued)

Year	International Activity affecting Indigenous Peoples' Interests
2000	United Nations Permanent Forum on Indigenous Issues
2001	13 th Session of the Inter-American Congress on Indian Life
2001	United Nations Permanent Forum on Indigenous Peoples Issues authorized by UN Economic and Social Council.
2001	World Bank Revision of Indigenous Peoples Economic Development Policy.
2001	World Health Organization – Draft Policy on Indian health
2001	Pan American Health Organization – Policy on Indigenous Health
2002	UN Permanent Forum on Indigenous Peoples Issues convenes first Session in New York with fifteen members (appointed by states' governments and by Sec General with recommendations of indigenous organizations.
2007	United Nations Declaration on the Rights of Indigenous Peoples (September 13)
2014	UN World Conference on Indigenous Issues (Outcome Document – September 22)
2015	OAS Working Group on Indigenous Peoples Chair distributed the draft Preamble for the Draft American Declaration on the Rights of Indigenous Peoples to OAS states.
2015	Paris Agreement, UN on Climate Change (COP21) (Article 7)

by Mr. Miguel Alfonso Martinez of Cuba. It is this study that proffered a wider vision of international standing for indigenous nations along side UN Member States—a vision that challenges states' governments throughout the world where 1.3 billion indigenous people occupy territories bounded and bifurcated by arbitrary states' boundaries.

There is what appears to be an inexorable movement in international relations from a world dominated by states to one where indigenous nations occupy sovereign equality on a range of topics including territorial control, governance, and cultural development. Table 2 lists that international initiatives taken by indigenous nations and by states' governments showing an evolving political environment where the interests and political standing of indigenous nations as increasingly become a permanent part of the international space.

Epilogue

Much of the preceding commentary and analysis was written between 1984 and 1993 with supplemental additions for the period following 1993 and into 2015. Despite substantially greater complexity in international indigenous affairs and acceleration of international events concerning indigenous (Indian) affairs on subjects ranging from social, health, education, political, economic, strategic, and territorial issues American Indian nations have remained passive and inactive in the international arena. With the United States government actively seeking to undercut self-determination as a principal applied to Indian nations within the international realm and limiting the terms of reference it is apparent that Indian nations are behind the times with the United States having a considerable advantage. What was apparently won by nations for the exercise of sovereignty, self-government, and self-sufficiency inside the United States, appears to be

Table 3: Countries Ratifying ILO Convention 169

 Argentina	03:07:2000	ratified
 Bolivia	11:12:1991	ratified
 Brazil	25:07:2002	ratified
 Central African Republic	30:08:2010	ratified
 Chile	15:09:2008	ratified
 Colombia	07:08:1991	ratified
 Costa Rica	02:04:1993	ratified
 Denmark	22:02:1996	ratified
 Dominica	25:06:2002	ratified
 Ecuador	15:05:1998	ratified
 Fiji	03:03:1998	ratified
 Guatemala	05:06:1996	ratified
 Honduras	28:03:1995	ratified
 Mexico	05:09:1990	ratified
 Nepal	14:09:2007	ratified
 Netherlands	02:02:1998	ratified
 Nicaragua	25:08:2010	ratified
 Norway	19:06:1990	ratified
 Paraguay	10:08:1993	ratified
 Peru	02:02:1994	ratified
 Spain	15:02:2007	ratified
 Venezuela	22:05:2002	ratified



Figure 2 Global Indigenous Peoples Preparatory Meeting Participation

losing in the international arena. As this piece indicates, there are advantages to be gained by action from Indian nations. There is a great deal to lose from inaction.

The international Fourth World Affairs agenda continues to grow, touching on American Indian and other indigenous nations' interests with increasing regularity from month-to-month. In the Fall of 1989 for example, the United States Congress was asked to consider ratification of the newly revised I.L.O. Convention 169. The Inter-American Indian Congress convened its quadrennial sessions and the United Nations Working Group on Indigenous Populations Sessions in Geneva. On February 7, 1989 Congressman Benjamin A. Gilman of New York and a member of the

House Foreign Affairs Committee introduced House Resolution 879 under the title of the International Indigenous Peoples Protection Act of 1989. Congressman Gilman and the bill's cosponsors introduced this legislation to "promote the rights of indigenous and tribal peoples and to ensure that no U.S.-funded program or project adversely affects indigenous or tribal peoples' rights or livelihood. The proposed legislation required the U.S. State Department to annually monitor the situation of indigenous peoples and report its findings in the annual country reports on human rights practices. The US Congress did not ratify the new Convention. However, as of 2015 twenty-two states have ratified it as shown in Table 3.

Meanwhile, the World Council of Indig-

enous Peoples formed in the 1970s collapsed and disappeared while the Inuit Circumpolar Council, Unrecognized Peoples and Nations Organization (UNPO), International Indian Treaty Council (IITC), and other regional indigenous organizations continued and in some instances flourished. The stage had been set for the first tentative effort to undertake a global meeting of Fourth World nations and peoples with the United Nations deciding to convene a Plenary Session of the General Assembly and title it the World Conference on Indigenous Peoples. This decision in 2011 triggered the General Assembly President to authorize the formation of the Global Indigenous Coordinating Group (GICG) made up of eighteen Fourth World delegates representing seven regions of the world. The GICG undertook the complicated and monumental task for organizing Fourth World participation in a World Conference preparatory meeting staged to facilitate Fourth World recommendations for a World Conference agenda.

The United Nations World Conference on Indigenous Peoples in the Fall of 2014 saw the largest global effort of Fourth World peoples' participation in the run up to that UN conference. Preparations by Fourth World nations, organizations and individuals for identifying specific language to be considered by the United Nations World Conference. More than four hundred delegates from seven of the world's regions and participants in two specialized caucuses joined in the Global Indigenous Peoples Preparatory Meeting at Alta, Norway in June 2013 to negotiate agreement on terms and recommendations to the UN World Conference. [See Figure 2] This remarkable event occurred under the sanction of the United Nations President, but it was organized by a Global Committee made up Fourth World regional representatives.

While there was often contentious debate

in each region before the Alta Conference, the ultimate outcome was a unified statement that significantly influenced what would become the World Conference on Indigenous Peoples Outcome Statement in September 2014. All 193 member states assented to the Outcome Statement, but the Canadian government issued a reservation essentially stating that the self-determination provisions and principle of "free, prior and informed consent"¹⁶ would not be agreed to. Only one dissent by an ostensibly democratically ruled public issued. Russia, China, and several other states agreed to the WCIP Outcome Statement, but slyly issued public statements basically saying that it was unnecessary to apply the agreement to these countries since they "do not have indigenous populations—all are nationals."

As many as five international meetings are convened by indigenous NGOs each year including the UN Council on Human Rights, the Third Committee of the UN¹⁷. They concern subjects such as sustainability, international health, biodiversity, self-determination, and slavery concerning indigenous peoples.

Unfortunately, indigenous peoples themselves are not so often represented in the international space so much as they are "reflected" by non-governmental organizations that have greater financial support and flexibility to participate in such international meetings. Self-

16. The principle the undergirds the United Nations Declaration on the Rights of Indigenous Peoples providing the central authority of Fourth World nations to preserve, protect and guarantee their social, economic, political and cultural identity without state interference.

17. The Third Committee is one of four UN bodies with decisional authority. This body is principally concerned with social, humanitarian, and cultural affairs focusing on questions relating to the advancement of women, the protection of children, indigenous issues, the treatment of refugees, the promotion of fundamental freedoms through the elimination of racism and racial discrimination, and the right to self-determination.

directed participation in international meetings by indigenous nations remains an illusive goal. A limited number of nations actually engage the international arena at all.

American Indian governments remain largely focused on bureaucratic struggles with the US Bureau of Indian Affairs, other US federal agencies, and the challenges of US legislation designed to limit or undermine tribal authorities and powers. No more than 10 American Indian governments out of more than 560 engage international initiatives and debates that directly affect the rights and interests of the peoples they represent.

The remaining nations are largely occupied with domestic US concerns. Indian nations allow the United States government significant political space to project an image of a benevolent state seeking only to advance the social, economic, and cultural well being of Indian communities. With no challenge to this internationally projected image the United States government is free to “model” an approach to indigenous peoples’ rights to the world that is both an illusion and helpful to other states that wish to present the same illusion. Consequently no state need worry about serious challenges to its policies and practices that may include population relocations, land confiscations, low level violence, and adverse social and health policies that undercut the physical viability of indigenous communities.

It is without a doubt essential for Fourth World nations to take central responsibility for their own political development and interactions in the international space. The role of Fourth World nations in the United States is a major influence in the progressive development of the international agenda. Their pro-active engagement is essential to greater achievements and political success.

There can be no substitute for a new Fourth World strategy for advancing the fundamen-

tal principle that states, sub-political organs, corporation, nongovernmental organizations, multi-lateral state or nation organs and transnational religions must obtain the free, prior and informed consent of Fourth World nations given by each nation in accord with customary laws before instituting policy, administrative decisions, regulations, or actions. A new Fourth World Strategy is now needed to build on this important principle embedded in the new international consensus among states’ governments and Fourth World nations’ governments alike.

About the Author



Dr. Ryser is the Chairman of the Center for World Indigenous Studies. He served as Senior Advisor to the President George Manuel of the World Council of Indigenous Peoples, as former Acting Executive

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