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Totem, Joseph Burton DeLaCruz (1937-2000), Inchelium, Ferry County, May 5, 2011
Photo by B. Jahn

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LUKANKA

Lukanka is a Miskito word for “thoughts”

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As we edge into the third decade of the 21st Century, we are alarmed by the long-predicted effects of unrestrained human development on global climate, viral pandemics, and economic disparities. We note that the unrestrained development remains largely stimulated especially by countries in the northern hemisphere but not exclusively. Meanwhile the presence and actions of Fourth World nations in the world’s 206 states are becoming more visible politically and strategically.

The more than 5000 Fourth World nations large and small occupy most of the same territorial space and political space as the world’s states. Unlike minority groups that are part of a state’s recognized population, Fourth World nations have territories, and often a common language, common heritage, and history. The key word is “territory.” The fact of territorial occupation is becoming more relevant to the stability and future of all humanity as the question increasingly emerges: “Who governs and decides the future of the living Earth—the land, the flora, fauna,



RUDOLPH C. RYSER

Editor in Chief
Fourth World Journal



water, the air?” Since the United Nations declared rules for decolonizing “non-self-governing peoples” taking effect in 1945 and benefiting 750 million people in new states the question must be asked, “what now must be done with the 1.9 billion Fourth World remaining people located inside the boundaries of existing states?”

There are now about 67 nation-states (states formed before the United Nations that are ruled by nations or states created because of decolonization ruled by a nation

or a confederation of nations) that either govern a single nation or several nations clustered inside the boundaries of the newly formed state. The three main polities in the international arena are nations, states, and nation-states, but not all engage in decision making as equals. The complex of potential decision-makers demands that all nations, states, and nation-states recognize and respect each other equally. But such an obvious necessity is blocked from occurring when states’ governments (the truly youngest of the political entities) claim sovereignty over territories that are also occupied by Fourth World nations.

The movement of nations to equally participate in decision-making over matters affecting them and matters affecting humanity overall has grown like a slow burn for more than 100 years. The time has arrived for all people to participate as equals in decision to achieve economic equity, balanced use of biodiverse ecosystems, restrained use of water, elimination of contaminants in the soils, air, water, and environment generally and stabilization of human and political systems. Fourth World nations are acting to demonstrate their engagement and states and nation-states must now join with the world's original nations.

To advance this climate of equity and balanced decision-making the Center for World Indigenous Studies sponsored the formation of the Congress of Nations and States beginning in 1992 (www.cnsint.org). The Congress will assemble in late 2022 to vigorously debate and put into place new laws to implement nation and state commitments enshrined in international instruments since 1977. These commitments are documented in outcome documents issued from conferences and assemblies by nations and states' multilateral bodies such as the United Nations, International Labor Organization, African Union, European Union, and the Association of Southeast Asian Nations to name a few bodies.

The Fourth World Journal issue before you includes insightful essays expanding on the idea of nations and states finding and establishing political equality to truly solve human created problems facing peoples around the world.

John Caldbick is a former Seattle Post Intelligencer news staffer in his youth and

more recently a historian writing for the online HistoryLink website. His writing style and grasp of human story in *A Leader of Nations*, *Joe DeLaCruz* brings to us a sweeping view of the life of Quinault Nation President Joseph B. DeLaCruz. He reveals in a friendly narrative the trials and powerful influence of this Quinault leader who worked tirelessly to reshape the political environment in which Fourth World nations seek their highest aspirations. Caldbick's narrative is well sourced and thoughtfully presented calling forth DeLaCruz's understanding of the necessity for nations and states to build bridges and common respect as political equals for the good of all peoples.

In *Engaging Free, Prior and Informed Consent for Mutual Benefit* Rudolph Rýser has compiled an extensive discussion of the policy background between Fourth World nations and states' government commitments generated since 1977. While listing and discussing those commitments in the economic, environmental, culture & society, political governance, security and justice subject areas, Rýser provides a framework for actually implementing these commitments using the principle of Free, Prior and Informed Consent as affirmed in nations' policy statements and states' enshrined commitments in such instruments as the International Labor Organization Convention 169 (1989), UN Declaration on the Rights of Indigenous Peoples (1994, 2007) and the UN World Conference on Indigenous Peoples Outcome Document 2014. Noting that numerous commitments remain unrealized after decades, Rýser suggests it is time to establish protocols and actions to put into motion commitments made.

An experienced researcher and faculty member at Amity Institute of Liberal Arts (AILA), Amity University in Mumbai Maharashtra, India Dr. Dattatreya Bhandalkar explores the social, economic, and historic presence of so called “de-notified tribes of India” in his article *Spoiled Identity and Stigma: A Case of Ex-Criminal Tribes of India*. Dr. Bhandalkar’s emphasis on the tribes of India reveals a hidden secret of the Indian State. His description of tribal poverty, stigma, exclusion, and official non-recognition uncovers India’s official failure to treat the original peoples of India as human beings with territories and the unrealized power of political expression. Dr. Bhandalkar explains how the Indian government declared tribal communities as “Criminal Tribes under the act of 1871— demonstrating the powerful negative influence of the British Government’s colonial animus toward the first peoples of India. The continuation of British policies even without the Act of 1871 has not changed the continuing social exclusion, “criminal stigma,” and “spoiled identity” present to this day.

Dr. Sabina Singh writes an exploration of *Sovereignty in the Third and Fourth World: A comparative Discussion on Two Levels* that strips away narrow political science analyses revealing how colonial conceptual structures continue

to plague international discourse preventing a more realistic understanding of the political possibilities for so called Third World and Fourth World peoples that are quite distinct. Dr. Singh is an International Relations Advisor in the Congress of Nations and States (www.cnsint.org) and a former university professor teaching African Politics at the University of Victoria in British Columbia, Canada. Showing Frantz Fanon’s political analysis against Chief George Manuel’s political analysis Dr. Singh reveals the different pathways opened for international relations by understanding the differences and some similarities between Third World and Fourth World political analysis.

The Fourth World Journal is proud of the important contributions of authors who stretch their thinking to help create new conceptual and operational pathways for constructive relations between nations and states.





Biodiversity Wars

Coexistence or Biocultural Collapse in the 21st. Century

By Dr. Rudolph Rýser

Dr. Rýser discusses the foundation for his proposal of a new international mechanism to bridge the economic, social, political and cultural gap between Fourth World nations and the world's 203 states.

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A Leader of Nations, Joe DeLaCruz

By John Caldbick



Photo by Irina Iriser

FWJ Editor in Chief: In 1979 Quinault President Joe DeLaCruz called the Indian Leaders of nations to a Conference of Tribal Governments in Tumwater, Washington (USA) to formulate new policies by the governments to advance self-government. As the Executive Director of the Small Tribes Organization of Western Washington in that year I had the honor of working with Joe to organize and convene the Conference. President DeLaCruz saw self-determination for his nation and the nations of the world as the critical political advancement for peoples who had been colonized against their will during the generations. President DeLaCruz was joined in the Conference of Tribal Governments by leaders of the Lummi Nation Chairman Sam Cagey, Squaxin Island Chairman Calvin Peters, Chairman Cliff Keline, Muckleshoot Tribe Colville Confederated Tribes Chairman Mel Tonasket, Snohomish Chairwoman of the Small Tribes Organization of Western Washington Kathleen Bishop, Yakama Nation Chairman Roger Jim and other leaders of all thirty-three nations located in the US State of Washington. We at the Center for World Indigenous Studies and the Fourth World Journal celebrate President Joseph B. DeLaCruz and the Conference of Tribal Governments as the founding event that created our organization.

We are pleased to reprint the article that follows originally written by John Caldbick and distributed under the Creative Commons by HistoryLink.org Essay 9877 on 27 July 2011¹

¹ FWJ Editor Note: Some formatting adjustments were made in the body of the text and some punctuation marks were added or deleted to ensure clarity of the narrative.

DeLaCruz, Joseph “Joe” Burton (1937-2000)

Joseph “Joe” Burton DeLaCruz Jr., long-serving president of the Quinault Indian Nation, brought intelligence and charisma to the struggle to bring effective self-governance to his tribe and to Indians across the country. Although his tenure from 1967 to 1993 was not without controversy and criticism, DeLaCruz built a formidable record of accomplishment, tackling such tough and long-standing issues as access to reservation lands by non-Natives, fisheries and logging management, and, perhaps most notably, the status and role of Indian tribes within the American body politic. He was at the forefront of most late- twentieth-century struggles involving the status and rights of Native Americans, among them issues of resource management, education, economic diversity, governance, and tribal culture. While participating in these skirmishes, DeLaCruz never lost sight of what he considered to be the single overarching issue for Native Americans -- giving substance to the concept of tribal sovereignty.

Early Life

There is not a great deal of detailed information available about DeLaCruz’s early life. Depending on which source one consults, he was raised in either Taholah, a small town within the boundaries of the Quinault Indian Reservation, or in Moclips, just outside the reservation’s southern border on the Olympic Peninsula’s Pacific coast. DeLaCruz himself maintained that although he spent his high school years in Moclips, the family had earlier lived within the reservation

in Taholah, just nine miles to the north. In later years the question of his hometown would become fuel for his critics within the Quinault nation.

DeLaCruz was the eldest of 10 children, and at some point, his parents owned a small store and restaurant with attached living quarters on the Quinault Reservation. His precise ancestry is as disputed as his place of birth. In later years political enemies would claim that he was at most one-eighth Indian and had no Quinault blood at all. DeLaCruz was steadfast in asserting that he was fully one-half Indian, with the remaining half being Filipino and white.

Signs of ambition and talent appeared early. He was a four-sport athlete and high-school student-body president, and he earned spending money driving the school bus and working in the local shingle mill. In the summer, he would fish with his grandfather in the Quinault River as their ancestors had done for centuries past. After high school, DeLaCruz spent a two-year hitch in the army in Germany, then attended Portland State University. In 1959 he married Dorothy Lemery, an enrolled member of the Colville Tribe of Eastern Washington, started a family, and went to work for the federal government in Portland.

¹ FWJ Editor Note: Some formatting adjustments were made in the body of the text and some punctuation marks were added or deleted to ensure clarity of the narrative.

The Quinault Nation and Its Reservation

A brief condensation of the long and convoluted history of the Quinault Indian Nation's reservation is helpful to an understanding of many of the battles that Joe DeLaCruz took on while leading the tribe. In 1859 Congress ratified the Treaty of Olympia, negotiated with representatives of the Quinault, Hoh, Queets, and Quileute tribes. It set aside 10,000 acres as a reservation for these tribes, centered around the Quinault settlement at Taholah on the ocean coast of the Olympic Peninsula. In 1873 President Ulysses S. Grant (1822-1885) expanded the reservation to its present size of approximately 220,000 acres. The intent then was that all coastal "fish-eating tribes," including the Chehalis and Chinook, as well as the original signers of the Treaty of Olympia, would be gathered in one reservation.

The Dawes Act, passed by Congress in 1887 authorized the government to give allotments of land to individual tribal members for agricultural or grazing purposes. Any land not so allotted was considered surplus, and could be sold to anyone, including non-Indian individuals or companies. The proceeds from such sales, or from the sale of rights to timber or minerals from the land, were in theory to be administered by the government for benefit the tribes. In practice, a combination of inattention, incompetence, and corruption ensured that this promise, as with so many promises made to Native Americans, went largely unfulfilled.

The situation on the Quinault Reservation was to become more complicated than most. In 1911, Congress allowed non-resident "Hoh, Quileute, Ozette, or other tribes in Washington who are affiliated with the Quinault and Quileute tribes in the treaty" to receive allotments on the Quinault reservation (Chapter 246, 36 Stat. 1345). Then, in 1924, the U.S. Supreme Court ruled that allotments could not be limited to agricultural and grazing land, but must also include forested areas (*United States v. Payne*). This opened to private ownership large areas of valuable land once held in trust, however ineptly, for the tribes. And finally, in 1931, the Supreme Court in *Halbert v. United States* declared that non-resident Chehalis, Cowlitz, and Chinook Indians also were entitled to allotments. In effect, the Quinault Reservation became the de jure ancestral land of several otherwise-unrecognized tribes whose members often lived nowhere near the reservation and had few if any ties to it.

The court decisions and statutes allowing non-residents to receive allotments, combined with the ruling that opened forest land to private ownership, fueled a land rush on the reservation. During 1933 and 1934, well over 2,000 allotments were granted. Except for a very few acres, all the land within the Quinault Reservation eventually fell into private, albeit largely Native, hands. But even the fact of Native ownership was to prove a temporary state of affairs.

By 1965, through inheritance, sale of allotments by Natives to non-Natives, and the earlier sale of "surplus" land by the U.S. government, approximately 50,000 acres or one-quarter of Quinault Reservation land had devolved into non-

Indian ownership, mostly timber companies and real-estate developers. The stage was thus set for years of conflict between the Quinault, the other “fish-eating” tribes deemed part of the “Quinault Nation,” non-Indian owners of reservation land, loggers, land developers, and the federal government. This was the stage on which Joe DeLaCruz would soon begin to play a leading part.

Return to the Reservation

People who knew Joe DeLaCruz from his youth had no doubt that he would play an important role in the affairs of the Quinaults. Hank Adams, an Assiniboine-Sioux from Montana who grew up on the Quinault reservation after his mother married a tribal member, was a long-time friend and fellow Indian activist. “Everyone knew he was going to be a leader,” Adams recalled. “It just came naturally to him. He had that charisma. He worked well with everyone” (The Seattle Times, April 18, 2000).

And so it was. After seven years working for the government, DeLaCruz and his family returned to the Quinault reservation in 1967 when hereditary chief and tribal president James “Jug” Jackson recognized his talents and convinced him to become the tribe’s business manager. He served ably and loyally under Jackson, who relied on DeLaCruz to handle many day-to-day matters and often assigned him the role of tribal spokesman.

Jug Jackson had a finely tuned sense of position and protocol. On one occasion a national television crew wanting to interview him was told by Jackson to “Talk to Joe DeLaCruz, our

business manager.” A reporter persisted: “You’re the president of your tribe, aren’t you?” Jackson responded, “Yes, but are you president of your network?” (“Strolling Around,” The Seattle Times).

Although DeLaCruz was quick to give Jackson credit, it is probably more than mere coincidence that shortly after he came on board as business manager, tribal authorities started lining up support among its members for a suit against the federal government alleging decades of mismanagement of the reservation’s timber resources. The forested land, much of which had been held in supposed trust for the tribe by the Bureau of Indian Affairs, was ravaged by clear-cuts. The tribe claimed that the BIA had been selling timber too cheaply and standing idly by while loggers ruined precious fish habitat. Although it took nearly 30 years, the tribe settled its claim in the early 1990s for \$26 million. To DeLaCruz, who always had his eye on the bigger picture, the principle trumped the payout. To him, the significance of the victory was that “It laid a path for other tribes throughout the nation to sue the United States government as a trustee” (The Seattle Times, April 4, 1999).

The tribe was soon to take another bold step, one also tinged with DeLaCruz’s flair for effective and dramatic action. At 12:01 a.m. on Monday, August 25, 1969, the Quinault Indian Tribal Council closed 25 miles of ocean beaches to non-Indians, an action taken to protest vandalism, theft, and land damage caused by tourists, teenagers, and real-estate developers. Many questioned the legality of the tribe’s action at the

time, but access remains restricted and controlled by tribal permit to this day (2011).

A Nearly Landless Nation

Chief Jackson was increasingly troubled by health problems, and in 1972, after serving four years as tribal business manager, Joe DeLaCruz was elected president of the Quinault Indian Nation, while Jackson remained hereditary chief until his death in 1999. In his new role, DeLaCruz soon came to prominence on the national stage while skillfully representing his own tribe on a wide range of troubling and long-standing issues.

The question of tribal sovereignty in the Quinault Indian Nation has been fraught practically since the Treaty of Olympia. Despite President Grant's 1873 executive order granting the Quinault Tribe sovereignty over its reservation lands, subsequent allotment and sale greatly complicated matters. Soon after the Supreme Court decided the Halbert case in 1931, nearly all reservation land was allotted, and members of the Chinook Tribe became the largest group of landowners on the Quinault Reservation.

By the time DeLaCruz took over as president, the reservation was well down the road to becoming a complicated patchwork of ownership that brought into question the whole idea of effective tribal sovereignty. By 1990, nearly two-thirds of the reservation was owned outright by individual Natives of various tribes; one-quarter was owned by timber corporations; and the rest (less than 10 percent) was owned by the Quinault Indian Nation and non-Indians in relatively equal measure. The dilemma facing the Nation was

how to assert sovereignty over a reservation that was owned almost in its entirety by non-Quinault persons and entities (many of whom were to later organize as a group called the Quinault Allotees Association). Although the tribe and the association could sometimes cooperate, as in the lawsuit alleging Bureau of Indian Affairs mismanagement of forest lands, they more often were at odds.

Even though it owned little land, the Quinault Indian Nation could exercise the regulatory powers of a sovereign state, and under the leadership of both Jug Jackson and Joe DeLaCruz, the tribe began to exercise those powers with a vengeance. Besides closing ocean beaches to non-residents, it enacted policies to discourage the opening of businesses owned by non-Natives; imposed strict zoning requirements to deter large developments; halted the development of State Route 109 north of Taholah; and defined a curriculum for reservation schools that emphasized Quinault culture and taught the Salishan language.

Fighting for the Forests

One of the tribe's more dramatic assertions of sovereignty came in 1971 during the last months of Jackson's tenure as tribal chairman. Two logging companies, ITT-Rayonier and Aloha Lumber Corporation, had been logging on the reservation since the 1950s under contract with various allotment landowners. The Quinaults were dissatisfied both with the companies' practices and with the prices the owners of the allotments were receiving for logged timber. Negotiations had not been fruitful, and on

September 13, 1971, the tribe simply blocked all roads leading to the logging areas, bringing production to a complete halt.

ITT-Rayonier folded rather quickly and reached agreement with the tribe. Aloha Lumber took a little longer, but eventually compromised as well to get the barricades removed from Chow Chow Bridge, which led to its operating area. The tribe gained important concessions on clear-cutting, reforestation, stream protections, and compensation for lumber taken. Of even great importance, the Quinault Nation gained confidence in its ability and strength that would serve it well in battles to come. A later history commissioned by the tribe marked the importance of this action to the Quinault's sense of nationhood and its possibilities:

“The barricade of Chow Chow was a telling confrontation, one that perhaps established the first glimmer of respect in the Bureau [of Indian Affairs], and one that put the Tribe itself on its present course. The confrontation reveals more than any single incident since the Treaty of 1855 that, united, the Quinault Indian Nation can wield its power with wisdom and can absorb and exploit modern technology to enhance the present and future of its citizens. By their physical, yet symbolic actions at the entrance to and on the historic bridge, the new tribal activists put an end to an era and marked an aggressive new beginning. The tribe was now permanently involved in the welfare of its timberlands and the advance toward fulfilling its goal of self-sufficiency” (Storm and Capoeman, 207).

Speaking for the tribe at the time of the blockade, DeLaCruz took a more prosaic view, but one that perhaps more clearly foretold future actions:

“Anyone who would go up and look at what they're doing to the streams would agree with us

We have 1,012 Indians living on the reservation. If we don't protect what we have, their own and their children's futures are at stake” (The Seattle Times, September 26, 1971).

The confrontation worked for the tribe in both symbolic and practical terms, and DeLaCruz received much of the credit. Soon he would take over leadership of the Quinault Indian Nation and devote his full talents to work for his tribe and for Native Americans across the country.

Fighting for the Fish

The vindication of the Quinault's right to fish under treaty provisions has had a long and contentious history. As long ago as 1925, the tribe had sued the predecessor agency to the Bureau of Indian Affairs for interfering with its treaty fishing rights, and in 1929 the tribe considered banning all non-Indian fishing in Lake Quinault (it is still allowed, but only by tribal permit). When the tribe (along with other Washington tribes) was not fighting the federal government to enforce treaty rights, it was fighting state attempts to limit those rights through regulations.

The battles waxed and waned for decades, with no clear resolution. That was all to change when

the tribes and the federal government joined forces in 1970 to challenge the state's attempts to regulate Indian fishing. The case was *United States v. State of Washington*, and the decision by Ninth Circuit District Court Judge George Boldt (1903-1984) changed the game forever. It also made Washington's tribes, and Joe DeLaCruz, an influential political enemy—Washington state Attorney General Slade Gorton (b. 1928), who later went on to serve as a Republican U.S. senator.

After a lengthy trial in 1973, what became known as the “Boldt Decision” was handed down in 1974, then withstood appeals by the state until it was largely affirmed by the U.S. Supreme Court in 1979. Judge Boldt held that the government's promise to permit Indians to fish at their accustomed places “in common” with non-Indians meant that treaty tribes were entitled to take 50 percent of the annual fish harvest. He ruled that this promise was central to the treaty-making process and that the tribes had an original right to the fish, which they extended to white settlers. It was not up to the state to tell the tribes how to manage something that had always belonged to them, Judge Boldt said, and he ordered the state to take action to limit fishing by non-Indians, thereby securing the rights the treaties guaranteed to the tribes.

Joe DeLaCruz, by then Quinault Indian Nation tribal chairman, had been the last witness to testify for the plaintiffs during the trial. Twenty-five years later, he stressed that the Boldt Decision did much more than merely interpret and uphold the clear language of the treaties:

[O]nce Boldt happened, it gave us a unified voice and we pushed from Gov. Evans on through to get an Office of Indian Affairs in state government” (“Joe DeLaCruz: Boldt Decision Gave Tribes Unified Voice”).

Even beyond that, DeLaCruz believed that the federal government's support, and specific actions by the administration of Richard Nixon (1913-1994) gave the concept of tribal sovereignty a major boost:

“President Nixon's statement regarding self-determination was very key and it's moved on from there. Nixon moved federal policy regarding Indians toward self-determination and self-governance rather than encouraging assimilation of Indian people. If you look at U.S. history, you have an executive branch and legislative branch expression of government-to-government relationships and most Supreme Court decisions affirm that as well. The Boldt Decision gave us more than just talking, it gave us tools” (“Joe DeLaCruz: Boldt Decision Gave Tribes Unified Voice”).

Although DeLaCruz was never arrested for “illegal” fishing activities, he was very active as a spokesman and strategist for the tribal cause. After being on the losing side in the Boldt Decision, Slade Gorton went on to election to the U.S. Senate, and continued to have frequent disagreements with Native Americans causes after his 1980 election. But DeLaCruz had a long memory, and 20 years later, near the end of his life, one of his last campaigns would help end Gorton's political career.

Sovereignty versus Dependency

Prior to 1953, the relationship between the U.S. government and Native Americans was one of dependency, with the “guardian” government obligated, in theory, to see to the welfare of the “ward” tribes.

This was inconsistent with any ideas of tribal sovereignty. For the better part of the nation’s history, the inherent conflict between the guardian/ward view and the sovereignty view rendered consistent policy virtually impossible. The relationships between the tribes, the federal government, and state governments just tumbled along with little discernible direction or ultimate goal, to everyone’s dissatisfaction.

It was in this context that, in August 1953, the U.S. Congress unanimously passed House Concurrent Resolution 108, the stated goal of which was to “make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards of the United States, and to grant them all of the rights and prerogatives pertaining to American citizenship” (House Concurrent Resolution 108).

What on its face could be read as a liberating act by a benign government in fact had much darker ramifications. Treaties signed over the previous 150 years had granted Native Americans certain “privileges” including the entire reservation system and the provision of badly needed social services, for which much had been surrendered.

Under the provision of HCR 108, these privileges would be terminated, and the unique legal status of reservations revoked. Although by its terms it did not apply to very many tribes or to all states, it was a clear signal that the federal government was moving toward ending its role as, at least in theory, the guarantor of Indian welfare.

Another piece of legislation passed the same year carried matters even further. Public Law 83-280, enacted on August 15, 1953, sought to give certain state governments the right to extend their civil and criminal jurisdiction into Indian reservations without the approval of the tribes. The states, in effect, could nullify tribal judicial sovereignty that had been granted by treaty. Not surprisingly, this was viewed by many as just part of an effort by the federal government to wash its hands of all involvement in Indian matters.

Neither HCR 108 nor Public Law 83-280 directly applied to either Washington state or to the Quinault Indian Nation, but the very existence of treaty reservations, tribes as cohesive units, and the concept of tribal sovereignty were being challenged, and it seemed certain that the trend would eventually carry over to all tribes in all states. The shorthand on the street for these policies was “termination, relocation, and assimilation” (Laurie Johnstonbaugh)—terminate the federal government’s responsibilities, relocate Indians from their reservations, and assimilate Native Americans into mainstream, non-Indian American society.

Twenty years later, Joe DeLaCruz was having none of it, or at least none of most of it.

Changing The Rules Yet Again

As DeLaCruz pointed out in his interview about the Boldt Decision, “tribal sovereignty” as an idea, was nothing new. It was explicit or implicit in the language of many treaties, laws, and court decisions ranging over 200 years of American history. But the reality was something different. Through the decades, relations between the sovereign tribes and the federal and state governments were characterized by an attitude of paternalism, driven by a (usually) unspoken belief that Native Americans were not competent to handle their own affairs. The 1953 legislation sought to change this, but it went at it with a broad ax, at a cost that most Native Americans believed to be far too high.

DeLaCruz came to symbolize a middle way. He believed that the federal and state governments have certain obligations under treaties that could not be “terminated” with the stroke of a pen. He believed that the reservations belonged to the tribes by right, and that any idea of Indian “relocation” violated that right. He believed that tribal culture and tradition was every bit as legitimate as that of non-Natives and must not be destroyed through “assimilation.” And finally, DeLaCruz viewed tribal sovereignty as the key to virtually all other issues of Indian rights and Indian responsibilities. This belief led him to move far beyond the confines and concerns of the Quinault Indian Nation and to play a key role, nationally and even internationally, in the fight for Native American sovereignty.

A National Leader

Joe DeLaCruz displayed a combination of intelligence, education, vision, and charisma that

soon pushed him to the front of groups fighting for Native American causes, in both Washington state and nationally. While still business manager for the Quinault, he threw his support behind the struggles of other Washington tribes. He joined forces with Bernie Whitebear (1937-2000), another charismatic Indian leader, in the 1970 confrontations at Fort Lawton in Seattle. These efforts led to the founding of the United Indians of All Tribes Foundation and the construction of Daybreak Star Cultural Center on the grounds of the largely decommissioned fort. DeLaCruz then became a force in the “Fish Wars” litigation that culminated in the Boldt Decision that vindicated Indian treaty rights.

In 1977, just five years after assuming leadership of the Quinault Indian Nation, DeLaCruz’s abilities were recognized with his election to lead the National Tribal Chairmen’s Association, which had been formed six years earlier. This group was composed of elected and appointed chairmen, presidents, governors, and chiefs of reservation Indians and other federally recognized tribes in the United State. In this position, which he held until 1981, DeLaCruz started to gain a national reputation and soon became a sought-after strategist and spokesman for a multitude of different causes of importance to Native Americans.

Soon after stepping down as leader of the chairmen’s association, DeLaCruz was elected to an even more important national post as head of the National Congress of American Indians, in which he served from 1981 to 1985. This was a perfect fit for DeLaCruz; the organization had been founded in 1944 in response to the policies

of “termination, relocation, and assimilation” that were already being bandied about in the halls of Congress. In the often-fractionious milieu of inter- and infra-tribal politics, the National Congress of American Indians consistently advocated the critical necessity of unity and cooperation if tribes were to succeed in protecting their treaty and sovereign rights.

Though traveling frequently and always in demand as a speaker and strategist, DeLaCruz also had a reservation to run, and although his administration of the Quinault Indian Nation was subjected to regular scrutiny and frequent complaints, much was accomplished during his tenure. He played a central role in many tribal activities and projects, including forestry management, land restoration, housing construction, and seafood processing. He viewed anything that contributed to economic independence as part and parcel of the struggle for true tribal sovereignty. He believed that a sovereign state must have as a goal the ability to sustain itself, both by producing much of what it consumes and by creating goods or services for export.

Most important, he believed that the Quinaults, and other tribes, had skills, talents, and resources that had not been fully tapped during the decades of paternalism.

Joe DeLaCruz always had his eyes on the big picture, and the big picture was Native American sovereignty, in every sense of the word. To this cause he devoted his life, persuading Indians and non-Indians alike that not only did Native Americans have an inarguable right

to sovereignty, but also the skills and ability to exercise that right and its attendant obligations.

The Voice of Joe DeLaCruz

The travels and activities of Joe DeLaCruz over his 30-plus years of tribal leadership were far too extensive to detail in this essay. But his words were as important as his actions; they provide the best demonstration of his intelligence, dedication, and persuasiveness:

On conflict and unity:

If our Peoples are to survive in the long term, alternative means must be found for resolving conflict besides seeking relief through prolonged and heated litigation that enriches attorneys while polarizing the public. The most promising way we now have to protect our interests is to strengthen our governments. We must encourage our governments to actively assert our rights in the non-Indian world. Our Peoples must work closely together to increase our control over our resources and solidify tribal opinion (Keynote, National Fisheries Conference, 1980).

On the importance of salmon:

Our histories have been built upon a salmon resource that consists of thousands of distinct races of fish which return to the rivers along the coast. Survival for these races of salmon depends upon strong local control to ensure that suitable environmental conditions are found in the streams where the fish spawn. To protect the salmon and preserve the basis for their

heritage, Indian Governments must assert their rights to manage their resources. If tribes choose not to exercise their authority, their decisions will be made for them by others. The fate of the salmon has been and is now being decided by political processes of other governments (Keynote, National Fisheries Conference, 1980).

On political activism:

No longer can Tribal leaders deal only with the internal affairs of our own Bands and Tribes and hope to protect the interests of our Peoples. We must become increasingly aware of and actively involved in the external political processes which will affect our lives and resources. Our leaders must go among our Peoples and to outside communities to advocate the needs and interests of our Peoples. As threats arise, the Indian presence must be felt in the political arena. We must assert our rights to control our resources and protect our way of life. We must begin to carve a permanent place within the political landscape because this is the only means by which we can hope to preserve a basis for our survival (Keynote, National Fisheries Conference, 1980).

On the meaning of sovereignty:

“I believe the ordinary meaning of government-to-government relations is the establishment of mutually acceptable procedures between friendly governments to achieve better relations and a healthy respect between governments. It does not

mean bureaucrats ‘consulting’ with us before the federal government does what it has already begun to do. It does not mean federal agency interference in our internal affairs. It means that there is a certain distance between our governments, and the U.S. government which must be respected. It means establishing mutual respect for the separate and distinct powers of our governments. It means establishing direct and formal inter-governmental mechanisms between our governments to advance Indian self-determination, and quickly resolve disputes” (Presidential Address, 1984).

On inter-government relations:

But the way out of this centuries-old confrontation, this clash between different worlds, will require some new and clearer thinking than has been typical over the years. We can begin that new and clearer thinking by first considering three ideas:

First, Indian Nations and Tribes must come to accept that the United States and the various states will not simply fade away and disappear. Many of our people have held this view in their hearts throughout the generations. We must now accept that the United States and her people will remain on this continent as our neighbors.

Secondly, the United States and each of her states must accept that Indian Nations and Tribes will not fade away and disappear. Our Nations remain as permanent as the soil.

Thirdly, everyone must recognize and understand that the establishment of the United States of America did not give the United States the right to claim or possess Indian Peoples and their territories. Indian Nations and Tribes did not become a part of the United States and they are not a part of the United States now. Though the United States made our people citizens, our peoples remain citizens of our own Nations, and our Nations remain as separate and distinct from the United States and her states which were created around our territories. Our Nations have become islands in a sea of land on this continent where we and our neighbors must now coexist.

If we can come to accept these basic concepts, then we can take the next step to renew efforts begun more than two hundred and twelve years ago — to establish a working process between our nations, between our governments, to resolve or at least lower the heat on our differences. Like the neighbors we are, we must agree first to talk and then we must agree to establish mutually acceptable methods for resolving our conflicts” (Seminar on Government-to-Government Relations, 1985).

DeLaCruz exercised his eloquence in hundreds of speeches in dozens of states and countries. He worked and spoke in support not only of his own tribe, but also of other tribes in the U.S. and Canada, and for indigenous peoples all over the world.

Accomplishments

Among his myriad accomplishments were these:

- His efforts were crucial to the passage of the 1975 Indian Self Determination and Education Assistance Act (P.L. 93-638), and he later worked for passage of the Tribal Self-Governance Program, which sought to convert the principles of tribal sovereignty and government-to-government relations into reality. It was finally enacted into law on August 18, 2000, four months after DeLaCruz’s death.
- He served as president of the Affiliated Tribes of Northwest Indians in the late 1980s. He was a founding member of the Northwest Renewable Resources Center in 1984.
- He was a strong supporter of the Northwest Indian Fisheries Commission and helped create the Pacific Salmon Commission in 1985.
- He served as co-chair of the National State-Tribal Relations Commission.
- He originated the idea of the Centennial Accord, signed by Governor Booth Gardner (b. 1936) and tribal leaders from throughout Washington in the state’s centennial year of 1989. The accord, which recognized the sovereignty of Indian tribes and the government-to-government relationship of Natives and non-Natives, was later emulated by indigenous peoples and governments throughout the world.

In 1990, DeLaCruz was one of three Washington state tribal heads to sign a pact with the U.S. government under the Self-Governance Act of 1988. Under the terms of the agreement, the Quinault, the Lummi, and the Jamestown Klallam tribes became “demonstration tribes” in an experiment that would allow them to negotiate tribal subsidies “government-to-government” with the U.S. Department of the Interior, rather than through the Byzantine bureaucracy of the Bureau of Indian Affairs. It was widely seen as a huge step away from the paternalism that had long characterized the relationship between the government and Native Americans. At the time, DeLaCruz stressed that the agreement was more than symbolic:

They are calling us pioneer tribes. The future is up to us. If self-governance works, it will be our opportunity to get rid of the people who thrive on the miseries of Indians. For the first time in decades, we don't have to ask permission to make life better. If we want to patch the potholes in our roads, we can do it. If we want to build a new road, we can do it. And we are building roads. We're building roads to the future (“Some Native American Tribes Begin Push for Self-Determination”).

But he also cautioned that self-government would require more than just a document:

People are scared, I'm scared, its difficult to break with the past. For five generations we have been dependent upon, and under the thumb of, the Bureau of Indian Affairs. For many people, the bureau is a convenient

scapegoat. They do not want to give it up. It means having to confront ourselves (“Some Native American Tribes Begin Push for Self-Determination”).

Criticism and Controversy

Joe DeLaCruz made his share of mistakes and misjudgments, both in his professional and in his personal life. He was an effective organizer and a great energizer, but perhaps a less effective administrator, and in some respects a divisive figure within the tribe. Much discontent was rooted in the fragmented ownership of reservation land—a measure that might mollify one group of owners could often enrage another. Non-Indians, in particular, felt their property rights were constantly under siege during the DeLaCruz era. This may have been largely unavoidable.

Tribal politics have been sometimes marked by factions and political fights revolving around power cliques based on family or clan. The Quinault are no exception. Five years after DeLaCruz took over leadership of the tribe, he and his supporters obtained sufficient support to pass amendments to the tribal constitution that consolidated power in the tribe's business committee, which he headed. The administrative offices of the Quinault Nation were soon dominated by DeLaCruz's friends, family members, and supporters; the benefits of certain contracts entered into by the tribe seemed to some to flow disproportionately to these same friends, family members, and supporters. Dissidents launched two attempts to recall DeLaCruz, the last in 1992, but both failed.

DeLaCruz was frequently accused of cronyism and nepotism, and of filling important and well-paying tribal offices with people from outside the reservation. He was unapologetic, even defiant, arguing that in a town as small as Taholah, such a result was unavoidable. He insisted that the people he appointed to tribal posts or to whom contracts were awarded were the most qualified for the jobs, and that this would change as more tribe members obtained better education and training. When questioned about these matters DeLaCruz said:

You have to understand the cultural background. They (Quinaults on the reservation) like to do things where they're not tied to a clock. The fishermen — even if there's no fishing—don't want to do anything else. I understand that, I love fishing. That's what I should be doing, instead of 'administrating.' But we all can't fish and clam ("Progress a Mixed Bag ...").

There was also tension between traditionalists who distrusted nearly any form of "progress," and modernizers who, like DeLaCruz, believed tribal survival and prosperity could be achieved only by adopting the business ways of non-Natives. Disputes also arose over just how much money and energy the tribe should expend on preserving its culture, as opposed to building a sound economic base for the future.

DeLaCruz was not a starry-eyed traditionalist by any stretch; he believed that money the tribe controlled was better spent on economic development than on social programs, at least initially. DeLaCruz could be curt and dismissive on the issue, saying on one occasion:

Every family from Taholah to Queets has a different opinion on culture. I'm not one who believes culture is dances and powwows ("The Spirits of Then Uplift Spirits of Now").

On the issue of how federal funds should be allocated, he was equally adamant, arguing that to insure rapid economic progress for the whole tribe, most of its cash resources needed to go to economic development rather than "people programs." When it was suggested during an interview that the tribe should spend more addressing the problems alcoholism, juvenile delinquency, and the elderly, DeLaCruz responded:

That would be a major mistake. If we want self-sufficiency and to take care of our own, we can't afford to do that ("Progress a Mixed Bag...").

DeLaCruz was also accused of engaging in negotiations and making deals regarding the reservation's resources without full consultation with tribal members or meaningful oversight by anyone. He argued that tribe members should simply trust him, as only he knew all the facts, and that it was unreasonable that he should be expected, or even able, to explain complex governmental requirements or complicated scientific research to constituents who lacked the education or training to understand it. His overall attitude seemed to be that having been elected, he should be left alone to run things as he saw fit. There was no doubt some truth to DeLaCruz's rebuttals to the various charges made against him, but his intolerance of criticism often widened differences rather than bridged them.

DeLaCruz served a wider constituency than just the Quinault Indian Nation, and this also brought criticism. As he became more active in the national and even international struggles of indigenous peoples, he traveled frequently throughout the U.S., Canada, and overseas and spent less and less time at the reservation he was elected and paid to run. This too he defended, arguing that the support of other Native Americans and indigenous people from other lands was important to secure the sovereign rights of the Quinault Indian Nation. Many of his opponents found the connection tenuous and were not persuaded, but they could never get the votes to oust him.

Sometimes rumors of scandal were buttressed by fact. A critical federal audit of the Quinault's finances released in October 1981² led DeLaCruz to voluntarily (albeit temporarily) step down as leader. He acknowledged serious bookkeeping problems but insisted that no fraud or dishonesty had been shown. The record appears to support that claim, but it provided more fuel for his critics.

In the end, it was family and not politics that brought to an end Joe DeLaCruz's 22-year tenure as head of the Quinault Indian Nation. On March 15, 1993, he was arrested during a police stand-

off involving his 16-year-old grandson, who was suspected of attacking a Moclips man with a machete. The grandson, allegedly armed with an assault rifle, had barricaded himself in a home on the reservation, surrounded by tribal police. DeLaCruz arrived at the scene and was arrested after bursting through a barricade and entering a home. Although the grandson soon surrendered, Joe DeLaCruz was held for investigation on charges of obstructing police and reckless endangerment. Also arrested were his 52-year-old wife, 44-year-old brother, and 33-year-old daughter, and her boyfriend.

Immediately after his arrest, DeLaCruz again stepped down from office, characterizing it as a "temporary" measure until the criminal case was resolved. But by this time, his renown as an articulate spokesman for the rights of indigenous peoples was widespread, and he may have believed that he had done as much as he could for his tribe. Leadership of the Quinault Indian Nation passed to his vice-president, Pearl Capoeman-Baller.

State Politics

In late 1995, Washington Governor Mike Lowry (1939-2017) tried to appoint DeLaCruz to a seat on the state's Fish and Wildlife Commission.

² FWJ Editor Note: The Quinault Indian Nation, Navajo Nation, Chayanne River Tribe and nine other nations were audited on their handling of federal funds on claims of misuse of funds considered by these governments as US government reprisal for asserting their sovereignty. Only the Navajo President—a vigorous advocate of Navajo Sovereignty and opponent of US government encroachments on Navajo sovereignty was charged and convicted of US laws. The US President Ronald Reagan Administration started the challenge to these nations by invoking a challenge to the "sovereignty" starting with claims that the then President Peter McDonald of the Navajo Nation misused federal funds. When McDonald, then serving also as the co-founder and leader of the Council of Energy Resource Tribes (CERT) asserted that the Council of Energy Resource Tribes should withhold oil to the United States US government officials in the Department of the Interior and elsewhere in the government grew alarmed. Shortly after McDonald's assertion a Justice Department investigation of the Navajo President commenced eventually finding that he has "misused" a little more than \$7,000. McDonald was charged with violations of US laws and was convicted of U.S. federal crimes including fraud, extortion, riot, bribery and corruption. MacDonal pleaded innocent to all charges.

Still enraged by the Boldt Decision, groups representing sport fishermen howled in protest, claiming that having a Native American sit on a board that had some control over nontribal fishing created a conflict of interest. The state Senate refused to give him a confirmation hearing. He could have served until a vote expressly rejecting his nomination was taken, but he refused, and was not shy in blaming his treatment on racism:

It amazes me that the senators could choose to ignore or oppose my appointment on this basis and not be berated by the people. In my opinion, to remain on this commission, in view of these racist activities, would be an act of condonance (Sic). This I cannot do (“Racism Is to Blame, DeLaCruz Says”).

In 2000, DeLaCruz struck back at his old foe, former state Attorney General Slade Gorton, then running for re-election to the U.S. Senate. While in the Senate, Gorton had gained the reputation of being an opponent of the tribes and a threat to their continuing efforts at self-government and economic independence. Some Indian leaders questioned the wisdom of tackling Gorton head-on, but DeLaCruz had no such qualms: “We’ve had to spend a lot of money (lobbying) to get his bills killed. What more can he do to us?” (“Tribes Intending to Raise \$1 Million to Bring Down Gorton...”). At least in part due to Indian efforts, Gorton lost the 2000 election to Democrat Maria Cantwell (b. 1958) by a narrow margin.

A Great Indian Leader

DeLaCruz stayed constantly in motion in his last years, spending more time in airports and hotels than at home. He was a much sought-after

speaker, both here and abroad, and stayed active to the end. Fittingly, he died suddenly of a heart attack on April 16, 2000, while waiting to catch a plane at Seattle-Tacoma International Airport to attend a national meeting on Indian health care. He was 62 years old. Almost three months to the day later, his old companion-in-arms, Bernie Whitebear, died in Seattle, also age 62.

The depth and durability of Joe DeLaCruz’s influence during his life on the battles for the rights of indigenous peoples can be seen in the encomiums that came his way after his death:

- “Everywhere you look among Native Americans, you see Joe ‘s imprint. I am in disbelief. Joe started a lot of things. His programs became models for Native Americans everywhere. It is a heavy blow when you lose one of those Great Cedars” (Suzan Harjo, a Cheyenne-Muskogee Indian activist in Washington, D.C.).
- “He was very bright and articulate. And he stayed focused. He was devoted to the notion that someone needs to speak for the rights of indigenous people -- not just in this nation but around the globe” (Tom Keefe, former U.S. Senate aide).
- “Joe was totally committed to the principle of tribal sovereignty. That principle was the backbone of everything he did. He was a peaceful warrior. His weapon was his ability to sell his ideas and personality” (Mel Tonasket of the Confederated Colville Tribes).
- “He was one of the greatest Indian leaders who ever lived in the United States” (Billy

Frank Jr., Nisqually fishing activist and long-serving chair of the Northwest Indian Fisheries Commission).

- “Joe DeLaCruz will always be a part of Washington state, just as this land was always a part of him” (Governor Gary Locke).
- “As far as I’m concerned, he ranked up there with the top chiefs of the old times-- Geronimo, Sitting Bull, Chief Joseph, Crazy Horse--because of what he accomplished for Indian people in his time. He didn’t fight a war of bloodshed, but a war of knowledge and wisdom for the rights of Indian people” (James DeLaCruz Jr., nephew).

On April 22, 2000, more than 2,000 people, including representatives of dozens of Native America tribes and groups, honored the life of Joe DeLaCruz at services conducted at the new Quinault Tribal Resort in Ocean Shores. Among his survivors were his wife, Dorothy, three daughters, two sons, and numerous nephews and nieces. By agreement with Dorothy, a member

of the Colville Tribe of Eastern Washington, his body was later taken there for burial.

In an oft-quoted statement, DeLaCruz spoke of the importance of sovereignty:

No right is more sacred to a nation, to a people, than the right to freely determine its social, economic, political and cultural future without external interference. The fullest expression of this right occurs when a nation freely governs itself. We call the exercise of this right self-determination. The practice of this right is self-government (“Tribal Self-Governance”).

Not long after his death, the memory of DeLaCruz was honored when the Northwest Indian Applied Research Institute at Evergreen State College established the Joe DeLaCruz Center for Advanced Studies in Tribal Government “to focus its research and educational programs on tribal governance on the ideas and work of The Honorable Joe DeLaCruz.” He would have been pleased.

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Líder de Naciones, Joe DeLaCruz

Por John Caldbick

Traducción al Español por Aline Castañeda Cadena



Photo by Irina Iriser

Editor en jefe de FWJ: en el año de 1979 el presidente Quinault Joe DeLa Cruz hizo un llamado a los líderes de las naciones a una Conferencia de Gobiernos Tribales en Tumwater, Washington (EUA) para formular nuevas políticas por los gobiernos para fomentar la autodeterminación. Como director de la Organización de Pequeñas Tribus del Oeste de Washington, en ese año tuve el honor de trabajar con Joe para organizar y convocar la Conferencia. El presidente DeLaCruz vio la autodeterminación para su nación y las naciones del mundo como el avance político fundamental para los pueblos que habían sido colonizados contra su voluntad durante las generaciones venideras. El presidente DeLaCruz estuvo acompañado en la Conferencia de Gobiernos Tribales por los líderes del presidente de la Nación Lummi Sam Cagey, el presidente de la isla Squaxin, Calvin Peters, el presidente de las tribus confederadas de Muckleshoot Tribe Colville, Mel Tonasket, la presidenta snohomish de la Organización de Pequeñas Tribus del Oeste de Washington Kathleen Bishop, Nación Yakama, el presidente Roger Jim y los demás líderes de las treinta y tres naciones ubicadas en el estado estadounidense de Washington. En el Centro de Estudios Indígenas del Mundo y la Revista del Cuarto Mundo celebramos al presidente Joseph B. DeLaCruz y la Conferencia de Gobiernos Tribales como el evento fundador que creó nuestra organización.

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DeLaCruz, Joseph “Joe” Burton (1937-2000)

Joseph “Joe” Burton DeLaCruz Jr., presidente de larga data de la Nación India Quinault, aportó inteligencia y carisma a la lucha para llevar el autogobierno efectivo a su tribu y a los indios de todo el país. Aunque su mandato de 1967 a 1993 no estuvo exento de controversias y críticas, DeLaCruz construyó un formidable historial de logros, abordando problemas tan difíciles y de larga data como el acceso a las tierras de la reserva por parte de los no nativos, la gestión de la pesca y la tala y, quizás lo más notable, el estado y el papel de las tribus indígenas dentro del cuerpo político estadounidense. Estuvo a la vanguardia de la mayoría de las luchas de finales del siglo XX relacionadas con el estatus y los derechos de los nativos americanos, entre ellos cuestiones de gestión de recursos, educación, diversidad económica, gobernanza y cultura tribal. Mientras participaba en estas escaramuzas, DeLaCruz nunca perdió de vista lo que él consideraba como el único problema general para los nativos americanos: dar sustancia al concepto de soberanía tribal.

Vida temprana

No hay mucha información detallada disponible sobre los primeros años de vida de DeLaCruz. Dependiendo de la fuente a la que se consulte, se crió en Taholah, una pequeña ciudad dentro de los límites de la Reserva India Quinault, o en Moclips, justo fuera de la frontera sur de la reserva en la costa del Pacífico de la Península Olímpica. El propio DeLaCruz sostuvo que, aunque pasó sus años de escuela secundaria en

Moclips, la familia había vivido anteriormente en la reserva en Taholah, a solo nueve millas al norte. En años posteriores, la cuestión de su ciudad natal se convertiría en combustible para sus críticos dentro de la nación Quinault.

DeLaCruz era el mayor de 10 hermanos y, en algún momento, sus padres eran dueños de una pequeña tienda y un restaurante con viviendas adjuntas en la Reserva Quinault. Su ascendencia precisa es tan disputada como su lugar de nacimiento. En años posteriores, los enemigos políticos afirmarían que él era como mucho un octavo de indio y que no tenía sangre quinault en absoluto. DeLaCruz se mantuvo firme al afirmar que era completamente la mitad indio, y la mitad restante era filipina y blanca.

Los signos de ambición y talento aparecieron temprano. Era un atleta de cuatro deportes y presidente del cuerpo estudiantil de la escuela secundaria, y ganaba dinero gastando el transporte del autobús escolar y trabajando en la fábrica de tejas local. En el verano, pescaba con su abuelo en el río Quinault, como habían hecho sus antepasados durante siglos. Después de la secundaria, DeLaCruz pasó dos años en el ejército en Alemania y luego asistió a la Universidad Estatal de Portland. En 1959 se casó con Dorothy Lemery, miembro inscrito de la tribu Colville del este de Washington, formó una familia y se fue a trabajar para el gobierno federal en Portland.

La nación Quinault y su reserva

Una breve condensación de la larga y complicada historia de la reserva de la Nación India Quinault es útil para comprender muchas de las batallas que Joe DeLaCruz libró

mientras dirigía la tribu. En 1859, el Congreso ratificó el Tratado de Olimpia, negociado con representantes de las tribus Quinault, Hoh, Queets y Quileute. Apartó 10,000 acres como reserva para estas tribus centradas alrededor del asentamiento de Quinault en Taholah en la costa oceánica de la Península Olímpica. En 1873, el presidente Ulysses S. Grant (1822-1885) amplió la reserva a su tamaño actual de aproximadamente 220.000 acres. La intención entonces era que todas las “tribus comedoras de pescado” costeras, incluidos los Chehalis y Chinook, así como los firmantes originales del Tratado de Olimpia, se reunieran en una reserva.

La Ley Dawes, aprobada por el Congreso en 1887, autorizó al gobierno a otorgar parcelas de tierra a miembros tribales individuales para fines agrícolas o de pastoreo. Cualquier tierra no asignada se consideraba excedente y podía venderse a cualquier persona, incluidas personas o empresas no indígenas. El producto de tales ventas, o de la venta de derechos sobre la madera o los minerales de la tierra, debía ser administrado en teoría por el gobierno en beneficio de las tribus. En la práctica, una combinación de falta de atención, incompetencia y corrupción aseguró que esta promesa, al igual que tantas promesas hechas a los nativos americanos, no se cumpliera en gran medida.

La situación en la reserva de Quinault se complicaría más que la mayoría. En 1911, el Congreso permitió a los no residentes “Hoh, Quileute, Ozette u otras tribus en Washington que están afiliadas a las tribus Quinault y Quileute en el tratado” recibir asignaciones en la reserva Quinault (Capítulo 246, 36 Estatuto

1345). Luego, en 1924, la Corte Suprema de los Estados Unidos dictaminó que las asignaciones no podían limitarse a tierras agrícolas y de pastoreo, sino que también debían incluir áreas boscosas (Estados Unidos contra Payne). Esto abrió a la propiedad privada grandes áreas de tierra valiosa que alguna vez se mantuvieron en fideicomiso, aunque de manera inepta, para las tribus. Y finalmente, en 1931, la Corte Suprema en *Halbert vs Estados Unidos* declaró que los indios Chehalis, Cowlitz y Chinook no residentes también tenían derecho a asignaciones. En efecto, la Reserva de Quinault se convirtió en la tierra ancestral de jure de varias tribus no reconocidas, cuyos miembros a menudo no vivían cerca de la reserva y tenían pocos o ningún vínculo con ella.

Las decisiones judiciales y los estatutos que permitían a los no residentes recibir asignaciones, combinados con el fallo que abrió las tierras forestales a la propiedad privada, impulsaron una avalancha de tierras en la reserva. Durante 1933 y 1934, se concedieron más de 2.000 asignaciones. Excepto por unos pocos acres, toda la tierra dentro de la Reserva Quinault finalmente cayó en manos privadas, aunque en su mayoría nativas. Pero incluso el hecho de que los nativos fueran propietarios iba a resultar una situación temporal.

Para 1965, a través de la herencia, la venta de parcelas de nativos a no nativos y la venta anterior de tierras “excedentes” por parte del gobierno de los EE. UU., aproximadamente 50,000 acres o una cuarta parte de las tierras de la Reserva Quinault habían pasado a ser propiedad de no indígenas, principalmente empresas madereras y promotores inmobiliarios. Así se preparó el escenario para años de conflicto

entre los quinault, las otras tribus “devoradoras de pescado” consideradas parte de la “nación Quinault”, propietarios no indígenas de tierras de reserva, madereros, urbanizadores y el gobierno federal. Este era el escenario en el que Joe DeLaCruz pronto comenzaría a desempeñar un papel protagonista.

Regresar a la Reserva

Las personas que conocieron a Joe DeLaCruz desde su juventud no tenían ninguna duda de que desempeñaría un papel importante en los asuntos de los Quinault. Hank Adams, un assiniboinesiu de Montana que creció en la reserva de Quinault después de que su madre se casara con un miembro de la tribu, era un viejo amigo y compañero activista indio. “Todos sabían que iba a ser un líder”, recordó Adams. “Fue algo natural para él. Tenía ese carisma. Trabajaba bien con todos” (The Seattle Times, 18 de abril de 2000).

Y así fue. Después de siete años trabajando para el gobierno, DeLaCruz y su familia regresaron a la reserva de Quinault en 1967 cuando el jefe hereditario y presidente tribal James “Jug” Jackson reconoció su talento y lo convenció de convertirse en el gerente comercial de la tribu. Sirvió con habilidad y lealtad bajo Jackson, quien confiaba en DeLaCruz para manejar muchos asuntos cotidianos y, a menudo, le asignaba el papel de portavoz tribal.

Jug Jackson tenía un sentido de posición y protocolo finamente afinados. En una ocasión, Jackson le dijo a un equipo de televisión nacional que quería entrevistarlo: “Habla con Joe DeLaCruz, nuestro gerente comercial”. Un periodista insistió: “Usted es el presidente de

su tribu, ¿no es así?”. Jackson respondió: “Sí, pero ¿es usted presidente de su red?” (“Strolling Around”, The Seattle Times).

Aunque DeLaCruz se apresuró a darle crédito a Jackson, probablemente sea más que una mera coincidencia que poco después de que él asumiera el cargo de gerente comercial, las autoridades tribales comenzaron a conseguir apoyo entre sus miembros para una demanda contra el gobierno federal alegando décadas de mala administración de los recursos madereros de la reserva. La tierra boscosa, gran parte de la cual había sido mantenida supuestamente en fideicomiso para la tribu por la Oficina de Asuntos Indígenas, fue devastada por la tala. La tribu afirmó que la BIA había estado vendiendo madera a un precio demasiado bajo y se había quedado de brazos cruzados mientras los madereros arruinaban el precioso hábitat de los peces. Aunque tomó casi 30 años, la tribu resolvió su reclamo a principios de la década de 1990 por \$26 millones. Para DeLaCruz, que siempre tuvo el ojo puesto en el panorama general, el principio triunfó sobre el pago. Para él, el significado de la victoria fue que “abrió el camino para que otras tribus de la nación demandaran al gobierno de los Estados Unidos como fideicomisario” (The Seattle Times, 4 de abril de 1999).

La tribu pronto iba a dar otro paso audaz, uno también teñido con el talento de DeLaCruz para la acción efectiva y dramática. A las 12:01 am del lunes 25 de agosto de 1969, el Consejo Tribal Indio Quinault cerró 25 millas de playas oceánicas a los no indígenas, una acción tomada para protestar contra el vandalismo, el robo y los daños a la tierra causados por turistas,

adolescentes y desarrolladores de bienes raíces. Muchos cuestionaron la legalidad de la acción de la tribu en ese momento, pero el acceso sigue estando restringido y controlado por permisos tribales hasta el día de hoy (2011).

Una Nación casi sin Tierra

El jefe Jackson estaba cada vez más preocupado por los problemas de salud, y en 1972, después de servir cuatro años como gerente de negocios tribales, Joe DeLaCruz fue elegido presidente de la Nación India Quinault, mientras que Jackson permaneció como jefe hereditario hasta su muerte en 1999. En su nuevo cargo, DeLaCruz pronto saltó a la fama en el escenario nacional mientras representaba hábilmente a su propia tribu en una amplia gama de problemas inquietantes y de larga data.

La cuestión de la soberanía tribal en la nación india de Quinault ha estado tensa prácticamente desde el Tratado de Olimpia. A pesar de la orden ejecutiva del presidente Grant de 1873 que otorgó a la tribu Quinault la soberanía sobre sus tierras de reserva, la posterior asignación y venta complicaron enormemente las cosas. Poco después de que la Corte Suprema decidiera el caso Halbert en 1931, se asignaron casi todas las tierras de la reserva y los miembros de la tribu Chinook se convirtieron en el grupo más grande de propietarios de tierras en la Reserva Quinault.

Para cuando DeLaCruz asumió la presidencia, la reserva estaba en el camino de convertirse en un complicado mosaico de propiedad que puso en tela de juicio toda la idea de una soberanía tribal efectiva. Para 1990, casi dos tercios de la reserva eran propiedad absoluta de nativos de

varias tribus; una cuarta parte era propiedad de empresas madereras; y el resto (menos del 10 por ciento) era propiedad de la Nación India Quinault y no indígenas en una medida relativamente igual. El dilema que enfrentaba la Nación era cómo afirmar la soberanía sobre una reserva que era propiedad casi en su totalidad de personas y entidades ajenas a Quinault (muchas de las cuales se organizarían más tarde como un grupo llamado Asociación de Adjudicatarios Quinault). Aunque la tribu y la asociación a veces podían cooperar, como en la demanda que alegaba la mala gestión de las tierras forestales de la Oficina de Asuntos Indígenas, con mayor frecuencia estaban en desacuerdo.

Aunque poseía poca tierra, la Nación India Quinault podía ejercer los poderes regulatorios de un estado soberano, y bajo el liderazgo de Jug Jackson y Joe DeLaCruz, la tribu comenzó a ejercer esos poderes con una venganza. Además de cerrar las playas del océano a los no residentes, promulgó políticas para desalentar la apertura de negocios propiedad de no nativos; impuso requisitos estrictos de zonificación para disuadir grandes desarrollos; detuvo el desarrollo de la ruta estatal 109 al norte de Taholah; y definió un plan de estudios para las escuelas de la reserva que enfatizaba la cultura Quinault y enseñaba el idioma Salishan.

Luchando por los Bosques

Una de las afirmaciones de soberanía más dramáticas de la tribu se produjo en 1971 durante los últimos meses del mandato de Jackson como presidente de la tribu. Dos empresas madereras, ITT-Rayonier y Aloha Lumber Corporation,

habían estado registrando la reserva desde la década de 1950 bajo contrato con varios propietarios de terrenos. Los quinault estaban descontentos tanto con las prácticas de las empresas como con los precios que recibían los propietarios de las parcelas por la madera extraída. Las negociaciones no habían sido fructíferas, y el 13 de septiembre de 1971, la tribu simplemente bloqueó todos los caminos que conducían a las áreas de tala, deteniendo la producción por completo.

ITT-Rayonier se retiró bastante rápido y llegó a un acuerdo con la tribu. Aloha Lumber tomó un poco más de tiempo, pero finalmente también se comprometió a eliminar las barricadas del puente Chow Chow, que conducía a su área de operaciones. La tribu obtuvo importantes concesiones en tala de árboles, reforestación, protección de arroyos y compensación por la madera extraída. Incluso de gran importancia, la Nación Quinault ganó confianza en su habilidad y fuerza que le servirían bien en las batallas venideras. Una historia posterior encargada por la tribu marcó la importancia de esta acción para el sentido de nacionalidad de los Quinault y sus posibilidades:

“La barricada de Chow Chow fue una confrontación contundente, una que quizás estableció el primer destello de respeto en la Oficina [de Asuntos Indígenas], y una que puso a la Tribu en su curso actual. La confrontación revela más que cualquier incidente desde el Tratado de 1855 que, unida, la Nación India Quinault puede ejercer su poder con sabiduría y puede absorber y explotar la tecnología moderna

para mejorar el presente y el futuro de sus ciudadanos. Mediante sus acciones físicas pero simbólicas, en la entrada y en el histórico puente, los nuevos activistas tribales pusieron fin a una era y marcaron un nuevo comienzo agresivo. La tribu ahora estaba permanentemente involucrada en el bienestar de sus bosques y el avance hacia el cumplimiento de su objetivo de autosuficiencia “(Storm y Capoean, 207).

Hablando en nombre de la tribu en el momento del bloqueo, DeLaCruz adoptó una visión más prosaica, pero que quizás predijo acciones futuras con mayor claridad:

“Cualquiera que suba y mire lo que le están haciendo a los arroyos estaría de acuerdo con nosotros ...”.

Tenemos 1.012 indios viviendo en la reserva. Si no protegemos lo que tenemos, está en juego el futuro de ellos y de sus hijos “(The Seattle Times, 26 de septiembre de 1971).

La confrontación funcionó para la tribu tanto en términos simbólicos como prácticos, y DeLaCruz recibió gran parte del crédito. Pronto asumiría el liderazgo de la Nación India Quinault y dedicaría todo su talento a trabajar para su tribu y para los nativos americanos en todo el país.

Luchando por los Peces

La reivindicación del derecho de pesca de Quinault en virtud de las disposiciones de los tratados ha tenido una larga y polémica historia. Ya en 1925, la tribu había demandado a la agencia predecesora de la Oficina de Asuntos Indígenas por interferir con sus derechos de pesca del

tratado, y en 1929 la tribu consideró prohibir toda pesca no indígena en el lago Quinault (todavía está permitida, pero solo por permiso tribal). Cuando la tribu (junto con otras tribus de Washington) no estaba luchando contra el gobierno federal para hacer cumplir los derechos de los tratados, estaba luchando contra los intentos estatales de limitar esos derechos a través de regulaciones.

Las batallas aumentaron y disminuyeron durante décadas sin una resolución clara. Todo eso iba a cambiar cuando las tribus y el gobierno federal unieron fuerzas en 1970 para desafiar los intentos del estado de regular la pesca indígena. El caso fue *Estados Unidos contra el estado de Washington*, y la decisión del juez del Tribunal de Distrito del Noveno Circuito George Boldt (1903-1984) cambió el juego para siempre. También convirtió a las tribus de Washington y a Joe DeLaCruz en un enemigo político influyente: el fiscal general del estado de Washington Slade Gorton (n. 1928), quien más tarde se desempeñó como senador republicano de los Estados Unidos.

Después de un largo juicio en 1973, lo que se conoció como la “Decisión Boldt” se dictó en 1974 y luego resistió las apelaciones del estado hasta que fue ampliamente confirmada por la Corte Suprema de los Estados Unidos en 1979. El juez Boldt sostuvo que la promesa del gobierno de permitir el hecho de que los indios pesquen en sus lugares habituales “en común” con los no indios significaba que las tribus del tratado tenían derecho a tomar el 50 por ciento de la pesca anual. Decidió que esta promesa era fundamental para el proceso de elaboración del tratado y que las tribus tenían un derecho original sobre el

pescado, que extendieron a los colonos blancos. No le correspondía al estado decir a las tribus cómo administrar algo que siempre les había pertenecido, dijo el juez Boldt, y ordenó al estado que tomara medidas para limitar la pesca de los no indígenas, asegurando así los derechos que los tratados garantizaban a las tribus.

Joe DeLaCruz, entonces presidente de la tribu de la Nación India Quinault, había sido el último testigo que testificó por los demandantes durante el juicio. Veinticinco años después, destacó que la Decisión Boldt hizo mucho más que simplemente interpretar y defender el lenguaje claro de los tratados:

[Una] vez que sucedió Boldt, nos dio una voz unificada y presionamos desde el gobernador Evans para conseguir una Oficina de Asuntos Indígenas en el gobierno estatal (“Joe DeLaCruz: La decisión de Boldt dio a las tribus una voz unificada”).

Incluso más allá de eso, DeLaCruz creía que el apoyo del gobierno federal y las acciones específicas de la administración de Richard Nixon (1913-1994) dieron un gran impulso al concepto de soberanía tribal:

“La declaración del presidente Nixon con respecto a la autodeterminación fue muy clave y se movió desde allí. Nixon movió la política federal con respecto a los indios hacia la autodeterminación y el autogobierno en lugar de alentar la asimilación de los pueblos indígenas. Si miras la historia de los Estados Unidos, tienes una expresión de la división del poder

ejecutivo y el poder legislativo de relaciones de gobierno a gobierno y la mayoría de las decisiones de la Corte Suprema también lo afirman. La Decisión Boldt nos dio más que solo hablar, nos brindó herramientas (“Joe DeLaCruz: La decisión Boldt dio a las tribus una voz unificada”).

Aunque DeLaCruz nunca fue arrestado por actividades de pesca “ilegales”, fue muy activo como portavoz y estrategia de la causa tribal. Después de estar en el lado perdedor en la Decisión Boldt, Slade Gorton pasó a las elecciones al Senado de los Estados Unidos y continuó teniendo frecuentes desacuerdos con las causas de los nativos americanos después de su elección de 1980. Pero DeLaCruz tenía una larga memoria, y 20 años después, cerca del final de su vida, una de sus últimas campañas ayudaría a poner fin a la carrera política de Gorton.

Soberanía versus Dependencia

Antes de 1953, la relación entre el gobierno de Estados Unidos y los nativos americanos era de dependencia, con el gobierno “guardián” obligado, en teoría, a velar por el bienestar de las tribus “protegidas”.

Esto era incompatible con cualquier idea de soberanía tribal. Durante la mayor parte de la historia de la nación, el conflicto inherente entre el punto de vista del guardián / protegido y el punto de vista de la soberanía hizo que una política coherente fuera prácticamente imposible. Las relaciones entre las tribus, el gobierno federal y los gobiernos estatales simplemente se derrumbaron con una dirección poco discernible o un objetivo final para el descontento de todos.

Fue en este contexto que, en agosto de 1953, el Congreso de los Estados Unidos aprobó por unanimidad la Resolución Concurrente 108 de la Cámara, cuyo objetivo declarado era “hacer que los indígenas dentro de los límites territoriales de los Estados Unidos estén sujetos a las mismas leyes y tengan derecho a las mismas privilegios y responsabilidades que se aplican a otros ciudadanos, para poner fin a su condición de protegidos de los Estados Unidos y otorgarles todos los derechos y prerrogativas pertenecientes a la ciudadanía estadounidense “(Resolución 108 de la Cámara).

Lo que a primera vista podría leerse como un acto liberador de un gobierno benigno, de hecho, tuvo ramificaciones mucho más oscuras. Los tratados firmados durante los 150 años anteriores habían otorgado a los nativos americanos ciertos “privilegios”, incluido todo el sistema de reservas y la provisión de servicios sociales muy necesarios, por los cuales se había entregado mucho. Según la disposición de la Resolución 108, estos privilegios se terminarían y se revocaría la condición jurídica única de las reservas. Aunque según sus términos no se aplicaba a muchas tribus ni a todos los estados, era una clara señal de que el gobierno federal estaba avanzando hacia el fin de su papel como, al menos en teoría, el garante del bienestar de los indígenas.

Otra ley aprobada el mismo año llevó las cosas aún más lejos. La Ley Pública 83-280, promulgada el 15 de agosto de 1953, buscaba otorgar a ciertos gobiernos estatales el derecho de extender su jurisdicción civil y penal a las reservas indígenas sin la aprobación de las tribus. Los estados, en efecto, podrían anular

la soberanía judicial tribal que les había sido otorgada por tratado. No es sorprendente que muchos vean esto como solo parte de un esfuerzo del gobierno federal para lavarse las manos de toda participación en asuntos indígenas.

Ni la Resolución 108 ni la Ley Pública 83-280 se aplicaban directamente al estado de Washington ni a la Nación India Quinault, pero la existencia misma de las reservas de tratados, las tribus como unidades cohesivas y el concepto de soberanía tribal estaban siendo cuestionados, y parecía cierto que la tendencia eventualmente se trasladaría a todas las tribus en todos los estados. La forma abreviada de estas políticas en la calle era “terminación, reubicación y asimilación” (Laurie Johnstonbaugh): poner fin a las responsabilidades del gobierno federal, reubicar a los indios de sus reservas y asimilar a los nativos americanos a la sociedad convencional no indígena. Veinte años después, Joe DeLaCruz no tenía nada de eso, o al menos nada de la mayor parte.

Cambiando las reglas una vez más

Como señaló DeLaCruz en su entrevista sobre la Decisión Boldt, la “soberanía tribal” como idea no era nada nuevo. Fue explícito o implícito en el lenguaje de muchos tratados, leyes y decisiones judiciales que abarcan más de 200 años de historia estadounidense. Pero la realidad fue algo diferente. A lo largo de las décadas, las relaciones entre las tribus soberanas y los gobiernos federal y estatal se caracterizaron por una actitud de paternalismo, impulsada por una creencia (generalmente) tácita de que los nativos americanos no eran competentes para manejar

sus propios asuntos. La legislación de 1953 buscó cambiar esto, pero lo hizo con un hacha amplia, a un costo que la mayoría de los nativos americanos creían que era demasiado alto.

DeLaCruz llegó a simbolizar un camino intermedio. Creía que los gobiernos federal y estatal tienen ciertas obligaciones en virtud de tratados que no se pueden “rescindir” de un plumazo. Creía que las reservas pertenecían a las tribus por derecho y que cualquier idea de “reubicación” indígena violaba ese derecho. Creía que la cultura y la tradición tribales eran tan legítimas como las de los no nativos y no debían ser destruidas mediante la “asimilación”. Y finalmente, DeLaCruz vio la soberanía tribal como la clave para prácticamente todos los demás temas de derechos y responsabilidades indígenas. Esta creencia lo llevó a ir más allá de los confines y preocupaciones de la nación indígena Quinault y a desempeñar un papel clave, a nivel nacional e incluso internacional, en la lucha por la soberanía de los nativos americanos.

Casi al mismo tiempo que la identificación pública de DeLaCruz con la causa de la soberanía india, el gobierno federal comenzaba a ver el error de sus caminos. En el último año de la presidencia de Lyndon B. Johnson (1908-1973), el Congreso aprobó en 1968 una resolución que repudiaba la Resolución 108. Más significativamente, la Ley de Derechos Civiles Indios, también aprobada en 1968, derogó la ley pública 280, devolviendo la jurisdicción legal sobre reservas a las tribus. Significativamente, este acto impuso a la mayoría de las tribus, pero no todas, los requisitos constitucionales de la Declaración de Derechos, un reconocimiento tácito de soberanía al menos

parcial. La ley, por ejemplo, guarda silencio sobre la cuestión del derecho de la Segunda Enmienda a poseer y portar armas, lo que indica la intención de permitir a las tribus una cierta libertad no disponible para el gobierno estatal o federal.

La tendencia continuó y se aceleró bajo el presidente Nixon, aunque como con muchas cosas que hizo Nixon, la motivación en algunos círculos fue sospechosa. Los comentaristas poco caritativos opinaron que el objetivo de la administración al proponer una legislación aparentemente pro-india era simplemente desanimar a la militancia india, que culminó con el asedio de Wounded Knee a principios de 1973; otros lo vieron como un intento legítimo de corregir algunos errores anteriores y establecer las relaciones nativas / no nativas en un nuevo camino. Dejando de lado la motivación, entre las leyes importantes de los años de Nixon se encuentran la aprobación de la Ley de Resolución de Reclamaciones de los Nativos de Alaska, la devolución de tierras en disputa a tribus en Oregon y Arizona, y la restauración del reconocimiento federal a la Tribu Menominee en Wisconsin, que había terminado en 1954 bajo la Resolución 108. Un autor señaló que la aprobación de estos y otros proyectos de ley en la década de 1970 “marcó el golpe de gracia de la terminación y señaló la nueva era de autodeterminación” (Nagel, 217). Y luego estaba la Decisión Boldt de 1974, que validó los argumentos que las tribus habían estado haciendo durante décadas y reivindicó a aquellos que creían que los tribunales, al final, harían lo correcto.

Un Líder Nacional

Joe DeLaCruz mostró una combinación de inteligencia, educación, visión y carisma que

pronto lo llevó al frente de los grupos que luchan por las causas de los nativos americanos, tanto en el estado de Washington como a nivel nacional. Mientras aún era gerente comercial de Quinault, apoyó las luchas de otras tribus de Washington. Unió fuerzas con Bernie Whitebear (1937-2000), otro carismático líder indio, en los enfrentamientos de 1970 en Fort Lawton en Seattle. Estos esfuerzos llevaron a la creación de la Fundación United Indians of All Tribes y la construcción del Centro Cultural Daybreak Star en los terrenos del fuerte en gran parte desmantelado. DeLaCruz luego se convirtió en una fuerza en el litigio “Fish Wars” que culminó con la Decisión Boldt que reivindicó los derechos de los tratados de los indígenas.

En 1977, solo cinco años después de asumir el liderazgo de la Nación India Quinault, las habilidades de DeLaCruz fueron reconocidas con su elección para dirigir la Asociación Nacional de Presidentes Tribales, que se había formado seis años antes. Este grupo estaba compuesto por presidentes, gobernadores y jefes de indios de reservas y otras tribus reconocidas federalmente en los Estados Unidos, elegidos y designados. En este puesto, que ocupó hasta 1981, DeLaCruz comenzó a ganar reputación nacional y pronto se convirtió en un estratega codiciado y portavoz de una multitud de diferentes causas de importancia para los nativos americanos.

Poco después de dimitir como líder de la asociación de presidentes, DeLaCruz fue elegido para un puesto nacional aún más importante como jefe del Congreso Nacional de Indios Americanos, en el que sirvió de 1981 a 1985. Esto encajaba perfectamente con DeLaCruz;

la organización había sido fundada en 1944 en respuesta a las políticas de “despido, reubicación y asimilación” que ya se estaban dando vueltas en los pasillos del Congreso. En el ambiente a menudo conflictivo de la política inter e infra tribal, el Congreso Nacional de Indios Americanos defendió constantemente la necesidad crítica de la unidad y la cooperación si las tribus tenían éxito en la protección de sus tratados y derechos soberanos.

Aunque viajaba con frecuencia y siempre era solicitado como orador y estratega, DeLaCruz también tenía una reserva que dirigir, y aunque su administración de la Nación India Quinault estuvo sujeta a un escrutinio regular y frecuentes quejas, se logró mucho durante su mandato. Desempeñó un papel central en muchas actividades y proyectos tribales, incluida la gestión forestal, la restauración de tierras, la construcción de viviendas y el procesamiento de productos del mar. Para él, todo lo que contribuyó a la independencia económica era parte integrante de la lucha por la verdadera soberanía tribal. Creía que un estado soberano debe tener como objetivo la capacidad de sustentarse a sí mismo, tanto produciendo gran parte de lo que consume como creando bienes o servicios para la exportación. Lo más importante es que creía que los Quinault y otras tribus tenían habilidades, talentos y recursos que no se habían aprovechado completamente durante las décadas de paternalismo.

Joe DeLaCruz siempre tuvo los ojos puestos en el panorama general, y el panorama general era la soberanía de los nativos americanos, en todos los sentidos de la palabra. A esta causa dedicó su

vida, persuadiendo a indios y no indios por igual de que no solo los nativos americanos tenían un derecho indiscutible a la soberanía, sino también las habilidades y la capacidad para ejercer ese derecho y las obligaciones que conllevaba.

La voz de Joe DeLaCruz

Los viajes y actividades de Joe DeLaCruz durante sus más de 30 años de liderazgo tribal fueron demasiado extensos para detallarlos en este ensayo. Pero sus palabras eran tan importantes como sus acciones; proporcionan la mejor demostración de su inteligencia, dedicación y capacidad de persuasión:

Sobre el conflicto y la unidad:

Si nuestros pueblos han de sobrevivir a largo plazo, se deben encontrar medios alternativos para resolver el conflicto además de buscar alivio a través de litigios prolongados y acalorados que enriquecen a los abogados y polarizan al público. La forma más prometedora que tenemos ahora para proteger nuestros intereses es fortalecer nuestros gobiernos. Debemos alentar a nuestros gobiernos a hacer valer activamente nuestros derechos en el mundo no indígena. Nuestros Pueblos deben trabajar en estrecha colaboración para aumentar nuestro control sobre nuestros recursos y solidificar la opinión tribal (Keynote, National Fisheries Conference, 1980).

Sobre la importancia del salmón:

Nuestras historias se han construido sobre el recurso del salmón que consiste

en miles de razas distintas de peces que regresan a los ríos a lo largo de la costa. La supervivencia de estas razas de salmón depende de un fuerte control local para garantizar que se encuentren las condiciones ambientales adecuadas en los arroyos donde desovan los peces. Para proteger el salmón y preservar la base de su patrimonio, los gobiernos indios deben hacer valer sus derechos para administrar sus recursos. Si las tribus optan por no ejercer su autoridad, sus decisiones las tomarán otros. El destino del salmón ha sido y ahora está siendo decidido por procesos políticos de otros gobiernos (Keynote, National Fisheries Conference, 1980).

Sobre el activismo político:

Los líderes tribales ya no pueden ocuparse únicamente de los asuntos internos de nuestras propias bandas y tribus y esperar proteger los intereses de nuestros pueblos. Debemos ser cada vez más conscientes y participar activamente en los procesos políticos externos que afectarán nuestras vidas y recursos. Nuestros líderes deben ir entre nuestros pueblos y comunidades externas para defender las necesidades e intereses de nuestros pueblos. A medida que surgen amenazas, la presencia india debe sentirse en la arena política. Debemos hacer valer nuestros derechos para controlar nuestros recursos y proteger nuestra forma de vida. Debemos comenzar a labrarnos un lugar permanente dentro del panorama político porque este es el único medio por

el cual podemos esperar preservar una base para nuestra supervivencia (Keynote, National Fisheries Conference, 1980).

Sobre el significado de soberanía:

“Creo que el significado corriente de las relaciones de gobierno a gobierno es el establecimiento de procedimientos mutuamente aceptables entre gobiernos amigos para lograr mejores relaciones y un respeto saludable entre los gobiernos. No significa que los burócratas ‘consulten’ con nosotros antes de que el gobierno federal haga lo que ya ha comenzado a hacer. No significa la interferencia de la agencia federal en nuestros asuntos internos. Significa que existe una cierta distancia entre nuestros gobiernos y el gobierno de los EE. UU. que debe ser respetada. Significa establecer el respeto mutuo por los distintos y separados poderes de nuestros gobiernos. Significa establecer mecanismos intergubernamentales directos y formales entre nuestros gobiernos para promover la autodeterminación y resolver rápidamente las disputas “(Discurso presidencial, 1984).

Sobre las relaciones intergubernamentales:

Pero la salida de esta confrontación centenaria, este choque entre mundos diferentes, requerirá un pensamiento nuevo y más claro de lo que ha sido típico a lo largo de los años. Podemos comenzar ese pensamiento nuevo y más claro considerando primero tres ideas:

Primero, las naciones y tribus indias deben llegar a aceptar que Estados Unidos y los diversos estados no se desvanecerán y desaparecerán simplemente. Mucha de nuestra gente ha tenido este punto de vista en su corazón a lo largo de las generaciones. Ahora debemos aceptar que Estados Unidos y su pueblo permanecerán en este continente como nuestros vecinos.

En segundo lugar, Estados Unidos y cada uno de sus estados deben aceptar que las naciones y tribus indias no se desvanecerán ni desaparecerán. Nuestras naciones permanecen tan permanentes como el suelo.

En tercer lugar, todos deben reconocer y comprender que el establecimiento de los Estados Unidos de América no le dio a los Estados Unidos el derecho de reclamar o poseer pueblos indígenas y sus territorios. Las naciones y tribus indias no se convirtieron en parte de los Estados Unidos y ahora no son parte de los Estados Unidos. Aunque Estados Unidos convirtió a nuestro pueblo en ciudadanos, nuestros pueblos siguen siendo ciudadanos de nuestras propias Naciones, y nuestras Naciones permanecen separadas y distintas de los Estados Unidos y sus estados que se crearon alrededor de nuestros territorios. Nuestras naciones se han convertido en islas en un mar de tierra en este continente donde nosotros y nuestros vecinos debemos coexistir ahora.

Si podemos llegar a aceptar estos conceptos básicos, entonces podemos dar el

siguiente paso para renovar los esfuerzos iniciados hace más de doscientos doce años: establecer un proceso de trabajo entre nuestras naciones, entre nuestros gobiernos, para resolver o al menos reducir el calor en nuestras diferencias. Como vecinos que somos, primero debemos estar de acuerdo en hablar y luego debemos acordar establecer métodos mutuamente aceptables para resolver nuestros conflictos” (Seminario sobre Relaciones de Gobierno a Gobierno, 1985).

DeLaCruz ejerció su elocuencia en cientos de discursos en decenas de estados y países. Trabajó y habló en apoyo no solo de su propia tribu, sino también de otras tribus en los EE. UU. Y Canadá, y para los pueblos indígenas de todo el mundo.

Logros

Entre sus innumerables logros se encuentran estos:

- Sus esfuerzos fueron cruciales para la aprobación de la Ley de Asistencia para la Educación y Autodeterminación Indígena de 1975 (Ley Pública 93-638), y luego trabajó para la aprobación del Programa de Autogobierno Tribal, que buscaba convertir los principios de soberanía y gobierno tribales (relaciones con el gobierno en realidad). Finalmente se convirtió en ley el 18 de agosto de 2000, cuatro meses después de la muerte de DeLaCruz.
- Se desempeñó como presidente de las tribus afiliadas de los indios del noroeste a fines de la década de 1980. Fue miembro

fundador del Northwest Renewable Resources Center en 1984.

- Fue un firme partidario de la Comisión de Pesca de los indios del Noroeste y ayudó a crear la Comisión del Salmón del Pacífico en 1985.
- Se desempeñó como co-presidente de la Comisión Nacional de Relaciones Tribales-Estado.
- Originó la idea del Acuerdo del Centenario, firmado por el gobernador Booth Gardner (n. 1936) y líderes tribales de todo Washington en el año del centenario del estado de 1989. El acuerdo, que reconocía la soberanía de las tribus indígenas y el gobierno a la relación gubernamental de nativos y no nativos, fue luego emulada por los pueblos indígenas y los gobiernos de todo el mundo.

En 1990, DeLaCruz fue uno de los tres jefes tribales del estado de Washington que firmaron un pacto con el gobierno de los EE. UU. En virtud de la Ley de autogobierno de 1988. Según los términos del acuerdo, las tribus Quinault, Lummi y Jamestown Klallam se convirtieron en “tribus demostración” en un experimento que les permitiría negociar subsidios tribales” de gobierno a gobierno “con el Departamento del Interior de Estados Unidos, en lugar de a través de la burocracia bizantina de la Oficina de Asuntos Indígenas. En general, fue visto como un gran paso para alejarse del paternalismo que había caracterizado durante mucho tiempo la relación entre el gobierno y los nativos americanos. En ese momento, DeLaCruz destacó que el acuerdo era más que simbólico:

Nos están llamando tribus pioneras. El futuro depende de nosotros. Si el autogobierno funciona, será nuestra oportunidad de deshacernos de las personas que prosperan con las miserias de los indios. Por primera vez en décadas, no tenemos que pedir permiso para mejorar la vida. Si queremos reparar los baches de nuestras carreteras, podemos hacerlo. Si queremos construir una nueva carretera, podemos hacerlo. Y estamos construyendo carreteras. Estamos construyendo caminos hacia el futuro (“Algunas tribus nativas americanas comienzan a presionar por la autodeterminación”).

Pero también advirtió que el autogobierno requeriría más que un simple documento:

La gente tiene miedo, yo tengo miedo, es difícil romper con el pasado. Durante cinco generaciones hemos dependido y hemos estado bajo el control de la Oficina de Asuntos Indígenas. Para muchas personas, la oficina es un chivo expiatorio conveniente. No quieren renunciar a ella. Significa tener que confrontarnos a nosotros mismos (“Algunas tribus nativas americanas comienzan a presionar por la autodeterminación”).

Crítica y Controversia

Joe DeLaCruz cometió muchos errores y juicios erróneos, tanto en su vida profesional como en su vida personal. Fue un organizador eficaz y un gran dinamizador, pero quizás un administrador menos eficaz y, en algunos aspectos, una figura divisoria dentro de la tribu. Gran parte

del descontento se basaba en la propiedad fragmentada de las tierras de la reserva, una medida que podía apaciguar a un grupo de propietarios y a menudo enfurecía a otro. Los no indígenas, en particular, sintieron que sus derechos de propiedad estaban constantemente bajo asedio durante la era DeLaCruz. Esto puede haber sido en gran parte inevitable.

La política tribal a veces ha estado marcada por facciones y luchas políticas que giran en torno a camarillas de poder basadas en la familia o el clan. Los Quinault no son una excepción. Cinco años después de que DeLaCruz asumiera el liderazgo de la tribu, él y sus seguidores obtuvieron suficiente apoyo para aprobar enmiendas a la constitución tribal que consolidaron el poder en el comité empresarial de la tribu, que él encabezó. Las oficinas administrativas de la Nación Quinault pronto fueron dominadas por los amigos, familiares y simpatizantes de DeLaCruz. Para algunos, los beneficios de ciertos contratos celebrados por la tribu fluían desproporcionadamente hacia estos mismos amigos, familiares y simpatizantes. Los disidentes lanzaron dos intentos de destituir a DeLaCruz, el último en 1992, pero ambos fracasaron.

DeLaCruz fue acusado con frecuencia de amiguismo y nepotismo, y de llenar oficinas tribales importantes y bien pagadas con gente de fuera de la reserva. No se disculpó, incluso desafió, argumentando que en una ciudad tan pequeña como Taholah, ese resultado era inevitable. Insistió en que las personas que nombró para los puestos tribales o a quienes se les adjudicaron los contratos eran las más

calificadas para los trabajos, y que esto cambiaría a medida que más miembros de la tribu obtuvieran una mejor educación y capacitación. Cuando se le preguntó sobre estos asuntos, DeLaCruz dijo:

Tienes que entender el trasfondo cultural. A ellos (a los quinault de la reserva) les gusta hacer cosas en las que no están atados a un reloj. Los pescadores, incluso si no hay pesca, no quieren hacer nada más. Lo entiendo, me encanta pescar. Eso es lo que debería estar haciendo, en lugar de 'administrar'. Pero no todos podemos pescar y buscar almejas ("Progress a Mixed Bag ...").

También había tensión entre los tradicionalistas que desconfiaban de casi cualquier forma de "progreso" y los modernizadores que, como DeLaCruz, creían que la supervivencia y la prosperidad tribales solo podían lograrse adoptando las formas comerciales de los no nativos. También surgieron disputas sobre cuánto dinero y energía debería gastar la tribu para preservar su cultura, en lugar de construir una base económica sólida para el futuro.

DeLaCruz no era un tradicionalista con ojos de estrella en absoluto; creía que el dinero que controlaba la tribu se gastaba mejor en desarrollo económico que en programas sociales, al menos inicialmente. DeLaCruz podría ser seco y despectivo sobre el tema, diciendo en una ocasión:

Cada familia, desde Taholah hasta Queets, tiene una opinión diferente sobre la cultura. No soy de los que cree que la cultura

son bailes y powwows (“Los espíritus de entonces elevan los espíritus del ahora”).

Sobre la cuestión de cómo deberían asignarse los fondos federales, fue igualmente inflexible y argumentó que, para asegurar un rápido progreso económico para toda la tribu, la mayoría de sus recursos en efectivo debían destinarse al desarrollo económico en lugar de “programas de personas”. Cuando se sugirió durante una entrevista que la tribu debería invertir más en abordar los problemas del alcoholismo, la delincuencia juvenil y los ancianos, DeLaCruz respondió:

Eso sería un gran error. Si queremos la autosuficiencia y cuidar de los nuestros, no podemos permitirnos el lujo de hacer eso (“Progress a Mixed Bag...”).

DeLaCruz también fue acusado de participar en negociaciones y hacer tratos con respecto a los recursos de la reserva sin una consulta completa con los miembros de la tribu o una supervisión significativa por parte de nadie. Argumentó que los miembros de la tribu simplemente deberían confiar en él, ya que solo él conocía todos los hechos, y que era irrazonable que se esperara, o incluso fuera capaz de explicar los requisitos gubernamentales complejos o la investigación científica complicada a los electores que carecían de la educación o la formación para entenderlo. Su actitud general parecía ser que, habiendo sido elegido, debería dejarlo solo para dirigir las cosas como mejor le pareciera. No hay duda de que hay algo de verdad en las refutaciones de DeLaCruz a los diversos cargos que se le imputan, pero su intolerancia a las críticas a menudo amplía las diferencias en lugar de salvarlas.

DeLaCruz sirvió a un electorado más amplio que solo la Nación India Quinault, y esto también generó críticas. A medida que se hizo más activo en las luchas nacionales e incluso internacionales de los pueblos indígenas, viajó con frecuencia por los EE. UU., Canadá y el extranjero y pasó cada vez menos tiempo en la reserva por la que fue elegido y pagado para dirigir. Esto también lo defendió, argumentando que el apoyo de otros nativos americanos e indígenas de otras tierras era importante para asegurar los derechos soberanos de la Nación India Quinault. Muchos de sus oponentes encontraron la conexión débil y no fueron persuadidos, pero nunca pudieron obtener los votos para derrocarlo. A veces, los rumores de escándalo estaban respaldados por hechos. Una auditoría federal crítica de las finanzas de Quinault publicada en octubre de 1981² llevó a DeLaCruz a renunciar voluntariamente (aunque temporalmente) como líder. Reconoció los graves problemas contables, pero insistió en que no se había demostrado ningún fraude o deshonestidad. El expediente parece respaldar esa afirmación, pero proporcionó más combustible a sus críticos.

Al final, fue la familia y no la política lo que puso fin a los 22 años de mandato de Joe DeLaCruz como jefe de la Nación India Quinault. El 15 de marzo de 1993 fue arrestado durante un enfrentamiento policial que involucró a su nieto de 16 años, quien era sospechoso de agredir a un hombre de los Moclips con un machete. El nieto, supuestamente armado con un rifle de asalto, se había atrincherado en una casa en la reserva, rodeado por la policía tribal. DeLaCruz llegó al lugar y fue arrestado luego de atravesar una

barricada y entrar a una casa. Aunque el nieto pronto se rindió, Joe DeLaCruz fue detenido para ser investigado por cargos de obstrucción a la policía y peligro imprudente. También fueron arrestados su esposa de 52 años, su hermano de 44 años, su hija de 33 años y su novio.

Inmediatamente después de su arresto, DeLaCruz volvió a renunciar a su cargo, calificándolo como una medida “temporal” hasta que se resuelva el caso penal. Pero en ese momento, su renombre como portavoz elocuente de los derechos de los pueblos indígenas era generalizado, y pudo haber creído que había hecho todo lo que pudo por su tribu. El liderazgo de la nación india Quinault pasó a su vicepresidente, Pearl Capoeman-Baller.

Política de Estado

A finales de 1995, el gobernador de Washington Mike Lowry (1939-2017) intentó nombrar a DeLaCruz para un puesto en la Comisión de Pesca y Vida Silvestre del estado. Aún enfurecidos por la Decisión Boldt, los grupos que representan a los pescadores deportivos aullaron en protesta, alegando que tener a un nativo americano sentado en un tablero que tenía cierto control sobre la pesca no tribal creaba un conflicto de intereses. El Senado estatal se negó a darle una audiencia de confirmación. Pudo haber servido hasta que se haya realizado una votación que rechace expresamente su nominación, pero se negó y no tuvo reparos en culpar al racismo de su trato:

Me asombra que los senadores pudieran optar por ignorar u oponerse a mi nombramiento sobre esta base y no ser

reprendidos por la gente. En mi opinión, permanecer en esta comisión, en vista de estas actividades racistas, sería un acto de perdón (Sic). Esto no lo puedo hacer (“El racismo es el culpable, dice DeLaCruz”).

En 2000, DeLaCruz devolvió el golpe a su antiguo enemigo, el ex fiscal general estatal Slade Gorton, y luego se postuló para la reelección al Senado de los Estados Unidos. Mientras estaba en el Senado, Gorton se había ganado la reputación de ser un oponente de las tribus y una amenaza para sus continuos esfuerzos por el autogobierno y la independencia económica. Algunos líderes indios cuestionaron la sabiduría de enfrentar a Gorton de frente, pero DeLaCruz no tuvo tales escrúpulos: “Hemos tenido que gastar mucho dinero (cabildeando) para que sus facturas se eliminen. ¿Qué más puede hacernos?” (“Tribus que intentan recaudar \$ 1 millón para derribar a Gorton ...”). Al menos en parte debido a los esfuerzos indígenas, Gorton perdió las elecciones de 2000 ante la demócrata Maria Cantwell (n. 1958) por un estrecho margen.

Un Gran Líder Indio

DeLaCruz se mantuvo en constante movimiento en sus últimos años, pasando más tiempo en aeropuertos y hoteles que en casa. Fue un orador muy solicitado, tanto aquí como en el extranjero, y se mantuvo activo hasta el final. Oportunamente, murió repentinamente de un ataque al corazón el 16 de abril de 2000, mientras esperaba tomar un avión en el Aeropuerto Internacional de Seattle-Tacoma para asistir a una reunión nacional sobre atención médica indígena. Tenía 62 años. Casi tres meses después

del día después, su antiguo compañero de armas, Bernie Whitebear, murió en Seattle, también a los 62 años.

La profundidad y durabilidad de la influencia de Joe DeLaCruz durante su vida en las batallas por los derechos de los pueblos indígenas se puede ver en los elogios que recibió después de su muerte:

- “Dondequiera que mires entre los nativos americanos, ves la huella de Joe. Estoy incrédulo. Joe comenzó muchas cosas. Sus programas se convirtieron en modelos para los nativos americanos en todas partes. Es un duro golpe cuando pierdes uno de esos grandes cedros “(Suzan Harjo, activista indígena Cheyenne-Muskogee en Washington, DC).
- “Fue muy brillante y elocuente. Y se mantuvo concentrado. Se dedicó a la noción de que alguien debe hablar por los derechos de los pueblos indígenas, no solo en esta nación sino en todo el mundo” (Tom Keefe, ex Senador de EE. UU. ayudante)
- “Joe estaba totalmente comprometido con el principio de soberanía tribal. Ese

principio era la columna vertebral de todo lo que hacía. Era un guerrero pacífico. Su arma era su capacidad para vender sus ideas y personalidad” (Mel Tonasket de las tribus confederadas de Colville).

- “Fue uno de los líderes indios más importantes que jamás haya vivido en los Estados Unidos” (Billy Frank Jr., activista pesquero de Nisqually y presidente de la Comisión de Pesca del Noroeste de la India).
- “Joe DeLaCruz siempre será parte del estado de Washington, así como esta tierra siempre fue parte de él” (Gobernador Gary Locke).
- “En lo que a mí respecta, se ubicó entre los principales jefes de los viejos tiempos: Geronimo, Toro Sentado, Jefe Joseph, Caballo Loco, debido a lo que logró para los indios en su tiempo. No libraré una guerra de derramamiento de sangre, sino una guerra de conocimiento y sabiduría por los derechos del pueblo indio ”(James DeLaCruz Jr., sobrino).

² Nota del editor de FWJ: La Nación India Quinault, la Nación Navajo, la Tribu Chayanne River y otras nueve naciones fueron auditadas sobre su manejo de fondos federales por reclamos de mal uso de fondos considerados por estos gobiernos como represalia del gobierno de EE. UU. por afirmar su soberanía. Sólo el presidente Navajo, un enérgico defensor de la soberanía navajo y oponente de las usurpaciones del gobierno estadounidense a la soberanía navajo, fue acusado y condenado por las leyes estadounidenses. La administración del presidente estadounidense Ronald Reagan inició el desafío a estas naciones invocando un desafío a la “soberanía” comenzando con afirmaciones de que el entonces presidente Peter McDonald de la Nación Navajo hizo un mal uso de los fondos federales. Cuando McDonald, que entonces se desempeñaba también como cofundador y líder del Consejo de Tribus de Recursos Energéticos (CERT), afirmó que el Consejo de Tribus de Recursos Energéticos debería retener el petróleo a los funcionarios del gobierno de Estados Unidos en el Departamento del Interior y en otras partes de Estados Unidos. El gobierno se alarmó. Poco después de la afirmación de McDonald’s, una investigación del Departamento de Justicia del presidente navajo comenzó finalmente y encontró que había “malgastado” un poco más de \$ 7,000. McDonald fue acusado de violar las leyes estadounidenses y fue declarado culpable de delitos federales estadounidenses que incluyen fraude, extorsión, disturbios, soborno y corrupción. MacDonald se declaró inocente de todos los cargos.

El 22 de abril de 2000, más de 2,000 personas, incluidos representantes de docenas de tribus y grupos nativos de América, honraron la vida de Joe DeLaCruz en los servicios realizados en el nuevo Quinault Tribal Resort en Ocean Shores. Entre sus sobrevivientes estaban su esposa, Dorothy, tres hijas, dos hijos y numerosos sobrinos y sobrinas. De acuerdo con Dorothy, miembro de la tribu Colville del este de Washington, su cuerpo fue llevado allí para ser enterrado.

En una declaración frecuentemente citada, DeLaCruz habló de la importancia de la soberanía:

Ningún derecho es más sagrado para una nación, para un pueblo, que el derecho a determinar libremente su futuro

social, económico, político y cultural sin injerencias externas. La máxima expresión de este derecho se produce cuando una nación se gobierna libremente. Al ejercicio de este derecho lo llamamos autodeterminación. La práctica de este derecho es el autogobierno (“Autogobierno tribal”).

No mucho después de su muerte, la memoria de DeLaCruz fue honrada cuando el Instituto de Investigación Aplicada de los Indios del Noroeste en Evergreen State College estableció el Centro Joe DeLaCruz para Estudios Avanzados en Gobierno Tribal “para enfocar sus programas educativos y de investigación sobre la gobernanza tribal en las ideas y el trabajo del Honorable Joe DeLaCruz “. Él habría estado complacido.

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Spoiled Identity and Stigma: A Case of Ex-Criminal Tribes of India

By Dattatreya Bhandalkar

ABSTRACT

The De-notified tribes are tribal communities that were notified under the Criminal Tribes Act (CTA) 1871 in colonial India. Although the Act was repealed after independence, the tribes declared as 'criminals' continue to remain labeled and are still living with stigma. Tribes notified under the CTA became De-notified in Independent India. The De-notified tribes in India continue to remain as one of India's most excluded and marginalized communities, excluding opportunities and deprived of resources. There are 198 De-notified tribes in India. After the repeal of the act post-independence, some of the declared tribal communities were included among the Scheduled tribes' population in different states; some yet continue to remain enlisted as the 'De-notified' tribes in India. The De-notified tribes comprise a significant population in India, and they are classified under a separate category as DNTs or DNCs. These tribal groups, although were "de-notified" they continue to face discrimination in their everyday life. These tribes do not have access to basic resources and livelihood opportunities; they are treated differently by people from other castes. They also face discrimination at the hands of the police. Their stigmatized spoiled identity due to ancestral labeling influences their present critically. They are subject to atrocities in the hands of the police and power groups in the village. The incidences of atrocities in the case of the De-notified tribes are not acknowledged under the Prevention of Atrocities Act by the state, which protects the marginalized communities and tribes. Their complaints remain unnoticed, and they are subject to false suspicion. The tribe remains in poverty and is subject to stigma and exclusion; their situations have not changed. The government has made no notable attempt to create provisions for upliftment of these communities and safeguard their rights. The absence of uniformity in the reservation policy keeps them away from the government benefits. This paper attempts to highlight the issues and problems faced by the de-notified tribes in Maharashtra India, narrating their experiences of spoiled identity and stigma.

Key words: spoiled identity, stigma, exclusion, de-notified tribes

The De-notified Tribes of India

The tribals of India are known for their diverse and rich culture and practices. However, the reality of the tribes in India has gradually changed over the years. Among many tribal communities in India, a significant population of marginalized tribal communities were once classified and declared

as 'Criminal Tribes' with the Criminal Tribes Act in 1871 (CTA). With the Act's enactment, these tribesmen were registered and notified as 'Criminals' in society. The British government restricted their movements and actions; elaborate arrangements were made for their supervision and settlements were made in different corners of the country to separate them from other sections of society. A majority of this tribe still exhibits their primitive and ethnic traits. Many of them still live in tribal groups, wander from one place to another in search of livelihood, and do not have any permanent home of their own. They have specific rituals, beliefs, religious practices of their own, and those are unique to themselves. Neither globalization, liberalization, nor any social advancement could improve their conditions to a significant extent. Although the government of independent India officially 'De-notified' these tribes in 1952, it made no provisions for improving their situations. The CTA gave the police arbitrary powers even to kill members of the declared 'criminal' tribes. Although the notified criminal tribes were "de-notified," the communities are not categorized under the constitutional schedules like the scheduled caste and scheduled tribes. Some de-notified and nomadic communities have been included in the respective state lists of SCs and STs (categories recognized by the Indian Constitution). However, there is no uniformity in the status of these tribes across the country. The human rights violations against the DNTs are not covered by legislation such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989) that protects the SCs and STs. The DNTs do not possess traditional land rights or house titles.

The tribal population being primarily nomadic in nature yet it is not included in the Census of the country. They remain denied citizenship rights, including voting rights. They are mostly engaged in informal means of livelihood. Presently, there are 198 De-notified tribes in India, 14 of which are located in Maharashtra (Rathod, 2000). These groups of communities are scattered in nature and primarily situated in drought prone areas. These tribesmen are not just a neglected population of India's society but a complex one as well. Their problems are not only grounded in contemporary reality but also deeply rooted in history. They have suffered injustices at the hands of both polity and society; their issues have not been sufficiently redressed as well. They are still being treated as criminals by birth and subjected to harassment and persecution at the hands of the police and the state machinery. In the backdrop of prolonged conflict in context of caste system in India, a significant population group has been oppressed; they are subject to stigma, discrimination and their social, economic and political rights have been violated strikingly. There is an immense need to explore and understand the issues of the de-notified population in India and address them to ensure justice to these ethnic groups.

Living with a Spoiled Identity

Stigma is defined as an attribute that is deeply discrediting. It is an attribute, behavior, or reputation which is socially discrediting in a particular way: it causes an individual to be mentally classified by others in an undesirable, rejected stereotype rather than in an accepted, normal one. Stigma is a special kind of gap

between virtual social identity and actual social identity. It is defined as a phenomenon by which an individual is deeply discredited by his/her society and is excluded as a result. It is a process by which the reaction of others demeans normal identity (Goffmann, 1963). Stigma may also be described as a label that associates a person with unwanted characteristics that form a stereotype. It is also affixed (Jacoby, 2005). Once people identify and label differences, others will assume that is how things are, and the person will remain stigmatized until the stigmatizing attribute is undetected. The attributes that society selects differs at different times and places. What is considered out of place in one society is the norm in another. When society categorizes individuals into specific groups, the labeled person is subjected to status loss, stigma, and discrimination (Jacoby, 2005). Society will start to form expectations about those groups once the cultural stereotype is secured. Stigma can affect all aspects of life, limiting access to employment and housing, harming social relationships, and reducing self-esteem.

Stigma has its roots in “differences.” It as an attribute that serves to discredit a person in the eyes of others (Franzoi, 1996). Attitudes towards the discrediting attribute vary over time. Stigma is also culturally defined; particular attributes attached to stigma vary with the diversity in groups. The impact of stigma on a stigmatized individual varies in form and intensity. The behavior towards the stigmatized individual particularly emphasizes “differences” and thus there are forms of prejudice and discrimination that arise out of the interactions between the

‘normal’ and the ‘discredited’ (Goffman, 1990). Any form of discrimination and prejudice serves to separate and exclude individuals from society, denies access to benefits of society such as equitable access to housing, education, health, and social support. Discrimination is a form of social exclusion. The impact of stigma and social exclusion at an individual level can be devastating, leading to poor self-esteem, isolation, depression, self-harm, and poor social relationships. Stigma and discrimination can be experienced at individual and group levels based on race, sexual orientation, culture and religious belief (Mason et al., 2001).

Among many tribal communities in India, a significant population of marginalized tribal communities who were once classified and declared as ‘Criminal Tribes’ with the declaration of Criminal Tribes Act in 1871 were further classified as Habitual Offenders with the declaration of the Habitual Offenders Act, 1959. The British government stated two assumptions that all people born in a particular group, or caste, are criminal by birth. Once they are born a criminal, they always remain a criminal. (Kapadia: 2005) The enactment of the CTA 1871 was the origin of labeling a group of tribal communities in India as criminals. However, post-independence a shift came wherein the criminal tribes were decriminalized. The act was declared as inhuman by the government; however, the tribal groups were further classified under the Habitual Offenders Act and then declared as the De-notified tribes. The stigma of criminality began with the declaration of the CTA and continues even today. With time, although

the tribal groups were de-criminalized, ancestral labeling affected the tribal deeply. It became a part of their social identity. They are identified as criminal communities by other power groups in villages and continue carrying the stigma of being associated with criminal occupations over generations. These tribal communities have been identified with a constitutionally recognized category called scheduled tribes in some states in India. In contrast, in Maharashtra they are classified as a special category of “VimuktaJatis VJNT.” The stigma of criminality is deeply associated with the tribal and they are subject to stigma, discrimination and victims of atrocities in their everyday lives. They are still being treated as criminals by birth and subjected to harassment and persecution at the hands of the police and the state machinery. In the backdrop of prolonged conflict in India’s caste system, a significant population group has been oppressed; they are subject to stigma, discrimination and their social, economic and political rights have been violated strikingly. The term ‘tribal stigma’ means stigma attached to a group rather than to an individual and this kind of stigma is also called the collective stigma. As Goffman used the term, tribal stigma refers to membership in devalued races, ethnicities, or religions. Linage is a necessary element in tribal stigma. By this, Goffman meant that tribal stigma was a condition believed to be transmitted genetically by the stigmatizer (Goffman 1963).

The de-notified tribes have their history associated with the colonization period in India. The discrimination, abuse, social, political, and economic marginalization of the tribes have

their roots in 19th century British colonialism when they were notified inherently ‘criminal’ by the British. This historical label “inherent criminals” has been attached as an attribute that has discredited the de-notified population in the eyes of others in society. Though the Criminal Tribes Act was repealed in 1952, the stigma of criminality remains attached to these tribes over generations. Due to this stigma, they are the victims of persecution and torture at the hands of the state machinery. If any act of theft or robbery in the village takes place, the persons belonging to these de-notified tribes in the surrounding area are arrested and subjected to various forms of torture. In the eyes of society, they are still criminals, and a vast gulf exists between them and the rest of the society. The enactment of CTA and several versions of the same Act stigmatized DNT groups so that this stigma of criminality haunts them even today (Rathod, 2000). These tribes have been referred to as Criminal tribes or ex-criminal tribes, De-notified tribes, or Habitual offenders over the years, but the stigma produced by this judicial instrument of CTA follows these tribes. These tribes are being unable to free themselves from this social bondage (Shimadri, 1991).

The De-notified tribes are indigenous populations and are distinguished in relation to their ancestry, livelihood patterns, nomadic nature, and many other distinct features. These tribal communities had been primarily forest-based communities, nomadic artisans, or traders before they were notified as criminal tribes during the colonial period. Many of these tribal communities lost their traditional

occupations due to colonization policies and laws. And increased urbanization, economic industrialization and especially the CTA, 1871 judicial instrument had dramatic effects. The Banjaras, for instance, have lost their traditional role as long-distance traders due to the huge changes which have taken place in transport technology and enhanced road networks. (Dandekar, 2009). Due to a lack of any other skill to earn their livelihood, most of these tribal communities suffered from the occupational crisis. The struggle for livelihood and occupational crisis deteriorated their economic situations. No provisions or efforts were also made in spite of the repeal of the CTA to improve the conditions of the de-notified tribes. There are no constitutional provisions for socio-economic development and protection against any exploitative actions. They did not have any specific skills according to the traditional village councils system prevalent during that period; on the other hand, all other castes had specific jobs to earn their livelihood. These tribal communities did not have fertile lands, and hence agricultural cultivation could not be an option for them as a source of earning their livelihood. Being labeled by the Government, it became difficult for them to get employed anywhere. Government labels affected their livelihood, and their family suffered too. The nomadic nature of these tribal groups and the absence of appropriate skills affected their livelihood opportunities. They are forced to continue their ancestral occupation, or roam about from one city another in search of livelihood. Lack of traditional occupation and special skills led such communities to get involved in criminal activities for survival.

Spoiled Identity and Exclusion

The concept of social exclusion has been widely defined and explained in the academic literature by different authors. The concept has been mainly defined and discussed in the context of combined processes of exclusion ranging from denial of access to basic resources, exclusion from participation in economic, social and cultural systems and processes, participation in decision making and political processes, access to employment and material resources, denial of access to rights, resources, goods, and services. Some authors have also defined it as a multidimensional process involving discrimination against individuals and groups based on different social attributes or elements of social identity, distancing and placing person or groups or communities with centers of power and resources. Social exclusion has also been defined as a primary consequence of poverty and low income, with other factors like discrimination, and low educational attainment playing a crucial role. The concept is described as a process that prohibits the inclusion of individuals and groups from participation in predominant economic relationships. Social exclusion is described as dynamic, in the sense that it impacts people's lives at different degrees over time. It is argued to be relational since it is the product of social interactions, characterized by unequal power relations, resulting in ruptures in relationships between people and society. Social exclusion leads to lack of participation, social protection, social integration of the marginalized in society (Seema khan 2009).

The de-notified tribal communities are not included in the Scheduled Castes (SC) and Scheduled Tribes (ST) list and hence are excluded of all the welfare measures being extended to the SCs and STs. The government also provides no special welfare benefits to protect the rights of the de-notified tribes. These tribes being primarily wandering and scattered in nature, have not organized themselves as uniform groups to raise their issues for advocacy. These tribes are often excluded from opportunities to represent in Village Panchayats and have no representation in local self-governance. Poor representation at local self-governance and larger political systems has led to exclusion in politics and restricted realization of their rights. Being excluded from the list of SCs and STs mentioned in the constitution, the de-notified tribes are also excluded from special provisions extended to the SCs and STs for education, employment, protection from atrocities. Such exclusions limit their economic opportunities as well. As Thorat (2007) rightly says about 'living mode exclusion' the De-notified tribes experience exclusion in political participation and disadvantage in social and economic opportunities as well. These tribes are forced to live in sub-human conditions due to the wandering traditions over hundreds of years without any means of fixed livelihood under the influence of India's caste system. As Motiraj Rathod (2000) says, the de-notified tribes have been subject to geographical isolation, with their wandering traditions continued from generation after generation. Indian society has looked at them with mistrust and suspicion due to the stigma of criminality attached with these tribes.

They have been living a life of isolation from the rest of the population. They have no means of earning their livelihood, suffer from occupational crisis, and keep roaming from village to village. Their children are deprived of education, and they suffer from acute poverty. They are left with superstition and ignorance and have remained backward economically and socially. Unless their issues are addressed specifically to their unsettled nature, being provided with opportunities of education and employment, they will never realize their fundamental rights (Rathod, 2000).

The history of these tribal communities eventually led to entanglement in the criminalization of the tribe, and their occupational patterns were compromised. The occupation-based caste system played a significant role in shaping the occupational pattern of the tribes. These tribes often work as cheap agricultural laborers in the fields of other dominant castes in the villages; some of them run illegal liquor businesses and are themselves victims of substance abuse. These groups often experience land alienation, and are forced to live outside the village territory. Being forced to stay outside the village territory; they are also excluded from involvement and participation in village activities, meetings, and have no voice in the village Panchayat (village councils).

The involvement in village activities and representation in Panchayat meetings or bodies are merely there. These tribal communities are merely a part of the village meetings and hence have no voices in the village's decision-making process. There is less or no representation of the

tribe at the Panchayat level. Their voices remain unheard even today. Underrepresentation in Panchayat levels and village meetings prevents their issues from being brought up and discussed in society at large. Although days have passed, times have changed, and the label of criminal is still attached to the community affecting their everyday lives. The reality of being “un-registered” as citizens due to a lack of proof of identification makes them vulnerable in the hands of the police and other state machinery. They have no voice in democracy due to no or poor representation in the political system. They are a scattered population and move around from one village to the other in search of livelihood. There is a need to mobilize them as groups to represent their population and voice their opinions. However, being less mobilized and scattered in nature, their participation in democracy is lost. Their voices remain unheard.

The concept of social exclusion can also be differentiated between “active and passive exclusion” (Sen, 2000). Sen argued that it is important to distinguish between active exclusion and passive exclusion. He defined active exclusion as fostering of exclusion through the deliberate policy interventions by the government or by any other willful agents (to exclude some people from some opportunity); on the other hand, passive exclusion works through the social process in which there are no deliberate attempts to exclude, but may result in exclusion from a set of circumstances. In the case of the de-notified tribes, the population faces similar forms of exclusion. The tribal population is not an active part of any policy interventions

in India. Although the de-notified tribes are long decriminalized, they are not scheduled in the constitution in the list of scheduled castes and scheduled tribes. The de-notified tribes are also not protected from atrocities under the Prevention of Atrocities Act. Although a DNT Commission has been established to understand the situation of DNTs in India, no constructive effort has been generated so far at the policy or advocacy level to bring about striking change in the situation of the tribes. They also suffer at the hands of state machinery such as the police officials and courts. Hence, they continue facing active exclusion. The tribes face passive exclusion through unfair treatment from their peers and dominant villagers from other castes. The stigma of criminality continues leading to several experiences of exclusion among the tribes. The de-notified tribal groups are treated differently by the state and the people.

Conclusion

Although the De-notified tribes in India have been decriminalized post-independence with the repeal of the CTA, 1871, the population continues to live with spoiled identity, criminal stigma, and social exclusion even today. The population got deeply affected due to the history attached to the community during the British colonization period. The changing law and order during the British period affected the livelihoods of the population then but continues to affect the present generation of de-notified tribes in terms of their education, employment, livelihood, acceptance in society, and denies their basic rights. Although the population was decriminalized post-independence, no efforts were taken to improve

the situation of the tribes, with any amendments in the constitution providing safeguards considering them as separate groups. The process of ancestral labeling began with the declaration of the CTA, and the process continued affecting the population over generations. The participant's responses elaborate on the ill-treatment of the local police officials and other dominant castes in the village towards these tribes. However, no provision has been made so far for protecting the population from the atrocities. The population being wandering in nature traditionally continues to move from one to the other, even today. Those who have gradually settled down in villages majorly reside in hilly or drought-prone areas

and keep wandering for earning their livelihoods. They are not house listed and remain excluded from the census. They lose their voting rights, and their voices are hardly reflected in the democracy. Representation of the population even at Panchayat levels is very poor. They live in temporary huts or sheds outside the villages and not much involved in the village activities or Panchayat meetings. Their under-representation in governance, even at village levels, restrain their opinions from being considered in democracy. The population continues to struggle earn their basic livelihoods, and entitlement of the rights of the de-notified population is still a far achieved dream.

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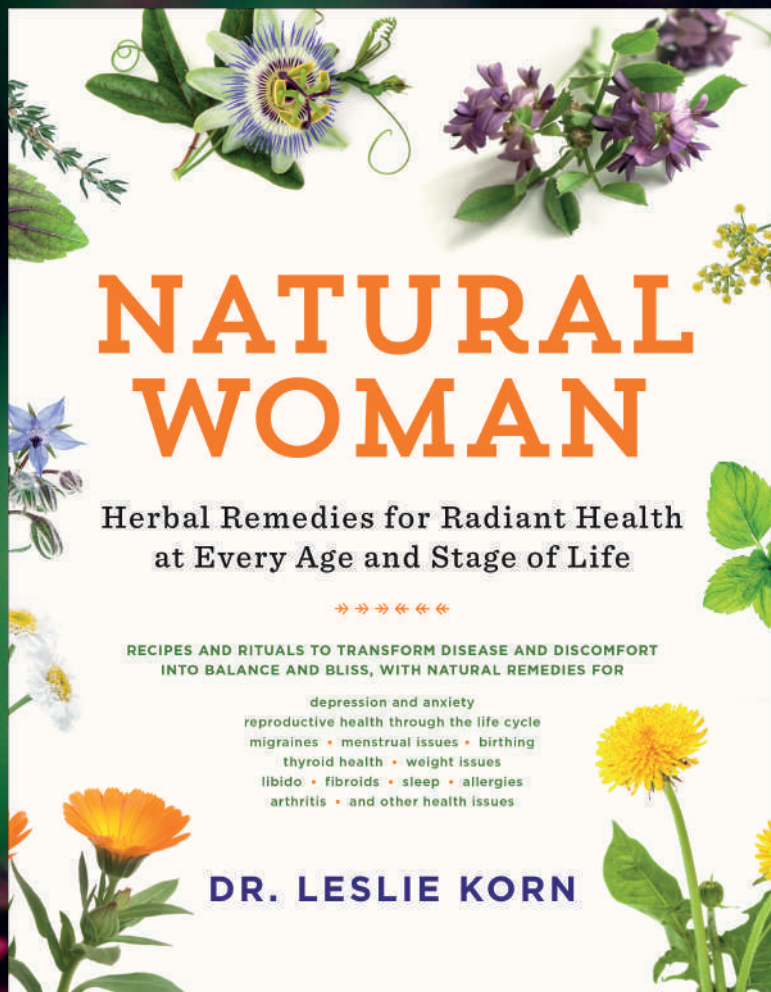
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Dattatreya Bhandalkar received his PhD from Tata Institute of Social Sciences, Mumbai India in May 2017. His research interests are indigenous communities, human rights, resistance and social exclusion. He has published articles about the issues of ex-criminal tribes of India in national and international journals. Prior to joining as Research Fellow at IAS Central European University (CEU) Budapest Hungary, he was working as a Research Officer at Tata Institute of Social Sciences, Mumbai on an anthropological study funded by Government of Maharashtra India. He was also leading two major projects about scheduled tribes in India, focused towards understanding their educational status and study the Asharam Schools (residential schools) for children from schedule tribe communities. Both the projects were funded by Indian Council for Social Science Research (ICSSR), Government of India. He has completed a Masters in social work from Pune University, India and a MPhil in social work from Tata Institute of social science, Mumbai. He is an Indian Council of Social Science Research (ICSSR) fellow (2012) as well as University Grant Commission (UGC) Senior Research Fellow (2014). Presently working as Asst. Professor Amity Institute of Liberal Arts (AILA), Amity University Mumbai Maharashtra India.



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Sovereignty in the Third and Fourth World: A Comparative Discussion on Two Levels

Peer-Reviewed

By Sabina M. Singh

ABSTRACT

The topic of colonialism has a rich scholarly history. Many scholars, with some success, have declared themselves postcolonial or developed theories such as neo-colonialism to describe the current international structure. The question of colonial structures, however, still plays a major role in current politics. This study looks specifically at expressions of sovereignty within the colonial framework today that have stemmed from historical events after the formation of the United Nations system. By comparing Third and Fourth World theories of sovereignty this study will show how these concepts are still relevant today and what implications they currently have for international politics. I submit, following Rudolph Rysler, Arthur Manuel, Glen Coulthard and others, that not only is the Fourth World a relevant concept, but it is the most important one in our current state of international governance. Both these concepts or theories describe most of the conflict in the world today.

Keywords: International Relations, Fourth World, Third World, UNDRIP, United Nations, Lesser Developed Countries, Indigenous Politics.

Introduction:

When Julius Nyerere of Tanzania and George Manuel of the Neskonalith nation met in the 1970s, they were both attempting to define sovereignty under a colonial system.¹ In both cases, people in their nations were either colonized by the First World, or capitalist world, or the Second World, the communist world.² What were the similarities and differences in Third and Fourth World conceptions of sovereignty? What challenges in achieving sovereignty arose in each context? What did the Neskonalith learn from Tanzania about sovereignty and vice-versa? How are the non-aligned Third World theories of Julius Nyerere (Tanzania) different from George Manuel's (Neskonalith [Kukstéc-

¹ Rudolph Rysler, 2012

² It is not entirely clear where the "world's theory" originates. Although it has been used throughout political history and academia, it is most often attributed to the French journalist and demographer Alfred Sauvy. <https://www.history.com/news/why-are-countries-classified-as-first-second-or-third-world>. In Mao Zedong's version, the most powerful were the First World and Japan and Europe the Second. For brevity and clarity, however, I will separate them and include China and Russia in the "Second World". https://www.fmprc.gov.cn/mfa_eng/ziliao_665539/3602_665543/3604_665547/t18008.shtml

kuc Tqelt Kukpi7 t'e skectec-kuc t'e tmicws-kuc]) Fourth World? The main question that guides this study is, are these concepts still relevant, and how have they evolved? In comparing the divergent pathways to sovereignty in these two vastly different conceptions of 'territory,' I will link the past to the present specifically by exploring how the joint meetings remain relevant today. This study will explore the current day impacts, for instance, the United Nations Declaration of Indigenous People (UNDRIP).

I submit, following Rudolph Ryser, Arthur Manuel, Glen Coulthard, and others, that not only is the Fourth World a relevant concept, but it is the most important one in our current state of international governance. That this theory has not become part of academic discourse and its absence is the result, arguably, of colonial and parochial academics. According to Ryser's book *Indigenous Nations and Modern States* (2012), the Fourth World theory explains over half of the conflict in the world today and the real politics that occur outside of popular news cycles and official state rhetoric. For instance, in safe and secure Canada, relations between indigenous nations and the Canadian state are resuming a rumbling boil. Few states in the world are free from the Fourth World and their politics. States, like Canada, the United States of America and Australia, that have denied indigenous rights are just now ratifying the United Nations Declaration on the Rights of Indigenous People (UNDRIP). However, most of the world did this in 2007. These countries have much more to gain than is often imagined by working with the Fourth World theory. Colonialism is, after all, and as Franz

Fanon explained, a two-way street. Both sides are colonized, and its demise will free both.³

The work economically, socially, culturally, judicially, and politically, indigenous people have done to shine a light on sovereignty as it operates throughout the world is substantial, significant, and structured. My aim here is to shed light on sovereignty by comparing its framework in the indigenous Fourth World, alongside Third World theories of sovereignty, to shed light on its current world order. As will be clear, the Third World was a composition and reaction to the colonial and Westphalian state system. In contrast, in Fourth World Theory, the colonial three-state system is as separate as the oceans. The much explained First World capitalist theory ensured pacts were held with corporations and labor movements within a state framework that became international. The Second World or communist world made the state responsible for most human trade, labor, and commerce. The paper begins in the 1970s, when the Fourth World movement began in earnest and carries on until today. As with much of my work in political science, it is important to put forth alternative or denied histories to understand the present in a different light.

I have chosen to compare the theories of the Third and Fourth World on two levels. On the first level, I compare a deeply internal sense of sovereignty shared between these theories. Second, I look at the material aspects

³Franz Fanon, *Black Skin: White Mask*, 1967

of sovereignty and the differences in how these two theories have sought to institutionalize or operationalize their positions given the world structures that they are part of today.

I similarly look at how these theories and practices of sovereignty are similar or different today. Finally, I interviewed Dr. Rudolph Ryser from the Centre for World Indigenous Studies. I asked him specifically to shed light on other areas of similarity and difference that he sees between the Third and Fourth World frameworks.

This discussion is a qualitative comparison of two bodies of literature and two coherent theories not often used in international relations, although they address politics in most of the world. My submission is that the era of ‘great power’ politics has long ended, and new theories surpass its explanatory power. Although I am using here what many may perceive as old theories, I suggest that the world’s theory has never been properly used or understood as it relates to Third and Fourth World conceptions of sovereignty. This paper is exploratory, and I hope it is helpful in its explanatory power to scholars in these fields.

Part One: Third World

The Third World was a theory created in response to decolonization and the Cold War. As Ghana’s first independent leader Kwame Nkrumah said, sovereignty was a very precarious and uncertain time for the colonies.⁴ Among the freedom flags, colonies joined the United Nations (UN) and set up new relationships with their former colonial powers. Tanzania paid bureaucratic severances, Ghana made oil and

infrastructure deals with mega-corporations, and Uganda’s banking remained British. These small examples display the times of independence. Across the globe sovereignty was being negotiated, and new world structures were created to smooth the transition. Perhaps this was necessary to transition out of formal colonialism but European and North American First World wars against the United Soviet Socialist Republic and Cuban Second World (and vice-versa) traveled the globe and continued long after World War II and the formation of the UN. The First and Second World’s, began the Cold War, battling each other for world supremacy and trying to get the former colonies to align with them. To a certain extent, we see this continue today as communist China races to develop the continent of Africa against the influences of the “imperialist” capitalist west.⁵

In 1955, six African and twenty-three Asian nations (all former colonies) joined together to discuss their future in Bandung, Indonesia. Before this, they had met as the League Against Imperialism, although those meetings were illegal under colonialism. By Bandung, the Cold War was heating up, and the new countries were painfully aware of how this new war was affecting their sovereignty. The Afro-Asian or Bandung conference brought high-level leadership to meet and discuss decolonization in the rest of the world. There were many issues within the Third World. While they talked of non-alignment

⁴ Nkrumah, 1965

⁵ Xinhua, Rwanda New Times <https://www.newtimes.co.rw/africa/china-africa-cooperation-prospers-against-covid-19>

and south-south cooperation, many countries were making pacts with Moscow, Washington, or Paris, and storing weapons. The path towards independence had been a bloody one for all these people. In most cases, nations were subsumed under a state framework, and pacts were made to promote decolonization from foreign powers. Odd international laws like the “saltwater principle” or “blue water rule”⁶ solidified territorial sovereignty for the Third World states, which may have tried to include indigenous groups and nations but ultimately subsumed them. This process is part of the explanation for the rise of ethnic politics throughout Africa because one nation may control the state government or be slightly more numerous. In contrast, other nations may straddle two or more state boundaries.⁷

Over a few decades, the Third World came into being. At Bandung, a certain basis of the Third World was hammered out even if all countries had trouble complying. The Third World would be non-nuclear, non-aligned, and encourage economic alliances between countries of the south to sever the economic stranglehold the imperial countries still had over most of their former colonies.⁸ Many of them met at the UN as the Group of 77.

It was essential to stay out of the Cold War, but like most African, South American, South Asian, and many more people learned, staying out of the Cold War and being non-aligned would be a major hurdle. However, what became clear through Bandung was that the UN would be an organization that former colonies would uphold. The state and the concept of sovereignty through the state was upheld as at least a form

of independence. Despite the Security Council’s control of the General Assembly and the weighted voting systems of the World Bank and International Monetary Fund, these state governments reaffirmed the main principles of the Third World at the UN, including non-interference and territorial integrity. The Group of 77 was formed in 1964 at the UN Trade and Development Forum in Geneva. The G77 remains today negotiating for south-south cooperation and the rights of less powerful countries on the international stage. They are much more numerous than 77 countries today but keep the name for historical reasons.

After the following section, I will discuss the basis of Third World sovereignty through both its ideological and institutional accomplishments. I will discuss how the Third World concept is still relevant and how it operates in the UN. The Third World has relevance and meaning despite the international trend to consider the ‘third world’ as a pseudonym for impoverished places (and the Fourth World as the poorest among the poor). The fact that the idea of being non-nuclear was an invention of the Third World has been so drowned out by other voices of history that the world has forgotten these roots of world peace and the leaders who ensured that being non-nuclear. At the same time, the USA and

⁶Rudolph Ryser, <https://intercontinentalcry.org/blue-water-rule-self-determination-nations/#:~:text=The%20%E2%80%9Cblue%20water%20rule%E2%80%9D%E2%80%94of%20boundaries%20would%20be%20needed.>

⁷Martin Meredith, 2013

⁸Vijay Prashad, 2008

USSR threatened each other, and the world is an important cornerstone of Third World theory and practice.⁹

Part Two: Introduction to the Fourth World

“My belief in the Fourth World is an act of faith”, George Manuel wrote in his 1974 book *Fourth World: An Indian Reality* authored with Michael Polsun.¹⁰ He meant that the Fourth World is a continuous journey, not a destination or resting place. It represents a thriving, often peaceful, thoughtful people that live in spirit with the land. What Manuel created, and in some sense stumbled upon on his long journeys across the world, was nothing short of a theory that challenged the modern post-war sovereign arrangements, notable throughout international law and the UN.¹¹

The Fourth World, like the Third World, is a comprehensive theory. That it has been largely ignored in academia is a subject I will revisit in the conclusions of this paper. It differs from the Third World because Manuel conceived of it as a “global village”.¹² Furthermore, it is open to anyone to join. There are no boundaries in the Fourth World, unlike the First, Second or Third. The move is a swift departure from what the rest of the world was doing in its Westphalian ordering based on states within the UN system. The Fourth World is not based on statehood, race, ethnicity, or language. Countries have been challenged by the First Nation’s sovereignty or self-government throughout the world-it is a worldwide movement, a situation that all state governments must contend with today.¹³

In the 1970s, when George Manuel was Chief of the National Indian Brotherhood in Canada (NIB), he had many opportunities to meet diplomats and travel. He claims that his first encounter with the idea of the Fourth World came from a Tanzanian diplomat in Canada who said, “When native people come into their own, with their own cultures and traditions that will be the Fourth World.”¹⁴ After this, Manuel traveled around to meet many indigenous peoples. Manuel began to appreciate the differences and relationships with the Third World after going to Tanzania. Still, in particular, he was interested in how the tools of sovereignty were not what would create a sovereign territory. In other words, simply the structures alone do not make a thriving, peaceful territory. The Third World had made this evident with their many wars, dictators, and plundering of nature. This pattern was and is today still evident throughout the Third World.

The Fourth World as a theory has approaches to land, education, spiritual establishments, technology, community, and sharing, to name some areas. Indeed, much of the work that indigenous people in Canada have been doing reflects these views. In 1975, the first World Council of Indigenous People (WCIP) was hosted

⁹ *ibid.*

¹⁰ G. Manuel, 1974. p. 261.

¹¹ The word “sovereign” comes from the French word for king. A ruler that did not need to consult with the people. See Michael Lerma, 2014.

¹² *ibid.*

¹³ There are many terms for indigenous peoples throughout the world. First Nations, Indian, Adivasi, indigenous or people are named according to their culture, such as Sami, Maori, Catalanian, Ewe. etc.

¹⁴ *ibid.* p. 236.

by the Nuu-chah-nulth nation on Vancouver Island. Representatives' included people from Argentina, Guyana, Ecuador, Finland, Norway, Australia, New Zealand, Sweden, Guatemala, Greenland, for a total of 260 participants.¹⁵ In their movement to protect indigenous people and land from colonial oppression and subjugation, the WCIP wanted a) international recognition of indigenous sovereignty, b) that the UN recognize indigenous treaties as binding in international law c) the UN should build institutions and instruments to respect indigenous rights to self-determination, land, and resources. The Canadian National Indian Brotherhood gave up its observer status at the UN to the WCIP. Though the WCIP no longer exists as an organization as of 1996, it has found a home in global forums at the UN, such as the Permanent Forum on Indigenous People in 2002 and the long-awaited United Nations Declaration on the Rights of Indigenous People (UNDRIP) in 2007.¹⁶ However, the fact remains that in international law, as at the UN, Fourth World peoples are subject to state law in territory that is most often overlapping with state governments.

In Indigenous Nations and Modern States: The Political Emergence of Nations Challenging State Power, Rudolph Rysler notes that between 5000 and 9000 nations (depending on the source) are pressing the international system and waiting for their seat at the international table.¹⁷ According to Rysler, the small steps taken by the UN to recognize indigenous rights are not enough. As nations challenge the Westphalian system, they are emerging among the many peoples left out of international law. Numerous states face low-

level intensity or straight-out violent conflicts with nations within their state boundaries.¹⁸ The evident need to create international structures that reflect the existence and integrity of self-determined people throughout the world has yet to be realized. The UN is a state-based organization joined by the recognition of other states. Indigenous nations and people are left out in their own nation-based system.

Comparison One: Red Power/Black Power

Comparing the Third and Fourth World could be done in several ways. One may wonder why it has to be done at all. To be interested, people would have to accept that we have missed something in political science, politics generally, and political philosophy. A perspective, which has significant explanatory power. The differences between them, which I will demonstrate in the next section, deepens our understanding of Third World states and Fourth World sovereignty. The similarities capture solidarity and allow us to see world politics differently. As I have said, the Fourth World, in particular, presents itself as an indispensable theory that has been severely underutilized.

The first level I look at in terms of sovereignty in the Third and Fourth World is where they have a striking similarity. Both Third and Fourth World theories of sovereignty begin and cannot

¹⁵ Arthur Manuel, 2015. p. 170.

¹⁶ *ibid.* 171.

¹⁷ Rudolph Rysler, 2012. p.12

¹⁸ *ibid.* p.10

be understood without the internal level. As both agree, colonialism is an intellectual exercise as much as it is a military, strategic or economic one. Colonialism could not have occurred anywhere in the world without its intellectual component. The military strength of the great powers was forceful but not strong enough to conquer on its own. As Edward Said describes in *Orientalism*, colonialism operated through renaming and categorizing cultures.¹⁹ As a result, 'race' became a vast category of civilization, as did education and economic status. As evidenced in the residential 'school' systems in Canada or the buffer class status of Indians (of India) in Africa, colonialism was a massive network of intellectual, personal, and economic attacks. Cultures, races, genders, and spiritual traditions were all effectively shaped by the colonial experience. Therefore, the first level of the sovereigntist movement was to reclaim and empower cultures and traditions throughout the world.

In his 1952 work *Black Skin/White Mask*, Franz Fanon is concerned with the pathology of racism that had taken over the human mindset. Yet when Fanon explains the situation he finds, as a psychiatrist for both sides of the battlefield, the colonial experience had shaped both whites and blacks (and browns) so thoroughly that we address it. The colonial system traps all races in psychosis, and he said, a dichotomy of the world that is neither truthful nor accurate.²⁰ This pathology, a psychological framework that has shaped the world, must be dismantled before any true sovereignty can be gained, he said. If a black man wants to be a white man, then there is no hope for freedom; all men have to be men-

human--neither white nor black. "I constantly tried to demonstrate to the black man that in a sense he abnormalizes himself, and to the white man that he is both mystifier and mystified."²¹

Fanon was quick to show that the category 'bourgeois white man' was not an enviable position. Without a psychological shift, anti-colonial movements and decolonization are just a dream. What is more, without a shift, bourgeois white men are doomed to intellectual death. Fanon writes:

I will remark on something I have found in many writers: intellectual alienation results from bourgeois society. And for me, bourgeois society is any society that becomes ossified in a predetermined mold, stifling any development, progress, or discovery. For me, bourgeois society is a closed society where it is not good to be alive, where the air is rotten, and ideas and people are putrefying. And I believe that any man that takes a stand against this living death is in a way a revolutionary.²²

Fanon's writing helped spark the Black Power movement throughout the world. Africans and Americans, Caribbean, like Fanon, alike fought this battle and continue today. The Black Lives Matter movement (BLM) has exploded once again in our conscientiousness, recognizing the ongoing nature of this work.

¹⁹ Edward Said, 1979.

²⁰ Edward Said, 1979.

²¹ *ibid.* p. 200.

²² *ibid.* p. 199.

In Canada, First Nations were not at all deaf to the movements of Black Power and the many writings of black revolutionaries throughout the world. In *Fourth World*, George Manuel describes in detail his travels to meet anti-colonial revolutionaries everywhere.²³ Lee Maracle has continued this line of thinking. For instance, in one of her many books, *I am Woman*, 1996, she writes, “The result of being colonized is the internalization of the need to remain invisible”²⁴ In her work, like Fanon, she remains steadfast to the idea that sovereignty begins by revitalizing the cultures that were decimated by colonialism: “Those who held fast to the essential principles of their culture went in the direction of sovereignty; those who became alienated from their communities trod in the direction of sub-normal integration.”²⁵ Maracle, like Fanon, also maintains that the relationship is mutual. And that colonized and colonizer are transformed by the end of colonialism: “what is revival and renaissance for a Native is death for the colonizer. For both of us, there is reconstruction and a future full of passion and compassion.”²⁶

The connection between Africa and First Nations in North America is clear in indigenous scholarships such as Lee Maracle, Glen Coulthard, Taiiike Alfred, and the Manuel’s, Arthur and George. Lee Maracle directly cites Kwame Nkrumah, Ghana’s first independent President, as a basis of “left-wing politics” in North America.²⁷ Coulthard discusses and mirrors Fanon in his book *Red Skin/White Mask*, and George and Arthur Manuel attribute the nomenclature of “Fourth World” to Tanzanian diplomats in Canada. Furthermore, because colonialism was

so thorough in eradicating languages and “re-educating” populations, education has been a central aspect of Third World and Fourth World revitalization. Under Julius Nyerere in Tanzania, decolonizing the mind and regaining pride was central to *Ujamaa* and what he would call the new ‘African Socialism’.²⁸ As Maracle writes, “... the settler’s education achieved, for a time, its goal: the imprisonment of the Native mind in the ideology of the oppressor.”²⁹ Therefore, the shift in internal value and personal will to rejuvenate the peoples destroyed by colonialism is the first premise of sovereignty and something both the Third and Fourth Worlds have in common.

Comparison Two: One World/Many Worlds

From the beginning, it was evident that sovereignty, institutionally, for Fourth World nations would be very different than that of the Third World states. Third World states fought hard for their independence, but in trying to be a part of the new system after colonialism and embracing the UN, as discussed above, many of the government’s oppressed nations within their boundaries. Some governments, like India, continue to have a special status for “scheduled tribes.” These peoples were Criminal Tribes

²³ It should be noted here that nearly the first half of George Manuel’s book *Fourth World* describes his land, people, and values. They are the source for all the meetings and institutions George Manuel created and in which he participated.

²⁴ Lee Maracle, 1996 p.8.

²⁵ *ibid.* p.37.

²⁶ *ibid.* p.10.

²⁷ *ibid.* p.106.

²⁸ Nyerere, 1973.

²⁹ Maracle, 1974 p.40.

under British rule, Adivasi, tribal, indigenous, minority, aboriginal, or First Nations people around the world.³⁰ Yet within the Third World, Fourth World people remain impoverished, lacking in land, resources, and education. Third World states have territorial sovereignty but with the same institutional trappings of the First and Second Worlds. Their operationalization of suppressing native lives and viewpoints to industrialize and grow their state. George Manuel suggests that Tanzania and a few other countries were the only ones to escape this. In Africa, however, as in Tanzania, most state governments are straddled by two or more nations. In most cases, including Tanzania, it wasn't easy to conceive a universally held belief system that could unify the country under one state government.

As Third World states sought and gained independence, beginning with India in 1947, each country gained a seat at the UN's General Assembly (GA). Yet not until the creation of the World Trade Organization (WTO) in 1995, any of the UN agencies based on 'one nation, one vote' systems. Also, everything the GA did was subject to the power of the permanent five countries on the Security Council (P5) at the UN. Newly forming states were aware of the troubles with sovereignty. The 'development regime' started, and countries became subject to the International Monetary Fund (IMF) and World Bank, to which many are still heavily indebted.³¹ On both sides, the First and Third World agreed that territorial sovereignty became a much better option than colonialism. For Fourth World nations, however, colonization continues to this day.

Although the idea was not entirely fleshed out in his theory, Kwame Nkrumah believed the sovereignty of individual states to be the "well-spring" of neo-colonialism, indicating the importance of political structures in the new foreign policy.

Decolonization is a word much and unctuously used by imperialist spokesmen to describe the transfer of political control from colonialist to African sovereignty. The motive spring of colonialism, however, still controls sovereignty.³²

Nevertheless, Third World states have used the UN to try and establish co-operation amongst themselves, such as with the G77, and continue to define themselves by their "third way" agenda.³³ Recently, governments of the Third World have voted overwhelmingly in favor of UNDRIP. The only states that were not signatories to this in 2007 were Canada, the United States, Australia, and New Zealand.

According to Rudolph Rysler of the Centre for World Indigenous Studies and editor of the Fourth World Journal, over half of the wars in the world today are Fourth World wars.³⁴ The carving up of Africa in the late 1800s is evidence of this. In that agreement, 54 states were made from the 2000 tribes' territories of Africa, and most nations crossed at least two or three state

³⁰ Mohan Guruswamy <https://scroll.in/article/773759/adivasi-indias-original-inhabitants-have-suffered-the-most-at-its-hands>

³¹ Frans Schruman, 1994, Dambisa Moyo, 2009.

³² Kwame Nkrumah, p.31

³³ <https://www.g77.org/doc/>

³⁴ <https://www.cwis.org/>

boundaries.³⁵ The tension between nations and states in Africa is high. Still, so too is it for Second World nations (Chechnya, Bosnia, Poland) and First World nations (Sami, Catalonia, Celtic, Maori, First Nations, and American Indians). All Third World states struggle for their sovereignty internationally, in forums of the UN and elsewhere, and to be sure, they are all slightly different, but holding on to sovereignty has been difficult for them because of their colonial history and internal nations constantly buck their authority.³⁶ “Sovereign structures may be uniting and strengthening, but they may also assimilate peoples who resist state forces.”³⁷

To have international sovereignty, you must be recognized as a state by other states in the world. There is no such agreement for recognizing Fourth World nations, but the Council of World Indigenous Peoples continues to push for international mechanisms that recognize indigenous people and their rights on the same level as states. Nations have made passports and other internationally recognizable means to prove sovereignty, but to date, no mechanism allows them to speak to states on an equal playing field. Therefore, the accouterments of the state remain highly attractive because they allow you to speak on an international stage and be heard as a leader of people in a way that is not available to the Fourth World yet.

Interview with Dr. Rudolph Ryser

Dr. Ryser is the author of many books and had worked with George Manuel for many years. In our interview, I asked Dr. Ryser to explain the Fourth World, and he said, “Fourth

World is a construct linked to a concept in the four directions.” He said that George Manuel had traveled the world to meet indigenous people. When he discussed the four directions with Hopi people, he learned that indigenous people throughout the world related to the four directions. In that sense, the term Fourth World had a double meaning, establishing independence from state-based, three-world thinking and the ability to incorporate speaking to the four directions in almost any nation on the planet. The Third World, Ryser says, was an international creation to help the great powers of the time to decolonize. It was the attempt to bring in the era of “great power politics,” which would “dictate the conditions of peace in the world.” The new arrangement, he said, “allowed those who wanted to dominate to find a way to keep dominating”.

As this paper is about similarities and differences in the Third and Fourth World, I asked Dr. Ryser to shed light on other comparison areas other than the two I had. Although he said that comparing the Third and Fourth World was “like comparing apples and prunes,” he shed light on a significant area of difference that may have come under the material comparison in this paper. The Third World, of course, materialized as part of what was conceived as three levels in this world. The most important countries of the Second and First World would control the UN.

³⁵ Moammar Quadaffi, 1974.

³⁶ It should be noted here that nations and states cannot be divided that easily. Some nations control the state apparatus and govern according to their own cultural nations’ laws (such as Kenya). In contrast, others are nation-states, meaning their entire nation has a state apparatus (Vanuatu or Papua New Guinea).

³⁷ George Manuel, 1974 p.4

Britain, France, and the United States make up the First World on the Security Council P5, and China and Russia (the USSR) comprise the Second World. The Third World would be a construct created by the international system-if it did not want to align with the First or Second World, in most cases the former colonial powers-the Third World had to be formed. Claiming “sovereignty” was needed to be able to play in the same international system. Territorial sovereignty made them equal on at least one level.

The big difference between the Third and Fourth World that Dr. Ryser explained is that in one, we are describing a vertical framework, the ‘Third World’, mimicking the highly chauvinist and centralized systems of the First and Second World. Whereas in the ‘Fourth World,’ power and relationships are defined horizontally. In the Fourth World, people define themselves in dynamic and evolving relationships with other peoples, cultures, the land, and the cosmos. In that way, it must be understood, Ryser said, that in many ways, the Third World is made up of decolonized nations, but they wear the material of a state. “They don’t have the right pajamas,” he said. Dr. Ryser worked on the Declaration of Sovereignty in 1975 in the United States. Leaders of the US tribes at that time said, “sovereignty? - what the hell is that”? They took a few years to come around to the idea that to claim “sovereignty” in a way that states understood, in a language they understood, was important to explain to states that nations, Fourth World nations, were independently structured and governed. “Sovereignty”³⁸ was a French word coming from God and the pope, and it had little meaning to indigenous people in North America.

It was very interesting to learn about Dr. Ryser’s journey into this work. In 1844, his Cree ancestors joined a wagon train of about 200 Cree, Iroquois, and others from Red River to take space in Oregon for the Hudson’s Bay Company. The boundary for the United States was going to be lower than the 44th parallel, but it ended up-and they ended up-in the United States. The governments and the Hudson Bay company abandoned them, and they could not return Rupert’s Land³⁹ that was becoming Canada. His great-grandmother and grandfather took up work translating for treaty negotiations between the US government and tribes.⁴⁰ They began connecting with Nisqually, Cowlitz, Taidnapum, Chinook, and other peoples in what would become called south Puget Sound. His mother officially got status with the Cowlitz tribe in a large ceremony when her eight children were young.⁴¹ State recognition was not important to his mother, but tribal relationships were. She was very interested in learning, and all his siblings learned together and at a young age. His eldest brother gave him a typewriter, and he learned to type English. When

³⁸ The word “sovereignty” originates in the 14th century from the Anglo-French “sovereynete.” It means absolute authority, rule, supremacy of power or rank.

³⁹ It should be noted here that nations and states cannot be divided that easily. Some nations control the state apparatus and govern according to their own cultural nations’ laws (such as Kenya). In contrast, others are nation-states, meaning their entire nation has a state apparatus (Vanuatu or Papua New Guinea).

⁴⁰ Dr. Ryser’s great-grandmother was Oneida, and she died of liver disease in 1852. She helped with his Iroquois connections as well.

⁴¹ He was given a tribal ID card at this ceremony. (Number 861). The disbursement from Red River caused Ryser’s family to be in many tribes across America going back 360 years. He has discovered family in the Cowlitz, Oneida, Cree, Waskarini. His father is Swiss.

he was old enough, he joined tribal meetings where Colville Tribal Leader Lucy Covington and Blackfeet leader Earl Old Person were speaking. At that time, John F. Kennedy asked people to give up their Reservations for \$10,000 each person. Dr. Ryser joined a group of hard-working tribal leaders and activists lead by Colville Tribal Chair Mel Tonasket, with Bobbi Miller, Sherwin Broadhead, Ken Hanson, Joe Tollakson, Wendel George; and he said he learned then that any idea could be turned into a reality “not just rubbed on the belly.” He also learned from his upbringing that learning was a collective proposition. Learning together is the antithesis to university education in most places, where education can be competitive and isolating.

After working with American Indian Tribes across the United States, Dr. Ryser, following George Manuel, went global. Lately, he says, he has been unsatisfied with the International Labour Organization (ILO) Conventions and unsatisfied with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Both the ILO statements and UN documents have elements and clauses that guarantee the territorial integrity of states. Nations are sidelined, and human rights and land recognition for indigenous nations do not have teeth--enforcement. Nations’ rights must be guaranteed and agreed to by the states, often the ones with which they have grievances. There is no international diplomatic platform upon which nations and states can speak to each other on an equal level. That is why Dr. Ryser is now attempting to convene the Congress of Nations and States. It brings together legal, economic, social, cultural, political, judicial, and security

ideas from around the world, trying to define and operationalize phrases such as “free, prior, and informed consent”, for both nations and states. For 50 years, indigenous people have been meeting at the UN but having little luck securing human and environmental rights. There are many international agreements between states and nations but no platform where grievances can be aired and heard.⁴²

Conclusion

The Fourth World was always set to be international. It was imperative for George and later Arthur Manuel that the fight for anti-colonial sovereignty was a global one. Indigenous nations had great strength together against a system of sovereignty and statehood that oppressed them. Also, as Arthur Manuel writes in *Unsettling Canada*, the indigenous people cannot fight for their rights against the state itself. Primarily, this is because legal fights cannot be conducted without courts being in a conflict of interest. Violence becomes the only option to win against a state, but Fourth World nations would most likely lose in that regard even if there was such a will. It is worth putting in a long quote from Ryser here to explain this further. It describes how to transform the wars between nations and states into something productive.

The nation, the human organism from which all humans originate, is the parent of the state. It is from the heart of nations that the concept of the state arose. The “modern

⁴² <https://www.cnsint.org/>

state” is another of many experiments attempted to constructively advance the human condition. As the parent from which the state springs, each nation is obligated to ensure that the state fulfils its purpose. But, when the experiment fails, there is no obligation to force the continued existence of the state. The nation is more than adequate to serve as an independent international personality on its own. It is quite realistic that the world’s political landscape should contain both nations and states as independent political entities.⁴³

In *Indigenous Nations and Modern States*, Ryser gives us several tools to create institutions that would deal with the conditions that exacerbate the violence in the world. He believes that not only can there be peace, but it would be a much more productive and interesting world to live in. Ryser is again putting these ideas into motion by attempting to create the Congress of Nations and States.⁴⁴

As for the world’s theory, at the UN the Third World regularly meets as the G77. There are now 133 countries, but they retain their name for historical reference. At the UN these countries have now been labelled “developing countries”, but the nomenclature does not reflect the meaning of the G77 who affirms the need for the organization and continue to fight for “full employment, collaboration and south-south cooperation”.⁴⁵ The G77 claims that economic and environmental failures have exposed the wide inequalities in the world and problems with the system. In 2014, in Bolivia, the group met (with

China too) and laid forth 242 points to create a “new world order for living well”. Point 141 calls for direct reform of the IMF but in relation to the discussion here it is interesting to note how many points relate to indigenous nations within their states. For instance, point 28 reads:

We reaffirm that indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State. In this regard, we emphasize the need to respect and safeguard indigenous cultural identities, knowledge and traditions in our countries.

Also, in point 104 they call for technical exchange between indigenous nations and states, so they can harmonize and live together fighting for their goals through an “inter-governmental” scientific panel. The G77 agrees that “policy space” to deal with the economic and environmental issues across the globe has not been created at the UN and must be developed.⁴⁶ Needless to say, this group continues to meet and show the significance of the Third World movement.

As has been noted this comparative analysis explains many of the conflicts in the world. States

⁴³ Rudolph Ryser p.227.

⁴⁴ www.cnsint.org

⁴⁵ [https://www.g77.org/doc/A-68-948\(E\).pdf](https://www.g77.org/doc/A-68-948(E).pdf)

⁴⁶ Ibid.

fighting nations and vice-versa has not abated as shown by current problems with the Rohingyas in Burma and the Uighurs in China, Ethiopia and Tigris and many others. The persistent problems in the continent of Africa shows how damaging the state can be to indigenous nations and the lasting consequence of the creation of African states during colonialism. These boundaries remained in Africa because the changing of state boundaries was deemed too violent. Nevertheless, today many nations span two or three state boundaries and the jurisdictions between them becomes blurred and often violent. Yet the imperialist nature of the world system persists. Many African or other Third World countries find themselves grovelling and shifting to austerity in order to fit the conditionalities of IMF loans. This debate continues in Africa as China tries to be the 'non-imperialist' developer of the continent. Unless the world system becomes more democratic, the battle between countries able to influence the vast riches of Africa will continue. The material gain of state sovereignty in the Third World has not been able to make the Third World equal to the First, particularly in economic, environmental, women's, or cultural justice.

In terms of internal sovereignty and the similarities in the Third and Fourth World, we have seen an explosion of the importance of internal decolonization. In the BLM movement, for instance, indigenous, black and people of colour have worked together across the globe to push for internal sovereignty and recognition of the importance of their lives. With so many indigenous and black people incarcerated in North America, there is no doubt of the need

to create democratization between people and institutions of power and there is no doubt of the need to develop the understanding between racialized groups and white people or people in power.

This comparison has brought forth the notion that Fourth World nations may pick up some ideas from how the Third World was formed. Recently in Canada, indigenous lobster fishers have been involved in violent confrontations with non-indigenous fishers and in some cases state police. What has happened is nation-to-nation cooperation much like the south-south cooperation emphasized by the Third World. The First Nations Finance Authority helped to buy a fishery in Nova Scotia, Canada so that they can control operations.⁴⁷ The concept of First Nations helping each other out could be a precedent going forward that would at least develop more solidarity between indigenous nations.

Comparatively, the Third and Fourth Worlds have a different institutional approach. Yet no matter, all states on the planet must live with the Fourth World-it is an entrenched issue that needs attention. As I said in the beginning of this paper, political science as a discipline has scarcely paid any attention to the Fourth World. In Canada, much is being said about the myriad of problems facing indigenous people of Turtle Island, yet the foundations of the Fourth World have scarcely been paid attention to even though it was George

⁴⁷ <https://atlantic.ctvnews.ca/first-nations-chief-calls-1-billion-clearwater-deal-a-generational-acquisition-1.5181778>

Manuel and the relationship with Canada and the UN, that created the wholistic concept. All disciplines are desperately trying to increase indigenous presence and departments on campus, but the fundamental basis of European education is not addressed. Cooperative, open, oral and indigenous knowledge are scarcely brought to the table.

This paper is inspired by my personal journey as I was born in Kamloops (home to the Manuel family). Almost no one in my white settler world to this day, educated or not, has heard of George Manuel or the amazing work he inspired worldwide. Enter in Fanon's version of bourgeois education, stale and putrefying, not the living

breathing reality of the world around us. The Third and Fourth World are still very relevant concepts even if one day we decide to change the nomenclature.⁴⁸ (Dictionary.com has already done this!)

Finally, in truth, and as Dr. Ryser pointed out, these two entities, the third and fourth world, cannot be compared. In ways, the Fourth World is akin to the four directions in indigenous belief and has nothing to do with the idea of the First, Second and Third World. Yet, this study has revealed that if we are to understand conflict in the current day then we must engage states and nations and must accept that the state is a young creation that can keep growing and evolving.

⁴⁸This paper is being sent to publish just as the bodies of 215 children were found in Kamloops. Bodies will be found across the country and the numbers are already in the 500's with Manitoba, Canada (home to the Red River). The lack of education and isolation in my own childhood was bad but this has been an outrageous act of genocide. We hope the children finally get home.

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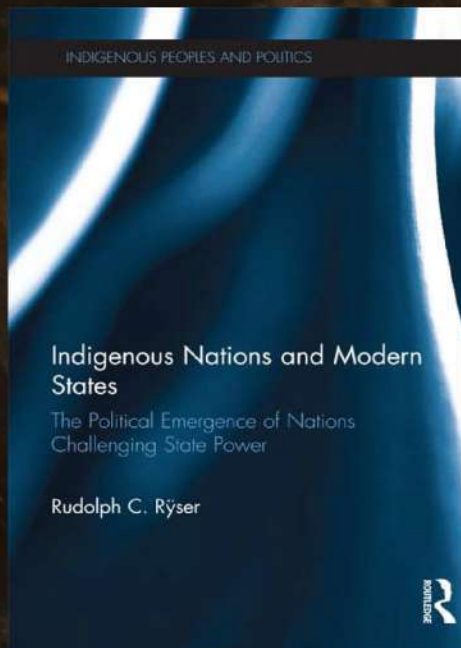
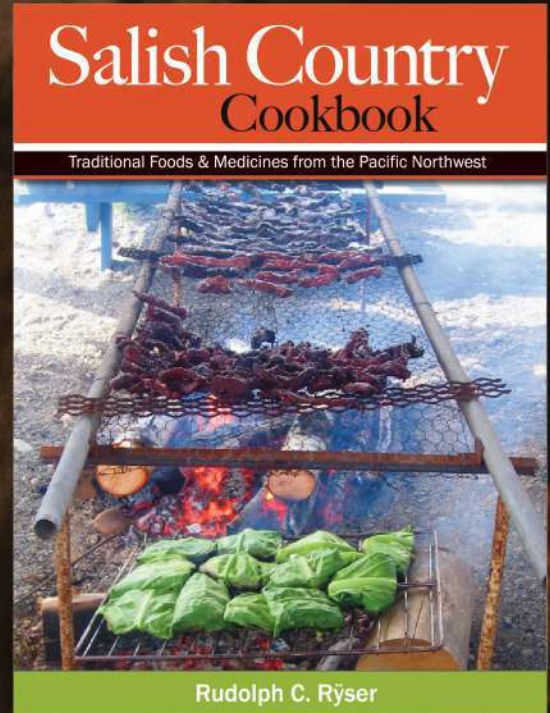
Sabina was born in Kamloops BC to parents who came from India. Her PhD was a case study in Uganda, and she taught African Politics at the University of Victoria. After finishing her degree, Sabina began to research and write about connections between indigenous people throughout the world following the work of George Manuel. She is now helping to convene the Congress of Nations and States with the Center for World Indigenous Studies.

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—Erich Steinman, Pitzer College

La Soberanía en el Tercer y Cuarto Mundo: Una Discusión Comparada en Dos Niveles

Por Sabina M. Singh

Traducción de Inglés a Español por Aline Castañeda Cadena

RESUMEN

El tema del colonialismo tiene una rica historia académica. Muchos estudiosos, con cierto éxito, se han declarado postcoloniales o han desarrollado teorías como el neocolonialismo para describir la estructura internacional actual. La cuestión de las estructuras coloniales, sin embargo, todavía juega un papel importante en la política actual. Este estudio analiza específicamente las expresiones de soberanía dentro del marco colonial actual que han surgido de eventos históricos posteriores a la formación del sistema de las Naciones Unidas. Al comparar las teorías de soberanía del Tercer y Cuarto Mundo, este estudio mostrará cómo estos conceptos siguen siendo relevantes en la actualidad y qué implicaciones tienen actualmente para la política internacional. Sostengo, siguiendo a Rudolph Rýser, Arthur Manuel, Glen Coulthard y otros, que el Cuarto Mundo no solo es un concepto relevante, sino que es el más importante en nuestro estado actual de gobernanza internacional. Ambos conceptos o teorías describen la mayor parte del conflicto en el mundo actual.

Palabras clave: Relaciones Internacionales, Cuarto Mundo, Tercer Mundo, DNUDPI, Naciones Unidas, Países Menos Desarrollados, Política Indígena

Introducción:

Cuando Julius Nyerere de Tanzania y George Manuel de la nación Neskonth se reunieron en la década de 1970, ambos tenían la tarea de intentar definir la soberanía bajo un sistema colonial.¹ En ambos casos, las personas en sus naciones fueron colonizadas por el Primer Mundo, o el mundo capitalista, o el Segundo Mundo, el mundo comunista.² ¿Cuáles eran las similitudes y diferencias en las concepciones de soberanía del Tercer y Cuarto Mundo? ¿Qué desafíos para lograr la soberanía surgieron en cada contexto? ¿Qué aprendieron los Neskonth de Tanzania sobre soberanía y viceversa? ¿En qué se diferencian las teorías no alineadas del Tercer Mundo de Julius Nyerere

¹ Rudolph Rýser, 2012

² No está del todo claro de dónde proviene la “teoría del mundo”. Aunque se ha utilizado a lo largo de la historia política y la academia, se atribuye con mayor frecuencia al periodista y demógrafo francés Alfred Sauvy. <https://www.history.com/news/why-are-countries-classified-as-first-second-or-third-world>. En la versión de Mao Zedong, los más poderosos eran el Primer Mundo y Japón y Europa el Segundo. Sin embargo, en aras de la brevedad y la claridad, los separaré e incluiré a China y Rusia en el “Segundo Mundo”. https://www.fmprc.gov.cn/mfa_eng/ziliao_665539/3602_665543/3604_665547/t18008.shtml

(Tanzania) del Cuarto Mundo de George Manuel (Neskonlith)? La pregunta principal que guía este estudio es si estos conceptos siguen siendo relevantes y cómo han evolucionado. Al comparar los caminos divergentes hacia la soberanía en estas dos concepciones enormemente diferentes de “territorio”, vincularé el pasado con el presente específicamente explorando cómo las reuniones conjuntas siguen siendo relevantes en la actualidad. Este estudio explorará los impactos actuales, por ejemplo, la Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas (DNUDPI).

Sostengo, siguiendo a Rudolph Rýser, Arthur Manuel, Glen Coulthard y otros, que el Cuarto Mundo no solo es un concepto relevante, sino que es el más importante en nuestro estado actual de gobernanza internacional. Que esta teoría no se ha convertido realmente en parte del discurso académico y su ausencia es el resultado, posiblemente, de académicos coloniales y parroquiales. Según el libro de Rýser, *Indigenous Nations and Modern States* (2012), la teoría del Cuarto Mundo nos permite explicar más de la mitad del conflicto en el mundo actual y las políticas reales que ocurren fuera de los ciclos de noticias populares y la retórica oficial del estado. En un Canadá seguro, por ejemplo, las relaciones entre las naciones indígenas y el estado canadiense están volviendo a hervir. Pocos estados en el mundo están libres del Cuarto Mundo y su política. Estados como Canadá, Estados Unidos de América y Australia, que han negado los derechos indígenas, recién ahora están ratificando la Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas

(DNUDPI), aunque la mayor parte del mundo lo hizo en 2007. Estos países tienen mucho más para ganar de lo que a menudo se imaginan trabajando con la teoría del Cuarto Mundo. El colonialismo es, después de todo, y como explicó Franz Fanon, una calle de doble sentido. Ambos bandos están colonizados y ambos serán liberados por su desaparición.³

El trabajo económico, social, cultural, judicial y político que han realizado los pueblos indígenas para arrojar luz sobre la soberanía que opera en todo el mundo es sustancial, significativo y estructurado. Mi objetivo aquí es arrojar luz sobre la soberanía comparando su marco en el Cuarto Mundo indígena, junto con las teorías de soberanía del Tercer Mundo para arrojar luz sobre dónde está el orden mundial actual. Como quedará claro, el Tercer Mundo fue una composición y reacción al sistema estatal colonial y de Westfalia, mientras que en la Teoría del Cuarto Mundo el sistema colonial de tres estados está tan separado como los océanos. La muy explicada teoría capitalista del Primer Mundo aseguró que se celebraran pactos con corporaciones y movimientos laborales dentro de un marco estatal que se volvió internacional y, el Segundo Mundo o mundo comunista hizo al estado responsable de la mayor parte del comercio humano, el trabajo y el comercio. El documento comienza en la década de 1970 cuando el movimiento del Cuarto Mundo comenzó en serio y continúa hasta hoy. Como ocurre con gran parte de mi trabajo en ciencias

³ Franz Fanon, *Black Skin: White Mask*, 1967

políticas, es importante presentar historias alternativas o negadas para que podamos entender el presente desde una perspectiva diferente.

He optado por comparar las teorías del Tercer y Cuarto Mundo en dos niveles. En el primer nivel, comparo un sentido profundamente interno de soberanía compartido entre estas teorías. En segundo lugar, miro los aspectos materiales de la soberanía y las diferencias en cómo estas dos teorías han buscado institucionalizar u operacionalizar sus posiciones dadas las estructuras mundiales de las que forman parte hoy. De manera similar, miro cómo estas teorías y prácticas de soberanía son similares o diferentes hoy. Finalmente, tengo una entrevista con el Dr. Rudolph Rýser del Centro de Estudios Indígenas del Mundo, y le pido específicamente que arroje luz sobre otras áreas de similitud y diferencia que él ve entre los marcos del Tercer y Cuarto Mundo.

Ésta es una comparación cualitativa de dos cuerpos de literatura y dos teorías coherentes que no se utilizan con frecuencia en las relaciones internacionales, aunque abordan la política en la mayor parte del mundo. En mi opinión, la era de la política de las “grandes potencias” ha terminado hace mucho tiempo y las nuevas teorías están superando su poder explicativo. Aunque estoy usando aquí lo que muchos pueden percibir como teorías antiguas, sugiero que la teoría del cuarto mundo nunca se ha utilizado o entendido correctamente en lo que respecta a las concepciones de soberanía del Tercer y Cuarto Mundo. Este artículo es exploratorio y espero que sea útil en su poder explicativo para los académicos en estos campos.

Primera parte: Tercer Mundo

El Tercer Mundo fue una teoría creada en respuesta a la descolonización y la Guerra Fría. Como dijo Kwame Nkrumah, el primer líder independiente de Ghana, la soberanía fue una época muy precaria e incierta para las colonias⁴. Entre las banderas de la libertad, las colonias se unieron a las Naciones Unidas (ONU) y establecieron nuevas relaciones con sus antiguos poderes coloniales. Tanzania pagó indemnizaciones burocráticas, Ghana hizo tratos de petróleo e infraestructura con megacorporaciones y la banca de Uganda siguió siendo británica. Estos pequeños ejemplos muestran los tiempos de la independencia. En todo el mundo se estaba negociando la soberanía y se crearon nuevas estructuras mundiales para facilitar la transición. Quizás esto fue necesario para salir del colonialismo formal, pero las primeras guerras mundiales de Europa y América del Norte contra la República Socialista Soviética Unida y el Segundo Mundo de Cuba (y viceversa) viajaron por todo el mundo y continuaron mucho después del final de la Segunda Guerra Mundial y la formación de la ONU. El Primer y el Segundo Mundo comenzaron la Guerra Fría, luchando entre sí por la supremacía mundial y tratando de que las antiguas colonias se alinearan con ellos. Hasta cierto punto, vemos que esto continúa hoy mientras la China comunista se apresura a desarrollar el continente africano contra las influencias del occidente capitalista “imperialista”.⁵

⁴ Nkrumah, 1965

⁵ Xinhua, Rwanda New Times <https://www.newtimes.co.rw/africa/china-africa-cooperation-prospers-against-covid-19>

En 1955, 6 naciones africanas y 23 asiáticas, antiguas colonias, se reunieron para discutir su futuro en Bandung, Indonesia. Antes de esto, se habían reunido como la Liga Contra el Imperialismo, aunque esas reuniones eran ilegales bajo el colonialismo. Para Bandung, la Guerra Fría se estaba calentando y los nuevos países eran dolorosamente conscientes de cómo esta nueva guerra estaba afectando su soberanía. La conferencia Afro-Asiática o Conferencia Bandung trajo liderazgo de alto nivel para reunirse y discutir la descolonización en el resto del mundo. Hubo muchos problemas dentro del Tercer Mundo. Mientras hablaban de no alineación y cooperación sur-sur, se sabía que muchos países estaban haciendo pactos con Moscú, Washington o París y almacenando armas. El camino hacia la independencia había sido sangriento para toda esta gente. En la mayoría de los casos, las naciones fueron subsumidas bajo un marco estatal y se hicieron pactos para la descolonización de potencias extranjeras. Extrañas leyes internacionales como el “slawater principle” o la “blue water rule”⁶ solidificaron la soberanía territorial de los estados del Tercer Mundo que pudieron haber intentado incluir grupos y naciones indígenas, pero finalmente los subsumieron. Esto es parte de la explicación del auge de la política étnica en todo el continente africano porque una nación puede controlar el gobierno estatal, o ser un poco más numerosa, mientras que otras naciones pueden abarcar dos o más fronteras estatales⁷.

Durante algunas décadas se formó el Tercer Mundo. En Bandung se forjó una cierta base del Tercer Mundo, incluso si todos los países

tenían problemas para cumplir. El Tercer Mundo sería no nuclear, no alineado y fomentaría las alianzas económicas entre los países del sur para romper el estrangulamiento económico que los países imperiales todavía tenían sobre la mayoría de sus antiguas colonias⁸. Muchos de ellos se reunieron en la ONU como el Grupo de los 77. Era importante mantenerse al margen de la Guerra Fría, pero como aprendieron la mayoría de los africanos, sudamericanos, del sur de Asia y muchas más personas, mantenerse al margen de la Guerra Fría y no ser alineados sería un gran obstáculo. Sin embargo, lo que quedó claro a través de Bandung fue que la ONU sería una organización que las antiguas colonias defenderían. El estado y el concepto de soberanía a través del estado se mantuvieron al menos como una forma de independencia. A pesar del control del Consejo de Seguridad sobre la Asamblea General y los sistemas de votación ponderados del Banco Mundial y el Fondo Monetario Internacional, estos gobiernos estatales reafirmaron los principios fundamentales del Tercer Mundo en la ONU, incluida la no interferencia y la integridad territorial. El Grupo de los 77 se formó en 1964 en el Foro de Comercio y Desarrollo de las Naciones Unidas en Ginebra. El G77 sigue negociando hoy por la cooperación sur-sur y los derechos de los países menos poderosos en el escenario internacional.

⁶ Rudolph Rýser, <https://intercontinentalcry.org/blue-water-rule-self-determination-nations/#:~:text=The%20E2%80%9Cblue%20water%20rule%20E2%80%9D%E2%80%94of%20boundaries%20would%20be%20needed.>

⁷ Martin Meredith, 2013.

⁸ Vijay Prashad, 2008.

Son mucho más numerosos que 77 países en la actualidad, pero conservan el nombre por razones históricas.

Después de la siguiente sección, discutiré las bases de la soberanía del Tercer Mundo a través de sus logros ideológicos e institucionales. Discutiré cómo el concepto del Tercer Mundo sigue siendo relevante y cómo opera en la ONU. El Tercer Mundo tiene relevancia y significado a pesar de la tendencia internacional a considerar el “tercer mundo” como un seudónimo de lugares pobres o empobrecidos (y el cuarto mundo como el más pobre entre los pobres). El hecho de que la idea de ser no nuclear fuera una invención del Tercer Mundo ha sido tan ahogado por otras voces de la historia que el mundo ha olvidado estas raíces de la paz mundial y los líderes que aseguraron que no ser nuclear, mientras que el EE.UU. y la URSS se amenazan entre sí y el mundo, es una piedra angular importante de la teoría y la práctica del Tercer Mundo⁹.

Segunda parte: Introducción al Cuarto Mundo

“Mi creencia en el Cuarto Mundo es un acto de fe”, escribió George Manuel en su libro de 1974 *The Fourth World: an Indian reality*, escrito con Michael Polsun.¹⁰ Lo que quiso decir fue que el Cuarto Mundo es un viaje continuo, no un destino o lugar de descanso. Representa un pueblo próspero, a menudo pacífico y reflexivo que vive en espíritu con la tierra. Lo que Manuel creó, y en cierto sentido con lo que tropezó en sus largos viajes por el mundo, fue nada menos que una teoría que desafió los arreglos soberanos modernos de posguerra, notables en todo el derecho internacional y la ONU.¹¹

El Cuarto Mundo, como el Tercer Mundo, es una teoría integral. Que se haya ignorado en gran medida en la academia es un tema que volveré a tratar en las conclusiones de este artículo. Se diferencia del Tercer Mundo porque Manuel lo concibe como una “aldea global”.¹² Además, está abierto a que cualquiera pueda unirse. No hay fronteras en el Cuarto Mundo a diferencia del Primero, Segundo o Tercero. La medida es una rápida desviación de lo que el resto del mundo estaba haciendo en su ordenamiento westfaliano basado en estados dentro del sistema de la ONU. El Cuarto Mundo no se basa en la condición de Estado, raza, etnia o idioma. Los países han sido desafiados por la soberanía o el autogobierno de la primera nación en todo el mundo; es claramente un movimiento mundial, una situación con la que todos los gobiernos estatales deben enfrentar hoy.¹³ En la década de 1970, cuando George Manuel era Jefe de la Hermandad Nacional India en Canadá (NIB), tuvo muchas oportunidades de conocer diplomáticos y viajar. Afirma que su primer encuentro con la idea del Cuarto Mundo provino de un diplomático de Tanzania en Canadá que dijo: “Cuando los pueblos nativos se conviertan en lo suyo, con sus propias culturas y tradiciones, eso será el

⁹ *ibid.*

¹⁰ G. Manuel, 1974. p. 261.

¹¹ La palabra “soberano” proviene de la palabra francesa para rey. Un gobernante que no necesitaba consultar con la gente. Véase Michael Lerma, 2014.

¹² *ibid.*

¹³ Hay muchos términos para los pueblos indígenas en todo el mundo. Las Primeras Naciones, los indios, los adivasi, los indígenas o los pueblos se nombran de acuerdo con su cultura, como sami, maorí, catalán, oveja, etc.

Cuarto Mundo”.¹⁴ Después de esto, Manuel viajó para conocer a muchos pueblos indígenas. Manuel comenzó a apreciar las diferencias y relaciones con el Tercer Mundo luego de ir a Tanzania, pero en particular, le interesaba cómo las herramientas de la soberanía no eran las que crearían un territorio soberano. En otras palabras, simplemente las estructuras por sí solas no hacen un territorio pacífico próspero. El Tercer Mundo lo había hecho evidente con muchas guerras, dictadores y saqueos de la naturaleza. Esto fue y sigue siendo hoy evidente en todo el Tercer Mundo.

El Cuarto Mundo como teoría tiene enfoques sobre la tierra, la educación, los establecimientos espirituales, la tecnología, la comunidad y el intercambio, por nombrar algunas áreas. De hecho, gran parte del trabajo que han estado haciendo los pueblos indígenas en Canadá refleja estos puntos de vista. En 1975, el primer Consejo Mundial de Pueblos Indígenas (WCIP, por sus siglas en inglés)) fue organizado por la nación Nuu-chah-nulth en la isla de Vancouver. Los representantes incluyeron personas de Argentina, Guyana, Ecuador, Finlandia, Noruega, Australia, Nueva Zelanda, Suecia, Guatemala, Groenlandia, un total de 260 participantes.¹⁵ En su movimiento para proteger a los pueblos indígenas y la tierra de la opresión y subyugación colonial, el WCIP quería a) el reconocimiento internacional de la soberanía indígena b) que la ONU reconozca los tratados indígenas como vinculantes en el derecho internacional c) la ONU debería construir instituciones e instrumentos para respetar a los indígenas derechos a la autodeterminación, la tierra y los recursos. La Canadian National Indian

Brotherhood cedió su estatus de observador en la ONU a la WCIP. Aunque la WCIP ya no existe como organización a partir de 1996, ha encontrado un hogar en foros globales en la ONU como el Foro Permanente sobre Pueblos Indígenas en 2002 y la tan esperada Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas (UNDRIP) en 2007.¹⁶ Sin embargo, el hecho es que en el derecho internacional, como en la ONU, los pueblos del Cuarto Mundo están sujetos a la ley estatal en un territorio que a menudo se superpone con los gobiernos estatales.

En *Indigenous Nations and Modern: the Political Emergence of Nations Challenging State Power*, Rudolph Rýser señala que entre 500 y 9000 naciones (según la fuente) están presionando al sistema internacional y esperando su asiento en la mesa internacional.¹⁷ Según Rýser, los pequeños pasos dados por la ONU para reconocer los derechos indígenas no son suficientes. A medida que se cuestiona el sistema de Westfalia, las naciones están emergiendo como uno de los muchos pueblos excluidos del derecho internacional. Numerosos estados enfrentan conflictos violentos directos o de baja intensidad con naciones dentro de sus límites estatales.¹⁸ La evidente necesidad de crear estructuras internacionales que reflejen la existencia e integridad de personas autodeterminadas en todo el mundo aún no se ha realizado. La ONU

¹⁴ ibid. p. 236

¹⁵ Arthur Manuel, 2015. p. 170

¹⁶ ibid. 171

¹⁷ Rudolph Rýser, 2012. p.12

¹⁸ ibid. p.10

es una organización estatal a la que se une el reconocimiento de otros estados. Las naciones y pueblos indígenas quedan fuera.

Comparación uno: Poder rojo/Poder negro

La comparación del Tercer y Cuarto Mundo se puede hacer de varias formas. Uno puede preguntarse por qué tiene que hacerse. Para estar interesada, la gente tendría que aceptar que nos hemos perdido algo en ciencias políticas, la política en general y la filosofía política. Una perspectiva que tiene un gran poder explicativo. Las diferencias entre ellos, que demostraré en la próxima sección, profundizan nuestra comprensión de los estados del Tercer Mundo y la soberanía del Cuarto Mundo. Las similitudes capturan la solidaridad y nos permiten ver la política mundial de manera diferente. Como he dicho, el Cuarto Mundo en particular, se presenta como una teoría indispensable que ha sido severamente infrutilizada.

El primer nivel que observo en términos de soberanía en el Tercer y Cuarto Mundo es aquel en el que tienen una similitud sorprendente. Las teorías de soberanía, tanto del Tercer como del Cuarto Mundo, comienzan y no pueden entenderse sin el nivel interno. Como ambos coinciden, el colonialismo es un ejercicio tanto intelectual como militar, estratégico o económico. El colonialismo no podría haber ocurrido en ningún lugar del mundo sin su componente intelectual. La fuerza militar de las grandes potencias era fuerte pero no lo suficientemente fuerte como para conquistarla por sí misma. Como describe Edward Said en *Orientalismo*,

el colonialismo operó mediante el cambio de nombre y la categorización de las culturas.¹⁹ Como resultado, la “raza” se convirtió en una categoría enorme de civilización, al igual que la educación y el estatus económico. Como se evidencia en los sistemas “escolares” residenciales en Canadá, o en el estatus de clase amortiguadora de los indios en África, el colonialismo era una red masiva de ataques intelectuales, personales y económicos. Las culturas, razas, géneros y tradiciones espirituales fueron efectivamente moldeadas por la experiencia colonial. El primer nivel del movimiento soberanista, por lo tanto, fue recuperar y empoderar culturas y tradiciones en todo el mundo.

En su obra de 1952 *Piel Negra / Máscaras Blancas*, Franz Fanon se preocupa por la patología del racismo que se había apoderado de la mentalidad humana. Sin embargo, cuando Fanon explica la situación, descubre, como psiquiatra de ambos lados del campo de batalla, que la experiencia colonial había moldeado la mentalidad tanto de blancos como de negros (y marrones) de manera tan profunda, que debe abordarse. Todas las razas están atrapadas por el sistema colonial en la psicosis, dijo, una dicotomía del mundo que no es ni veraz ni exacta.²⁰ Esta patología, un marco psicológico que ha dado forma al mundo, debe ser desmantelado antes de que se pueda obtener una verdadera soberanía, dijo. Si un hombre negro quiere ser un hombre blanco, entonces

¹⁹ Edward Said, 1978.

²⁰ Franz Fanon, 1967 p.xviii

no hay esperanza de libertad, todos los hombres tienen que ser hombres, humanos, ni blancos ni negros. “Intenté constantemente demostrarle al hombre negro que en cierto sentido se anormaliza a sí mismo, y al hombre blanco que es a la vez el que desconcierta y el desconcertado”.²¹ Fanon se apresuró a demostrar que la categoría “hombre blanco burgués” no era una posición envidiable. Sin un cambio psicológico, los movimientos anticoloniales y la descolonización son solo un sueño. Es más, sin un cambio, los hombres blancos burgueses están condenados a la muerte intelectual. Fanon escribe:

Comentaré algo que he encontrado en muchos escritores: la alienación intelectual es el resultado de la sociedad burguesa. Y para mí sociedad burguesa es cualquier sociedad que se osifica en un molde predeterminado, sofocando cualquier desarrollo, progreso o descubrimiento. Para mí la sociedad burguesa es una sociedad cerrada donde no es bueno estar vivo, donde el aire está podrido y las ideas y la gente se están pudriendo. Y creo que cualquier hombre que se oponga a esta muerte en vida es, en cierto modo, un revolucionario.²²

La escritura de Fanon ayudó a desencadenar el movimiento *Black Power* en todo el mundo. Africanos y estadounidenses, caribeños, como Fanon, pelearon esta batalla y continúan hoy. El movimiento *Black Lives Matter* ha explotado una vez más en nuestra conciencia, reconociendo la naturaleza continua de este trabajo.

En Canadá, los Pueblos originarios no eran en absoluto sordos a los movimientos del

Black Power y los muchos escritos de los revolucionarios negros en todo el mundo. En *The Fourth World*, George Manuel describe en detalle sus viajes para encontrarse con revolucionarios anticoloniales en todas partes.²³ Lee Maracle ha continuado con esta línea de pensamiento. Por ejemplo, en uno de sus muchos libros *I am Woman*, 1996, escribe: “El resultado de ser colonizada es la internalización de la necesidad de permanecer invisible”.²⁴ En su trabajo, como Fanon, se mantiene firme en la idea de que la soberanía comienza por revitalizar las culturas que fueron diezmadas por el colonialismo: “Aquellos que se aferraron a los principios esenciales de su cultura fueron en dirección a la soberanía; aquellos que se alejaron de sus comunidades caminaron en la dirección de una integración por debajo de lo normal”.²⁵ Maracle, como Fanon, también sostiene que la relación es mutua y que colonizado y colonizador se transforman con el fin del colonialismo: “lo que es avivamiento y renacimiento para un nativo es muerte para el colonizador. Para los dos hay reconstrucción y un futuro lleno de pasión y compasión”.²⁶

La conexión entre África y las Primeras Naciones en América del Norte es clara en la erudición indígena como Lee Maracle, Glen Coulthard, Taiiike Alfred y ciertamente los

²¹ *ibid.* p. 200.

²² *ibid.* p. 199.

²³ Cabe señalar aquí que casi la primera mitad del libro *The Fourth World* de George Manuel es una descripción de su tierra, su gente y sus valores. Son la fuente de todas las reuniones e instituciones que George Manuel creó y en las que participó.

²⁴ Lee Maracle, 1996 p.8.

²⁵ *ibid.* p.37.

²⁶ *ibid.* p.37.

de Manuel, Arthur y George. Lee Maracle cita directamente a Kwame Nkrumah, el primer presidente independiente de Ghana, como base de la “política de izquierda” en América del Norte.²⁷ Coulthard analiza y refleja a Fanon en su libro *Piel Roja/Máscaras Blancas*, y George y Arthur Manuel atribuyen la nomenclatura de “Cuarto Mundo” a los diplomáticos de Tanzania en Canadá. Además, debido a que el colonialismo fue tan riguroso en la erradicación de idiomas y la “reeducación” de las poblaciones, la educación ha sido un aspecto central de la revitalización tanto del Tercer Mundo como del Cuarto Mundo. Bajo Julius Nyerere en Tanzania, descolonizar la mente y recuperar el orgullo fue fundamental para Ujamaa y lo que él llamaría el nuevo “socialismo africano”.²⁸ Como escribe Maracle, “... la educación del colono logró, durante un tiempo, su objetivo: el encarcelamiento de la mente nativa en la ideología del opresor”.²⁹ El cambio en el valor interno y la voluntad personal de rejuvenecer a los pueblos destruidos por el colonialismo es, por tanto, la primera premisa de la soberanía y algo que tanto el Tercer como el Cuarto Mundo tienen en común.

Comparación dos: Un mundo/Muchos mundos

Desde el principio, era obvio que la soberanía, institucionalmente, para las naciones del Cuarto Mundo sería muy diferente a la de los estados del Tercer Mundo. Los estados del Tercer Mundo lucharon arduamente por su independencia, pero tratando de ser parte del nuevo sistema después del colonialismo y abrazando a la ONU, como se discutió anteriormente, muchas de las naciones oprimidas por el gobierno dentro de

sus propias fronteras. Algunos gobiernos, como la India, continúan teniendo un estatus especial para las “tribus registradas”, lo que eran tribus criminales bajo el dominio británico, adivasi, tribales, indígenas, minorías, aborígenes o pueblos de las Primeras Naciones en todo el mundo.³⁰ Sin embargo, dentro del Tercer Mundo, Cuarto Mundo la gente sigue empobrecida, carece de tierras, recursos y educación. Los estados del Tercer Mundo tienen soberanía territorial pero con las mismas trampas institucionales del Primer y Segundo Mundo con su operacionalización de la supresión de vidas y puntos de vista nativos para industrializar y hacer crecer su estado. George Manuel sugiere que Tanzania y algunos otros países fueron los únicos que escaparon de esto. Sin embargo, en África, como en Tanzania, la mayoría de los gobiernos estatales están integrados por dos o más naciones y, en la mayoría de los casos, incluida Tanzania, era difícil concebir un sistema de creencias universalmente sostenido que pudiera unificar al país bajo un gobierno estatal.

A medida que los estados del Tercer Mundo buscaron y obtuvieron la independencia, comenzando con India en 1947, cada país ganó un escaño en la Asamblea General de la ONU. Sin embargo, no hasta la creación de la Organización Mundial del Comercio (OMC) en 1995, cualquiera de las agencias de la ONU se basó en sistemas de “una nación, un voto”. Además, todo lo que hizo

²⁷ *ibid.* p.106.

²⁸ Nyerere, 1973.

²⁹ Maracle, 1974 p.40

³⁰ Mohan Guruswamy <https://scroll.in/article/773759/adivasi-indias-original-inhabitants-have-suffered-the-most-at-its-hands>

la AG estaba sujeto al poder de los cinco países permanentes en el Consejo de Seguridad (P5) de la ONU. Los estados recién formados eran conscientes de los problemas con la soberanía. Comenzó el “régimen de desarrollo” y los países quedaron sujetos al Fondo Monetario Internacional (FMI) y al Banco Mundial, con los que muchos todavía están muy endeudados.³¹ En ambos lados, el Primer y el Tercer Mundo coincidieron en que la soberanía territorial se convirtió en una opción mucho mejor que el colonialismo. Para las naciones del Cuarto Mundo, sin embargo, la colonización continúa hasta el día de hoy.

Descolonización es una palabra que los portavoces imperialistas usan mucho y untuosamente para describir la transferencia del control político de la soberanía colonialista a la africana. Sin embargo, el origen del colonialismo todavía controla la soberanía.³²

Sin embargo, los estados del Tercer Mundo han utilizado la ONU para tratar de establecer una cooperación entre ellos, como con el G77, y continúan definiéndose a sí mismos por su agenda de “tercera vía”.³³ Recientemente, los gobiernos del Tercer Mundo han votado abrumadoramente a favor de la DNUDPI. Los únicos estados que no fueron signatarios de esto en 2007 fueron Canadá, Estados Unidos, Australia y Nueva Zelanda.

Según Rudolph Rýser, del Centro de Estudios Indígenas del Mundo (CWIS, por sus siglas en inglés) y editor de la Revista del Cuarto Mundo, más de la mitad de las guerras en el mundo de hoy son guerras del Cuarto Mundo.³⁴

La división de África a finales del siglo XIX es una prueba de ello. En ese acuerdo, se formaron 54 estados de los territorios de las 2000 tribus de África, y la mayoría de las naciones cruzaron al menos dos o tres fronteras estatales.³⁵ La tensión entre naciones y estados en África es alta. Aún así, también lo es para las naciones del Segundo Mundo (Chechenia, Bosnia, Polonia) y las naciones del Primer Mundo (Sami, Cataluña, Celta, Maorí, Primeras Naciones e Indios Americanos). Todos los estados del Tercer Mundo luchan por su soberanía a nivel internacional, en foros de la ONU y en otros lugares, y sin duda, todos son ligeramente diferentes, pero aferrarse a la soberanía ha sido difícil para ellos debido a su historia colonial y las naciones internas constantemente se oponen a su autoridad.³⁶ “Las estructuras soberanas pueden estar uniéndose y fortaleciéndose, pero también pueden asimilar pueblos que resisten a las fuerzas estatales”.³⁷

Para tener soberanía internacional debes ser reconocido como un estado por otros estados del mundo. No existe tal acuerdo para reconocer a las naciones del Cuarto Mundo, pero el Consejo de Pueblos Indígenas del Mundo continúa presionando por mecanismos internacionales que reconozcan a los pueblos indígenas y sus derechos

³¹ Frans Schrumen, 1994, Dambisa Moyo, 2009.

³² Kwame Nkrumah, p.31.

³³ <https://www.g77.org/doc/>

³⁴ <https://www.cwis.org/>

³⁵ Moammar Quadaffi, 1974.

³⁶ Cabe señalar aquí que las naciones y los estados no se pueden dividir tan fácilmente. Algunas naciones controlan el aparato estatal y gobiernan de acuerdo con las leyes de sus propias naciones culturales (como Kenia). En contraste, otros son estados-nación, lo que significa que toda su nación tiene un aparato estatal (Vanuatu o Papua Nueva Guinea).

³⁷ George Manuel, 1974 p.4.

al mismo nivel que los estados. Las naciones han creado pasaportes y otros medios reconocibles internacionalmente para demostrar la soberanía, pero hasta la fecha, ningún mecanismo les permite hablar con los estados en igualdad de condiciones. Por lo tanto, los pertrechos del estado siguen siendo muy atractivos porque le permiten hablar en un escenario internacional y ser escuchado como un líder de personas de una manera que aún no está disponible para el Cuarto Mundo.

Entrevista con el Dr. Rudolph Rýser

El Dr. Rýser es autor de muchos libros y trabajó con George Manuel durante muchos años. En nuestra entrevista, le pedí al Dr. Rýser que explicara el Cuarto Mundo y dijo: “El Cuarto Mundo es una construcción vinculada a un concepto en las cuatro direcciones”. Dijo que George Manuel había viajado por el mundo para conocer a los indígenas. Cuando discutió las cuatro direcciones con los hopi, se enteró de que los pueblos indígenas de todo el mundo se relacionaban con las cuatro direcciones. En ese sentido, el término Cuarto Mundo tenía un doble significado, estableciendo la independencia del pensamiento de los tres mundos basado en el estado y la capacidad de incorporar hablar en las cuatro direcciones en casi cualquier nación del planeta. El Tercer Mundo, dice Rýser, fue una creación internacional para ayudar a las grandes potencias de la época a descolonizarse. Fue el intento de introducir la era de la “política de las grandes potencias”, que “dictaría las condiciones de paz en el mundo”. El nuevo arreglo, dijo, “permitió a aquellos que querían dominar encontrar la manera de seguir dominando”.

Como este artículo trata sobre similitudes y diferencias en el Tercer y Cuarto Mundo, le pedí al Dr. Rýser que arrojara luz sobre otras áreas de comparación además de las dos que tenía. Aunque dijo que comparar el Tercer y el Cuarto Mundo era “como comparar manzanas y ciruelas pasas”, arrojó luz sobre un área significativa de diferencia que puede haberse incluido en la comparación de materiales en este documento. El Tercer Mundo, por supuesto, se materializó como parte de lo que se concibió como tres niveles en este mundo. Los países más importantes del Segundo y Primer Mundo controlarían la ONU. Gran Bretaña, Francia y Estados Unidos forman el Primer Mundo en el P5 del Consejo de Seguridad, y China y Rusia (la URSS) forman el Segundo Mundo. El Tercer Mundo sería una construcción creada por el sistema internacional si no quería alinearse con el Primer o Segundo Mundo, en la mayoría de los casos las antiguas potencias coloniales-había que formar el Tercer Mundo. Se necesitaba reclamar “soberanía” para poder jugar en el mismo sistema internacional. La soberanía territorial los igualaba al menos en un nivel.

La gran diferencia entre el Tercer y el Cuarto Mundo que explicó el Dr. Rýser es que en uno, estamos describiendo un marco vertical, el “Tercer Mundo”, imitando los sistemas altamente chovinistas y centralizados del Primer y Segundo Mundo. Mientras que en el “Cuarto Mundo”, el poder y las relaciones se definen horizontalmente. En el Cuarto Mundo, las personas se definen a sí mismas en relaciones dinámicas y cambiantes con otros pueblos, culturas, la tierra y el cosmos. De esa manera, debe entenderse, dijo Rýser, que en muchos

sentidos, el Tercer Mundo está formado por naciones descolonizadas, pero visten el material de un estado. “No tienen el pijama adecuado”, dijo. El Dr. Rýser trabajó en la Declaración de Soberanía en 1975 en los Estados Unidos. Los líderes de las tribus estadounidenses en ese momento dijeron: “¿soberanía?-Qué demonios es eso”? Les tomó algunos años llegar a la idea de que reclamar “soberanía” de una manera que los estados entendieran, en un lenguaje que ellos entendieran, era importante para explicarles a los estados que las naciones, las naciones del Cuarto Mundo, estaban estructuradas y gobernadas independientemente. “Soberanía”³⁸ era una palabra francesa proveniente de Dios y el Papa, y tenía poco significado para los pueblos indígenas de América del Norte.

Fue muy interesante conocer el viaje del Dr. Rýser en este trabajo. En 1844, sus antepasados Cree se unieron a una caravana de unos 200 Cree, Iroquois y otros de Red River para tomar un espacio en Oregon para la Compañía de la Bahía de Hudson. El límite para Estados Unidos iba a ser más bajo que el paralelo 44, pero terminó, y terminaron, en Estados Unidos. Los gobiernos y la compañía de la Bahía de Hudson los abandonaron y no pudieron devolver Rupert’s Land³⁹ que se estaba convirtiendo en Canadá.

Su bisabuela y su abuelo empezaron a trabajar como traductores para las negociaciones de tratados entre el gobierno de Estados Unidos y las tribus.⁴⁰ Comenzaron a conectarse con Nisqually, Cowlitz, Taidnapum, Chinook y otros pueblos en lo que se llamaría el sur de Puget Sound. Su madre obtuvo oficialmente el estatus con la tribu Cowlitz en una gran ceremonia cuando sus ocho hijos eran pequeños.⁴¹ El reconocimiento estatal no era importante para su madre, pero las relaciones tribales sí lo eran. Ella estaba muy interesada en aprender, y todos sus hermanos aprendieron juntos y a una edad temprana. Su hermano mayor le dio una máquina de escribir y aprendió a escribir en inglés. Cuando tuvo la edad suficiente, se unió a las reuniones tribales en las que hablaban la líder tribal de Colville, Lucy Covington, y el líder de los pies negros, Earl Old Person. En ese momento, John F. Kennedy pidió a las personas que renunciaran a sus Reservas por \$ 10,000 cada persona. El Dr. Rýser se unió a un grupo de activistas y líderes tribales que trabajaban arduamente, liderados por el presidente de la tribu Colville, Mel Tonasket, con Bobbi Miller, Sherwin Broadhead, Ken Hanson, Joe Tollakson, Wendel George; y dijo que aprendió entonces que cualquier idea podía convertirse en realidad “no solo frotársela

³⁸ La palabra “soberanía” se origina en el siglo XIV del anglo-francés “sovereynete”. Significa autoridad absoluta, gobierno, supremacía de poder o rango.

³⁹ Este era un territorio en la América del Norte británica compuesto por el drenaje de la Bahía de Hudson, monopolizado comercialmente por la Compañía de la Bahía de Hudson desde 1670 hasta 1870.

⁴⁰ La bisabuela del Dr. Rýser era Oneida, y murió de una enfermedad hepática en 1852. También ayudó con sus conexiones iroquesas. Se le entregó una tarjeta de identificación tribal en esta ceremonia. (Número 861). El desembolso de Red River provocó que la familia de Rýser estuviera en muchas tribus de Estados Unidos que se remontan a 360 años. Ha descubierto familia en Cowlitz, Oneida, Cree, Waskarini. Su padre es suizo.

⁴¹ Se le entregó una tarjeta de identificación tribal en esta ceremonia. (Número 861). El desembolso de Red River provocó que la familia de Rýser estuviera en muchas tribus de Estados Unidos que se remontan a 360 años. Ha descubierto familia en Cowlitz, Oneida, Cree, Waskarini. Su padre es suizo.

en la barriga”. También aprendió de su crianza que el aprendizaje era una propuesta colectiva. Aprender juntos es la antítesis de la educación universitaria en la mayoría de los lugares, donde la educación puede ser competitiva y aislante.

Después de trabajar con tribus de indios americanos en los Estados Unidos, el Dr. Rýser, siguiendo a George Manuel, se volvió global. Últimamente, dice, ha estado insatisfecho con los convenios de la Organización Internacional del Trabajo (OIT) y no satisfecho con la Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas (DNUDPI). Tanto las declaraciones de la OIT como los documentos de la ONU tienen elementos y cláusulas que garantizan la integridad territorial de los estados. Las naciones están marginadas, y los derechos humanos y el reconocimiento de tierras para las naciones indígenas no tienen fuerza de aplicación. Los derechos de las naciones deben ser garantizados y acordados por los estados, a menudo aquellos con los que tienen quejas. No existe una plataforma diplomática internacional en la que las naciones y los estados puedan hablar entre sí en un nivel igual. Es por eso que el Dr. Rýser ahora está intentando convocar el Congreso de Naciones y Estados. Reúne ideas legales, económicas, sociales, culturales, políticas, judiciales y de seguridad de todo el mundo, tratando de definir y operacionalizar frases como “consentimiento libre, previo e informado”, tanto para las naciones como para los estados. Durante 50 años, los pueblos indígenas se han estado reuniendo en la ONU, pero tienen poca suerte para garantizar los derechos humanos y ambientales. Hay muchos acuerdos internacionales entre estados y naciones, pero no

hay una plataforma donde se puedan ventilar y escuchar las quejas.⁴²

Conclusión

El Cuarto Mundo siempre estuvo destinado a ser internacional. Para George y más tarde para Arthur Manuel era imperativo que la lucha por la soberanía anticolonial fuera global. Las naciones indígenas tenían una gran fuerza juntas contra un sistema de soberanía y estadidad que las oprimía. Además, como escribe Arthur Manuel en *Unsettling Canada*, los pueblos indígenas no pueden luchar por sus derechos contra el estado mismo. Principalmente, esto se debe a que las peleas legales no pueden llevarse a cabo sin que los tribunales estén en conflicto de intereses. La violencia se convierte en la única opción para ganar contra un estado, pero las naciones del Cuarto Mundo probablemente perderían en ese sentido incluso si existiera tal voluntad. Vale la pena incluir aquí una cita larga de Rýser para explicar esto con más detalle. Describe cómo transformar las guerras entre naciones y estados en algo productivo.

La nación, el organismo humano del que se originan todos los seres humanos, es el padre del estado. Es del corazón de las naciones de donde surgió el concepto de Estado. El “estado moderno” es otro de los muchos experimentos que se intentaron para promover constructivamente la condición humana. Como padre del que surge el estado, cada nación está obligada a garantizar que el estado cumpla con su

⁴² <https://www.cnsint.org/>

propósito. Pero, cuando el experimento falla, no hay obligación de forzar la existencia continua del estado. La nación es más que adecuada para servir como una personalidad internacional independiente por sí misma. Es bastante realista que el panorama político mundial debería incluir tanto a las naciones como a los estados como entidades políticas independientes.⁴³

En *Indigenous Nations and Modern States*, Rýser nos brinda varias herramientas para crear instituciones que se ocupen de las condiciones que exacerban la violencia en el mundo. Él cree que no solo puede haber paz, sino que sería un mundo mucho más productivo e interesante para vivir. Rýser está nuevamente poniendo estas ideas en movimiento al intentar crear el Congreso de Naciones y Estados.⁴⁴

En cuanto a la teoría del mundo, en la ONU el Tercer Mundo se reúne regularmente como el G77. Ahora hay 133 países, pero conservan su nombre como referencia histórica. En la ONU estos países ahora han sido etiquetados como “países en desarrollo”, pero la nomenclatura no refleja el significado del G77 que afirma la necesidad de la organización y continúa luchando por “pleno empleo, colaboración y cooperación sur-sur”.⁴⁵ El G77 afirma que las fallas económicas y ambientales han expuesto las grandes desigualdades en el mundo y los problemas del sistema. En 2014, en Bolivia, el grupo se reunió (también con China) y planteó 242 puntos para crear un “nuevo orden mundial para vivir bien”. El punto 141 pide una reforma directa del FMI, pero en relación con la discusión aquí es interesante notar cuántos puntos se

relacionan con las naciones indígenas dentro de sus estados. Por ejemplo, el punto 28 dice:

Reafirmamos que los pueblos indígenas tienen derecho a mantener y fortalecer sus distintos aspectos políticos, legales, económicos, sociales y instituciones culturales, conservando su derecho a participar plenamente, si así lo elijan, en la vida política, económica, social y cultural del Estado. En este sentido, destacamos la necesidad de respetar y salvaguardar las identidades, los conocimientos y las tradiciones culturales indígenas en nuestros países.

Asimismo, en el punto 104 hacen un llamado al intercambio técnico entre naciones y estados indígenas, para que puedan armonizar y convivir luchando por sus objetivos a través de un panel científico “intergubernamental”. El G77 está de acuerdo en que en la ONU no se ha creado un “espacio político” para abordar los problemas económicos y ambientales en todo el mundo y debe desarrollarse.⁴⁶ Huelga decir que este grupo continúa reuniéndose y mostrando la importancia del movimiento del Tercer Mundo.

Como se ha señalado, este análisis comparativo explica muchos de los conflictos en el mundo. Los estados que luchan contra las naciones y viceversa no han disminuido, como lo demuestran los problemas actuales con los rohingya en

⁴³ Rudolph Rýser p.227

⁴⁴ www.cnsint.org

⁴⁵ [https://www.g77.org/doc/A-68-948\(E\).pdf](https://www.g77.org/doc/A-68-948(E).pdf)

⁴⁶ Ibid.

Birmania y los uigures en China, Etiopía y Tigris y muchos otros. Los problemas persistentes en el continente africano muestran cuán dañino puede ser el estado para las naciones indígenas y la consecuencia duradera de la creación de estados africanos durante el colonialismo. Estos límites permanecieron en África porque el cambio de los límites estatales se consideró demasiado violento. Sin embargo, hoy en día muchas naciones abarcan dos o tres fronteras estatales y las jurisdicciones entre ellas se vuelven borrosas y a menudo violentas. Sin embargo, persiste la naturaleza imperialista del sistema mundial. Muchos países africanos u otros países del Tercer Mundo se encuentran humillados y adoptando medidas de austeridad para adaptarse a las condiciones de los préstamos del FMI. Este debate continúa en África mientras China intenta ser el desarrollador “no imperialista” del continente. A menos que el sistema mundial se vuelva más democrático, la batalla entre países capaces de influir en las vastas riquezas de África continuará. La ganancia material de la soberanía estatal en el Tercer Mundo no ha podido igualar al Tercer Mundo con el Primero, particularmente en lo que respecta a la justicia económica, ambiental, de la mujer o cultural.

En términos de soberanía interna y las similitudes en el Tercer y Cuarto Mundo, hemos visto una explosión de la importancia de la descolonización interna. En el movimiento BLM, por ejemplo, indígenas, negros y personas de color han trabajado juntos en todo el mundo para impulsar la soberanía interna y el reconocimiento de la importancia de sus vidas. Con tantos indígenas y negros encarcelados en

América del Norte, no hay duda de la necesidad de generar democratización entre las personas y las instituciones de poder y no hay duda de la necesidad de desarrollar el entendimiento entre los grupos racializados y los blancos o las personas en el poder..

Esta comparación ha dado lugar a la noción de que las naciones del Cuarto Mundo pueden tomar algunas ideas de cómo se formó el Tercer Mundo. Recientemente, en Canadá, los pescadores de langosta autóctonos se han visto envueltos en enfrentamientos violentos con pescadores no autóctonos y, en algunos casos, con la policía estatal. Lo que ha sucedido es una cooperación de nación a nación muy parecida a la cooperación sur-sur enfatizada por el Tercer Mundo. La Autoridad Financiera de las Primeras Naciones ayudó a comprar una pesquería en Nueva Escocia, Canadá, para que puedan controlar las operaciones.⁴⁷ El concepto de las Primeras Naciones ayudándose unas a otras podría ser un precedente en el futuro que al menos desarrollaría más solidaridad entre las naciones indígenas.

Comparativamente, el Tercer y Cuarto Mundo tienen un enfoque institucional diferente. Sin embargo, no importa, todos los estados del planeta deben convivir con el Cuarto Mundo; es un tema arraigado que necesita atención. Como dije al comienzo de este artículo, la ciencia

⁴³ Rudolph Rýser p.227

⁴⁴ www.cnsint.org

⁴⁵ [https://www.g77.org/doc/A-68-948\(E\).pdf](https://www.g77.org/doc/A-68-948(E).pdf)

⁴⁶ Ibid.

⁴⁷ <https://atlantic.ctvnews.ca/first-nations-chief-calls-1-billion-clearwater-deal-a-generational-acquisition-1.5181778>

política como disciplina apenas ha prestado atención al Cuarto Mundo. En Canadá, se habla mucho sobre la miríada de problemas que enfrentan los pueblos indígenas de la Isla Tortuga, sin embargo, apenas se ha prestado atención a los cimientos del Cuarto Mundo a pesar de que fueron George Manuel y la relación con Canadá y la ONU, quienes crearon el concepto holístico. Todas las disciplinas están tratando desesperadamente de aumentar la presencia y los departamentos indígenas en el campus, pero no se aborda la base fundamental de la educación europea. El conocimiento cooperativo, abierto, oral e indígena apenas se pone sobre la mesa.

Este artículo está inspirado en mi viaje personal cuando nací en Kamloops (hogar de la familia Manuel). Casi nadie en mi mundo de colonos blancos hasta el día de hoy, educado o no, ha oído hablar de George Manuel o del increíble trabajo

que inspiró en todo el mundo. Entra en la versión de Fanon de la educación burguesa, rancia y putrefacta, no en la realidad viva que respira del mundo que nos rodea. El Tercer y Cuarto Mundo siguen siendo conceptos muy relevantes incluso si un día decidimos cambiar la nomenclatura.⁴⁸ (iDictionary.com ya ha hecho esto!)

Finalmente, en verdad, y como señaló el Dr. Rýser, estas dos entidades, el tercer y cuarto mundo, no se pueden comparar. En cierto modo, el Cuarto Mundo se asemeja a las cuatro direcciones de la creencia indígena y no tiene nada que ver con la idea del Primer, Segundo y Tercer Mundo. Sin embargo, este estudio ha revelado que si queremos entender el conflicto en la actualidad, debemos involucrar a los estados y las naciones y debemos aceptar que el estado es una creación joven que puede seguir creciendo y evolucionando.

⁴⁸ Este artículo se envía a publicar justo cuando se encontraron los cuerpos de 215 niños en Kamloops. Los cuerpos se encontrarán en todo el país y los números ya están en los 500 en Manitoba, Canadá (hogar del río Rojo). La falta de educación y el aislamiento en mi propia infancia fue malo, pero este ha sido un acto de genocidio escandaloso. Esperamos que los niños finalmente lleguen a casa.

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SOBRE EL AUTOR



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Sabina nació en Kamloops, Columbia Británica de padres que llegaron de la India. Su doctorado fue un estudio de caso en Uganda y dio clases sobre Política Africana en la Universidad de Victoria. Después de terminar su carrera, Sabina comenzó a investigar y escribir sobre las conexiones entre los pueblos indígenas de todo el mundo siguiendo el trabajo de George Manuel. Ahora está ayudando a convocar el Congreso de Naciones y Estados con el Centro de Estudios Indígenas del Mundo.



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Engaging Free, Prior and Informed Consent for Mutual Benefit

A discussion of Principles, Policies and Commitments between Indigenous Nations and UN Member States from 1920 to 2020 with an emphasis on the period 1977 – 2020.

By Rudolph C. Rýser, PhD

ABSTRACT

The Center for World Indigenous Studies, prompted by inquiries and urgings by leaders of indigenous nations, sponsored the planning, organization and convening of a Congress of Nations and States—the process that began in the summer of 2019. In this article we discuss the Congress as a new international mechanism to facilitate engagement by indigenous nations and states on an equal political plain in pursuit of comity and establishment of cooperative measures for mutual benefit.

This article discusses the consequences of the failure of decolonization advanced by the United Nations in 1945 that resulted up to 1.9 billion people from indigenous nations left without their consent inside the boundaries of existing states contributing to social, economic, political and security conflicts demanding relief. More than 5000 nations occupy territories and political space inside states with the states' claiming those territories and competing for political space by asserting state sovereignty. The article presses forward by emphasizing the importance of the principle of free, prior and informed consent responding to the long list of principles and commitments in the policy areas of economics, environment, culture & society, political governance, security, and justice made by nations and states since 1977. I suggest that existing agreements on principles and commitments if implemented by nations and states may resolve most of the current conflicts. Specific principles and commitments are discussed and sourced to treaties, conventions, declarations, and outcome documents issued by nations and states from 1977 forward.

Key Words: free, prior and informed consent, self-government, self-determination, state and nation

From 1971 to the present is an historical period during which Indigenous peoples, their multilateral organizations and their governments became “subjects of international discourse.” Before this time, they had been relegated to the position of minorities subject to domestic state concern. During the years that followed 1971 indigenous peoples engaged in direct and indirect dialogues with states' governments and multi-lateral organizations to set in place a range of policies, principles and

commitments for the conduct of relations between nations and states. These exchanges exemplified a convergence between the positions of many nations and states toward political comity. Indeed, in numerous instances of specific agreement the nations emphasized establishing mechanisms within the international context to implement the policies and agreements documented in international forums producing documents such as the ILO Convention 169 (1989, UN Declaration on the Rights of Indigenous Peoples (2007), Alta Conference Outcome Document (2013) and the UN World Conference on Indigenous Peoples Outcome Document (2014). States' governments, however, have been less willing to establish implementation mechanisms to actualize agreements. Instead, states shifted negotiations and implementation responsibility to the domestic state political environment.

Despite this apparent divergence on the subject of an international versus a state domestic implementation approach, both states and nations repeatedly call for the establishment of a mechanism or mechanisms to implement agreements and commitments suggesting recognition of limitations built into existing state-based multilateral bodies. The Congress of Nations and States opens the opportunity for nations and states to prepare a new international pathway where nations located in existing states will engage states on an equal political plain to define and implement measures for conducting relations with respect and the knowledge that cooperation is essential to meet the global and domestic climate, biodiversity, migration & refugee, violence, acts of genocide

and uncontrolled exposures to viral pandemics threaten global human existence.

After completing 21 months of planning and organizing, beginning in June 2019, the Congress of Nations and States' Preparatory Body, Secretariat and Six Specialized Commissions began the next phase of taking steps to convene the Congress' Assembly in 2022. The Commissions began consideration of the principles and policy commitments made from 1977 by nations and states under the following categories: economic, environmental, culture & society, political governance, security and justice. Protocol Resolutions generated by the Specialized Commissions would be reviewed and receive comments from the Congress of Nations and States' Preparatory Body, a wide array of indigenous nations, states, non-governmental organizations, and academics located around the world. Each of the Commissions will sponsor these resolutions for submission to the Congress Assembly in 2022 where voting indigenous nations and states will decide to introduce new procedures for nation and state relations decided on an equal political plain. Furthermore, and perhaps more to the point, the decisions of the Congress are intended to set out a constructive and beneficial pathway for the conduct of relations between nations and states into the 21st century.

The Congress of Nations and States as now being planned and convened may become the turning point in constructive and respectful relations between indigenous and nations after more than two centuries of political and violent conflicts challenging the existence of

many indigenous nations and many states. The unfolding multiple crises that challenge the survival of human beings throughout the world: biodiversity collapse, mass migrations and refugees, changing climate, rampant illicit drugs, weapons, and viral pandemics. Virtually all of these calamities are rooted in the failures of states and nations to reign in unrestrained development, consumption and religious or ideological hatreds. The intent of the Congress of Nations and States is to redirect the misplaced energies to a constructive international as well as domestic pathway to reversing the damage sitting at humanities' door.

This paper is offered as a discussion of the background of relations between indigenous nations and states, and in particular a review of the many principles, policies and commitments made by nations and states since 1977 in the subject areas of economics, the environment, culture and society, political governance, security and justice. Establishing mechanisms to implement agreed policies and commitments is the priority desired by both states and nations. A brief history is in order and then a subject-by-subject review of recommended principles, policies and commitments will follow.

Free, Prior and Informed Consent

The principle of “free, prior and informed consent” is Central to advancing self-determination and self-government by indigenous nations while stabilizing the territorial and political integrity of existing states. The principle was introduced into international lexicon by the International Labor Organization as it engaged in

the process of revising ILO Convention 107¹ and concluding its replacement in ILO Indigenous and Tribal Peoples Convention No. 169 in 1989. The principle of free, prior, and informed consent is a central concept of self-determination stated in Articles 6, 1 (a), and Article 16 (2) requiring the states to “consult the peoples concerned, through appropriate procedures “and in particular” through their representative institutions whenever consideration is being given to legislative or administrative measures which affect them directly.” Free, prior and informed consent is to be invoked under the Convention in connection with decisions about land and resources and relocation of peoples as an exceptional measure. The United Nations Declaration on the Rights of Indigenous Peoples adopted the principle of free, prior and informed consent in numerous articles covering the right of self-determination, measures to combat prejudice and elimination of discrimination, to promote indigenous peoples' right to enjoy all rights established under international and domestic labor laws, and to ensure the protection of children and other vulnerable members of indigenous societies from hazards, consultations on matters involving military activities, and interference with education and health and physical harms.

The principle elements can be understood as follows: “Free” requires that engagement must be without coercion. “Prior” requires that engagement take place before decisions are

¹ International Organization, 1956. International Labor Organization. 10(4), pp.634-636.

taken. “Informed” requires that information is communicated in a form, language, and manner understandable to both parties. “Consent” requires that agreement must occur resulting from good faith negotiations and full disclosure of facts by parties to ensure intelligent decisions.

The CNS Preparatory Body established the CNS FPIC Guidance Working Group to assess and draft language for a Congress of Nations and States Guidance on the Implementation of the principle of Free, Prior and Informed Consent.² *The expressed reason for this decision was to establish a clear intergovernmental or interinstitutional framework for objectives, functions, authorities, procedures, and mechanisms of compliance and enforcement as originally agreed by indigenous nations and states.* This framework relies on principles and commitments to exercise the principle of free, prior and informed consent enshrined

in international instruments such as the ILO Convention 169 (1989),³ UN Draft Declaration on the Rights of Indigenous Peoples (1994),⁴ International Covenant on the Rights of Indigenous Nations (1994),⁵ United Nations Declaration on the Rights of Indigenous Peoples (2007),⁶ the Alta Declaration and Alta Outcome Document (2013),⁷ and the UN World Conference on Indigenous Peoples Outcome Document (2014),⁸ and the UN Expert Mechanism on the Rights of Indigenous Peoples (2018)⁹.

The UN Permanent Forum on Indigenous Issues with support from the Special Rapporteur on the Rights of Indigenous Peoples issued guidance on the implementation of FPIC. Notably, the UNDRIP itself offered the following broad objectives:

- To maintain and strengthen institutions, cultures and traditions¹⁰

² Decision of the CNS Preparatory Body in Executive Session during the Preparatory Body Session XXX on 8 June 2021 Chaired by Fadjar Schouten-Korwa.

³ International Labor Organization (1989) Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries. Adopted on 27 June 1989 by the General Conference of the International Labour Organisation at its seventy-sixth session. Entry into force on 5 September 1991.

⁴ United Nations Working Group on Indigenous Populations (1994) “Draft Declaration on the Rights of Indigenous Peoples.” as submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

⁵ International Covenant on the Rights of Indigenous Nations (1994). Initialed by Nadir Bekir, Political and Legal Affairs, the Crimean Tatars; A-Bagi Kabeir, Numba People of Sudan; Ron Lameman, Confederacy of Treaty Six First Nations; and Judy Sayer, Apethesht First Nation; Viktor Kaisiepo, West Papua Peoples Front/OPM. Geneva, Switzerland. Subsequently ratified by nations located in West Asia, North Africa.

⁶ United Nations General Assembly. (2007). “Declaration on the Rights of Indigenous Peoples” drafted by the UN Working Group on Indigenous Populations 1980 – 1994, reviewed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the UN Human Rights Council before submission to the UN General Assembly for approval. A/61/L.67 and Add. 1.

⁷ Global Indigenous Preparatory Conference. (2013) “Alta Outcome Document.” Conference preparatory for the United Nations High Level Plenary Meeting of the General Assembly to be known as the World Conference on Indigenous Peoples. The Conference convened in Sami Territory in Alta, Norway with more than 400 delegates from indigenous peoples and nations from seven global geo-political regions plus a Women’s caucus and a Youth Caucus.

⁸ UN General Assembly (2014) “Outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples.” Sixty-ninth Session Agenda item 65. A/RES/69/2.

⁹ UN EMRIP (2018) “Free, Prior and Informed Consent: A Human rights-based Approach. Human Rights Council. A/HRC/39/62

¹⁰ UN General Assembly, (2007) Declaration on the Rights of Indigenous Peoples. Preamble.

¹¹ Ibid.

- To promote development in accordance with aspirations and needs¹¹
- To practice and revitalize cultural traditions and customs¹²
- To participate in decision-making matters affecting Indigenous rights¹³
- To determine and develop priorities and strategies for all forms of development¹⁴
- To not be subjected to forced assimilation or destruction of culture¹⁵
- To not be forcibly removed from lands or territories¹⁶

The principal focus of the UNDRIP and other similar instruments has been to conceive of FPIC as a “safeguard” to ensure that the rights of indigenous peoples are positively fulfilled and to prevent violations of indigenous peoples’ rights. The guidance by the UN Permanent Forum on Indigenous Peoples Issues and the Special Rapporteur on the Rights of Indigenous Peoples takes a decidedly narrow perspective placing the burden on the State to fulfill indigenous peoples’ rights and to avoid violating those rights through consultations and obtaining consent in the light of state administrative, legislative or judicial actions that affect the interests of the specific peoples.

After reviewing the current stage of implementation of free, prior and informed consent and existing agreements and commitments in a 3 June 2021 Memorandum “Establishing a Congress of Nations and States Guidance to States and Nations on the Implementation of Free, Prior and Informed

Consent” the following observation was made:

... nations, states, NGOs and academics present a wide range of opinions and policy views demonstrating there is confusion and a general misunderstanding of what are the applications of Free, Prior and Informed Consent in relations between nations and other entities. Between the policy views of Australia and the United States asserting there is no definition of “free, prior and informed consent” stating that the principle provides for consultation, but not necessarily agreement and the policy views suggested by Mohawk Nation international relations diplomat Kenneth Deer and the First Nations Assembly (Canada) where they assert the process is one of mutual benefit between nations and states and a “negotiation” as in the process of treaty making, there are many who simply don’t know what it means.

Supplemental to the commitments made by nations and states to FPIC corporations and various extraction industries and corporations have taken steps to affirm their commitment to the principle. The United Nations issued a Global Compact document entitled *Indigenous Peoples’ Rights and the role of Free, Prior and Informed Consent: A Good Practice Note*, issued

¹² Ibid., Article 11

¹³ Ibid., Article 18

¹⁴ Ibid., Article 32

¹⁵ Ibid., Article 8

¹⁶ Ibid., Article 10

in 2014. As of early 2018 some 9,704 companies across 161 countries voluntarily committed to adhering to the Global Compact's principles. The Global Compact essentially restates the broad objectives of the principle originally stated in the UN Declaration of 2007 with an emphasis on "safeguarding" the rights of indigenous peoples. Unfortunately, the text of the Global Compact includes numerous conflicting statements focusing primarily on obtaining consent without stating the iterative process and procedures. The compact fails, however, to recognize the fulfillment of self-determination as an outcome, but rather emphasizes consent without the function of control over outcomes. The Global Compact, therefore, adds to confusion and provides industry the opportunity to interpret how and with whom consent is obtained (selecting an individual or subgroup sympathetic to a business' interests could give consent without following the political and cultural practices normally applied by the nation, for example).

A Brief Overview of Decision History from 1830-2014

So called marginalized peoples within the boundaries of existing states and empires and

in distant colonies have been the subject of "promises" by empires and states throughout the history of structured international relations—particularly in the last 170 years. Outcomes from three nineteenth century congresses (Vienna [1814-1815],¹⁷ Paris [1856] and Berlin [1878]) included treaty provisions providing for the security and rights of minority peoples that in today's terminology would be identified as "indigenous peoples." Despite well recognized acts of oppression of such peoples by old empires and newly functioning states, the "Concert of Europe"¹⁸ failed to enforce the treaty commitments. The subsequent treaties in the 19th century failed as well.¹⁹

The Political Status of Peoples Challenge

The challenges political leaders have sought to, but only partially resolved are: how can a ruling government of a state and the governments of indigenous nations conduct equitable and constructive relations when the state and the nations occupy the same territorial and political space? The goals of the state and the nations relating to land and natural resources and political governance do not always converge. This problem was partially addressed when

¹⁷ After the fall of Napoleon four European powers (Britain, Russia, Prussia and Austria) convened the Congress to reorganize the peace in Europe under the rule of the "great powers." The European Imperial powers added France as an equal and together they set about reordering territorial and political claims in Europe. Included in this effort was a focus on "ethnic minorities" whose distinct languages and cultures set them apart from so called dominant populations. Croatsians, Magyars, Czechs, Slovaks, Bohemians, Moravians, and many other nations became a subject for the great powers to address as populations requiring protection.

¹⁸ The Concert of Europe was a post-Napoleonic (1830s) consensus by European monarchies intent on preserving the territorial and political status quo contained in the Congress of Vienna, Congress of Paris and the Congress of Berlin. The Concert of Europe was viewed as necessary to reorder Europe after nearly two centuries of war and the Napoleonic dictatorship. The consensus reflected the assumption that monarchs retained responsibility and the right to intervene and impose their collective will on states threatened by internal rebellions. This early 19th Century collective consensus formed the basis of what is today referred to as the responsibility of the great powers of state to dominate international behaviors of all other states.

¹⁹ Fink, C. (1995) *The League of Nations and the Minorities Question*. Vol.157, No. 4, Woodrow Wilson and the League of Nations: Part One (Spring 1995), pp. 197-205.

in the 20th century states and nations agreed to “decolonize” so-called non-self-governing territories territorially separated from the colonizing power. The question placed on the table was “what should be the political status²⁰ of non-self-governing peoples whose colonial status is changed?”

Between 1946 and 2020 more than eighty ‘non-self-governing territories were decolonized and most became independent states while many decided to absorb into another nation or state. The political status of 750 million people was the subject of the decolonization process. Still seventeen “non-self-governing territories” have not had their political status resolved. The United Kingdom, France and the United States continue to “administer” peoples (combined population of 2 million) in mainly island territories while the question of political status remains an open question.

The political status of another 1.9 billion people in more than 5000 nations located inside the boundaries of existing UN member states stands as an unresolved matter since the status of

these peoples was set aside by the UN in favor of focusing on “non-self-governing peoples” located outside the territory of existing states—mainly island, African, Melanesian, and Asian territories. Conscious of the unresolved political status of nations located inside the boundaries of existing states the issues political autonomy, self-government and exclusive territorial control have been policy issues introduced to the international community since 1923. The Haudenosaunee and Maori peoples, much aware of this unresolved political status question, took the initiative to carry the issue of hundreds of millions of people to the international forums of the League of Nations, United Nations and many regional multilateral state and nation forums.

The Congress of Nations and States is intended to directly meet the “political status challenge” by promoting political equality between nations and states in the implementation of measures to benefit both nations and states concerning a range of economic, environmental, culture & society, political governance, security and justice arenas.

²⁰ Three categories under state-based international law set the initial boundaries for what is meant by “political status:” 1. Independent countries, 2. internally independent countries under the protection of another country in matters of defense and foreign affairs and 3. Colonies or dependent political entities absorbed into an existing state. Beyond this definition there are nations or countries that where there is a territorial dispute or entities have declared the separation and independence as they seek diplomatic recognition from the international community as *de jure* sovereign states. Under existing state-based international law a state or distinct country exists by declaration if it has a defined territory, permanent population, a ruling government and the capacity to enter into relations with other states or countries. Such declarations are not dependent on recognition by other states. However, under what is referred to as “consultative theory” a state becomes a person of international law only if it is recognized as a state by other states that have attained recognition in the international community. Variations on state personality exist where a state like the Republic of Korea is not recognized by the government of North Korea, the Republic of Armenia is not recognized by Pakistan and Azerbaijan. The Republic of China (Taiwan) is not recognized by the Peoples’ Republic of China though it is recognized by fourteen states including Guatemala, Honduras, Holy See, Haiti, Paraguay, Nicaragua, Eswatini, Tuvalu, Nauru, Saint Vincent and the Grenadines, St. Kitts and Nevis, St. Lucia, Belize, Marshal Islands and Palau. Bhutan is the UN member state that has never explicitly recognized either the PR China or the Republic of China. The State of Israel is not recognized by 28 UN member state including Algeria, Bangladesh, Brunei, Comoros, Cuba, Djibouti, Indonesia, Iraq, Kuwait, Lebanon, Libya, Mali, Pakistan, Somalia and Malaysia among others.

Cayuga and Maori appeals to the League of Nations (1923-1925)

Sovereignty as asserted by states came to the surface at the beginning of the 20th century when in 1923 and 1925 Cayuga Chief Deskaheh serving as the speaker of the Six Nations of Haudenosaunee carried the question of the nations' right to self-determination to the League of Nations—to determine their own social, economic, political, and cultural future without interference by the Canadian state. He was joined by Ratana, Maori Spiritual Leader, at the League of Nations and both were denied access or the opportunity to deliver their message. Chief Deskaheh also traveled to the chambers of the British Parliament to present the Six Nations' arguments for self-determination from Canada and the Maori position of self-government from New Zealand. Making their appeal to the British government and then to the states' governments in the League of Nations was passionate and well-reasoned, but it fell on “deaf ears.” Chief Deskaheh pleaded that, “We are determined to live the free people that we were born”²¹

Bolivian Government Calls for Study of Aboriginal Peoples (1948) and other States Act

The Bolivian government at the UN General Assembly (1948-1949) introduced a measure to create a sub-commission to study the social problems of aboriginal populations. That idea was later transformed into a resolution proposing a “study of the situation of indigenous populations” that would eventually become the charge of Dr. José R. Martínez Cobo in the early 1970s. The

Bolivian resolution was configured to become a proposal for assistance and a study, but it was later converted into a resolution for the eradication of the “chewing of coca leaf in Bolivia and Peru.”²² It was not until 1971 that a chapter on the study of racial discrimination generated for the UN Sub-Commission entitled “Measures taken in connection with the protection of indigenous peoples,” led to the recommendation in the Sub-Commission for a broader study. That recommendation led to the UN Economic and Social Council to authorize the Sub-Commission²³ to carry out a full and comprehensive study of the situation of indigenous peoples focusing on discrimination. The Study authorized by the Sub-Commission resulted in 24 documents (chapters and attachments) presented in 1981, 1982 and 1983.

It is noteworthy that the Bolivian Government approved a new Constitution in the Bolivian Constituent Assembly on 9 December 2007 that was later in 2009 approved by 60% of the population incorporating key principles in the United Nations Declaration on the Rights of Indigenous Peoples. The main emphasis of changes in the Constitution recognized the authority of indigenous peoples (Aymara, Quechua, Yuki-Ichilo, Kaa-lyá among 32 other peoples) to govern their territories. The Bolivian government in 1991 signed the Indigenous Peoples Convention of 1989.

²¹ Scheinpflug, S. M., Rosie Waters & Christian. (2021, February 20). The Basics of Indigenous Perspectives. Retrieved March 6, 2021, from <https://chem.libretexts.org/@go/page/11257>

²² IBID., p. 2. paras., 5, 6.

²³ EcoSoc Resolution 1589(L) of 21 May 1971.

New Zealand and Maori

Representatives of the British Crown and Māori chiefs from the “north island” concluded the Treaty of Waitangi on 6 February 1840. This unratified Treaty is considered by New Zealand as the “founding document” for that confers political legitimacy on the state institutions. The Treaty established the British Governor of New Zealand, identified Māori lands and resources as belonging to Māori (reservations), and extending British citizenship to the Māori. A Native Land Court was established by the New Zealand government in 1975 with the purpose mainly to confiscate Maori lands or otherwise conduct hearings concerning Māori land claims, as well as successions title improvements and Māori land sales.

Under the authority of the New Zealand Minister of Māori Affairs, the Māori Community Development Act of 1962 recognizes local community committees combined into districts to allow for the establishment of the New Zealand Māori Council at the state government level.

The Māori interpret the Treaty of Waitangi as an affirmation of Māori autonomy required of the British Crown carrying out its duties toward the Māori. The English version of the Treaty “grants the Crown sovereignty” and the Māori text limits the Crown’s rights of government short of sovereignty leaving the question of Māori self-government unsettled. While there are still difference of interpretation the Treaty of Waitangi does have scholarly and political support for serving as a guarantee for customary law, state recognition of cultural rights (language, hunting/fishing, religion, etc.), upholding the Treaty

itself, and representation and consultation in the New Zealand Government. Meanwhile, New Zealand and Māori relations under international instruments are rather limited. New Zealand refrained from adopting the ILO Convention 189 and it opposed the UNDRIP though New Zealand did not object to commitments made in the World Conference on Indigenous Peoples Outcome Document in 2014.

Other states, for example, considered to be open to constructive engagement with indigenous nations include Finland, Norway, Canada, the United States of America and Australia. However, commitments made by these and other states generally range from partial recognition of indigenous peoples to no recognition as relates to land rights, self-government, implementation of signed treaties, cultural rights, constitutional or legislative affirmation of distinct status of a people, guarantees of representation or consultation with the central state government and support for or ratification of international instruments on the rights of indigenous nations.

The State and Nation record of engagement for the better portion of two-hundred years has remained often contentious and occasionally collaborative. In virtually all instances, the various nations claim and assert their autonomy or full authority to govern themselves and the state counters with measures or policies asserting state sovereignty—absolute governing power.

Sweden and Saami

While the Swedish government joined, other states to approve the UN Declaration on the

Rights of Indigenous Peoples, its internal policies have consistently ignored Saami land rights and systematically violated claiming absolute sovereignty over Saami traditional lands, water, and natural resources. Despite this generally hostile posture toward Saami, the Sami Parliament Act of 1992 established the Sami Parliament of Sweden as a “government agency” to the central government placing the body under the authority of the Swedish government. As a government body, the Sami Parliament must carry out the policies and decisions made by the Swedish Parliament. The Sami Parliament is controlled by the Swedish Parliament through laws, ordinances and appropriation decisions originating in the Swedish government. In 2007, the Sami Parliament was granted responsibility for the reindeer industry on its own, but guided by the Swedish Parliament.

The observations here presented are based on the inquiries and studies of the Center for World Indigenous Studies over the last 42 years, the Queens University (Canada) Multi-Culturalism Policy Index, Democracy Index – The Economist Intelligence Unit, and the Freedom House political rights and civil liberties of 210 countries and territories Annual Freedom in the World Report (2020).

Cobo Study of the Situation of Indigenous Peoples (1971-1982)

Dr. José R. Martínez Cobo of Ecuador was appointed in 1971 by the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities to serve as a Special Rapporteur. His mandate was to undertake a Study of the Problem

of Discrimination Against Indigenous Populations and report his findings to the Sub-Commission. Eleven years after his appointment, what became known as the “Cobo Study” was issued in 22 chapters concluding in part: “the basic United Nations texts contain no explicit or specific mention of indigenous populations.”²⁴ Dr. Cobo’s study shifted to focusing on “human rights” and “fundamental freedoms” as general areas of study noting that these subject areas concerned some aspects and principles that “affect indigenous populations as groups of human beings.”²⁵ Cobo considered the conclusions of two world conferences²⁶ that concerned discrimination against minorities and indigenous peoples even as there were several other conferences to follow where UN Member States were called on to adopt the text of the conference reports.

It was the founding conclusion of the Cobo Study that since many UN member states do not apply “existing international instruments fully, “specific principles should be formulated for use as guidelines by Governments of all States in their activities concerning indigenous populations, on a basis of respect for the ethnic identity of such

²⁴ Cobo, JRM, (1981) Study of the Problem of Discrimination Against Indigenous Populations. Final Report. Special Rapporteur, Mr. José R. Martínez Cobo. E/CM.4/Sub.2/1983/21/Add.8 July 1982. Chapter XXI, Conclusions. p. 1. para. 1.

²⁵ IBID., para 2.

²⁶ UNESCO sponsored two World Conferences to Combat Racism and Racial Discrimination held in Geneva, Switzerland in 1978 and 1983. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance convened by the UN Human Rights Council at Durban, South Africa (31 August – 8 September 2001) also provided a forum for UN member States to adopt the Outcome text of the Conference containing a section specifically concerned with “Indigenous Peoples” in its Declaration and Programme of Action at pp. 51-53.

populations and for the rights and freedoms to which they are entitled” * * * ... when the ideas and measures considered fundamental have been organized into a set of principles, the Sub-Commission may deem it advisable to recommend to its subsidiary organs the need to prepare a declaration of the rights and freedoms of indigenous populations as a possible basis for a convention on that question.”²⁷

The Cobo Study and strong advocacy by leaders of indigenous nations impressed on the United Nations Economic and Social Council that it must authorize the Sub-Commission on the Promotion and Protection of Human Rights to establish a working group in 1982 to review developments having to do with the promotion and protection of human rights and fundamental freedoms of indigenous peoples; and to consider the evolving international standards concerning “indigenous rights.” Originally established under the UN Commission on Human Rights (dissolved in 2006) the UN Human Rights Council took responsibility for the working group. The working group became the focal point within the international relations for consideration of new standards for the protection and advancement of the rights of indigenous peoples. The Cobo Study is included in the CNS Reference Library under Human Rights.

Martínez, Miguel Alfonso. (1999)

In his multi-chapter Study on Treaties, agreements and other constructive arrangements between States and Indigenous populations, Dr. Martínez reports in considerable detail obstacles and benefits to state and nation agreed

arrangements throughout the world. Recognizing that there are many levels of political, economic, social and environmental conflict between states and nations, Martínez urges in his third volume at Paragraph 308 the establishment of a special jurisdiction to address conflicts, negotiations, a judicial body and an administrative body. This new mechanism, Martínez suggests may be faced with many obstacles, but it is essential in his reporting that such a mechanism become established with the agreement of nations and states. At Paragraph 315 he directly asserts, “of the opinion that one should not dismiss outright the notion of possible benefits to be reaped from the establishment of an international body (for example, the proposed permanent forum of indigenous peoples) that, under certain circumstances, might be empowered-with the previous blanket acquiescence, or acquiescence on an ad hoc basis, of the State concerned-to take charge of final decision in a dispute between the indigenous peoples living within the borders of a modern State and non-indigenous institutions, including State institutions.”

To further amplify the importance of the international standing of indigenous nations to be the benefit of nations and states, Martínez recommends the establishment of a “Treaty Registry with the responsibility of locating, compiling, registering, numbering and publishing all treaties concluded between indigenous peoples and States. Prepared at the request of the UN Working Group on Indigenous Populations

²⁷ IBID., p. 79. para. 626, 627.

under the UN Economic and Social Council, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities Martínez. All three sections of his report are located in the CNS Reference Library under Human Rights.

UN Working Group on Indigenous Populations–Nation & State Forum

The UN Working Group on Indigenous Populations convened annual sessions in Geneva at the Palais des Nations. Dr. Erica-Irene Daes of Greece served as the Chairperson-rapporteur joined by other members including Dr. Miguel Alfonso Martinez (Cuba), Bladimir Boutkevich (Ukraine), el-Hadjé Guisse (Senegal) and Ribot Htano (Japan)—all serving in their personal capacity. Each of the sessions of the five-member working group from 1982 through the year it completed its work received more than 700 indigenous nations’ representatives from 50 countries on all continents and ecological regions. Given its mandate the Working Group became a formal forum for nation and state engagement concerning matters of international policy and standards for relations between indigenous nations and states and the United Nations

System. In addition to the ILO Convention 107²⁸, numerous international forums of indigenous nations, NGOs from 1977 on ward, the UN Working Group on Indigenous Populations ***gave weight to the assertion that for states’ governments the rights of indigenous peoples had fully become a subject of international law.***

Within the context of the UN Working Group on Indigenous Populations representatives of indigenous nations engaged the United Nations and representatives of states’ governments as identifiable political entities.²⁹

Enhanced Indigenous Peoples’ Participation in the UN, Delayed (2014 -)

Despite the extensive engagements between indigenous peoples’ representatives and states’ governments in various state-based international mechanisms over decades, UN member states set aside a previously agreed commitment in the UN World Conference on Indigenous Peoples Outcome Document.³⁰ The commitment made in 2014 was to set the 70th session of the UN General Assembly as the forum to consider proposals by the Secretary General describes “ways to enable the participation of indigenous

²⁸ International Labor Organization Convention 107 was adopted in 1957 as the Indigenous and Tribal Populations Convention to provide protection and integration of indigenous and other tribal and semi-tribal populations in independent countries originally ratified by 27 states and now maintained in force by the states of Angola, Bangladesh, Belgium, Cuba, Dominican republic, Egypt, El Salvador, Ghana, Guinea-Bissau, Haiti, India, Iraq, Malawi, Pakistan, Panama, Syrian Arab Republic and Tunisia. Ten of the original ratifying states (Portugal, Peru, Paraguay, Mexico, Ecuador, Costa Rica, Colombia, Brazil and Bolivia) automatically cancelled ratification of 107 in favor of ratifying the replacement ILO Convention 169 concluded in 1989.

²⁹ The Working Group declared that indigenous representatives would be recognized as representing their nations or peoples and unless they otherwise declared would not be considered representatives of non-governmental organizations as they have been so identified by the United Nations in other forums.

³⁰ UN General Assembly. (2014) Outcome Document to be adopted by the General Assembly on 22 September 2014. Outcome Document of the High-level Meeting of the General Assembly: The World Conference on Indigenous Peoples 69/.

peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them." Following the adoption of a resolution on 8 September 2017 entitled "revitalization of the work of the General Assembly" included in a report by the Ad Hoc Working Group on the revitalization of the General Assembly delegates to the UN were informed that no progress had been made toward the commitment made in 2014 to enable indigenous peoples' participation in UN forums. Canada, Australia and New Zealand expressed "disappointment" that no progress had been made while the government of PR China's representative suggested "continuing discussions on enhancing the participation of indigenous peoples in the United Nations." China's claim was that absent an internationally recognized definition of the term "indigenous peoples" was an obstacle because the situation of many states was that "ethnic minorities should be distinguished from indigenous peoples." China further argued that "discussions must respect the sovereignty and territorial integrity of Member States.

Ghana expressed hope for compromise and Mexico complained that Latin American countries were under-represented in the process that led to the resolution's adoption and regretted that Member states had not agreed to approve a new category of participation of indigenous peoples. Ecuador expressed its view that it was important to ensure the effective participation of indigenous peoples in the UN system stressing that indigenous peoples are not non-governmental

organizations. Vietnam expressed concern that the "intergovernmental process" of the UN must be upheld. Bangladesh agreed with Vietnam and stressed the importance of continuing inter-governmental consultations in the UN between states. The Bangladesh representatives concluded by saying that in the absence of an agreed definition for "indigenous peoples," a creative solution was needed to address the question of their enhanced participation.

***As of 2021, the matter of
"enhanced participation"
remains unresolved in the
United Nations.***

Subjects of Nation and State Agreement and Commitments

States and Nations have registered their policies and commitments enshrined in various international and domestic instruments adopted in domestic and international bodies. Among these instruments are the International NGO Conference on Discrimination in the Americas, the UNDRIP, ILO Convention, Convention on Biodiversity and the Climate Change Treaty focused on economic rights for the state and the nations.

Relevant documents indicating joint agreement and or commitments between nations and states on principles and policies are as follows:

Nations Formalized and Enshrined Nation-based Law

Indigenous nations have engaged in the organization of activation of multilateral bodies to represent the unified political and legal concepts, principles and commitments with effective influence inside the boundaries of existing states and within the international environment. Numerous international treaties have been concluded forming one of the foundations of nation-based law. In addition, temporary and long-term coalitions of nations have formulated specific policies and commitments in the form of declarations and policy resolutions. Examples of these instruments are located in the CNS Reference Library online, but some of the most notable instruments are as follows:

- *INTERNATIONAL NGO CONFERENCE ON DISCRIMINATION Against Indigenous Populations in the Americas – September 20-23, 1977.*
- *Draft Declaration of Principles for the Defense of the Indigenous National and Peoples of the Western Hemisphere – 1977*
- *International Covenant on the Rights of Indigenous Nations (1994)*
- *ASIA: A Call to Action from Indigenous Peoples in Asia to the World Conference on Indigenous Peoples (Bangkok. Nov 8 - 9 2012)*
- *AFRICA: Proceedings Report: Africa Preparatory Meeting for the World Conference on Indigenous Peoples (Hosted in Nairobi, Kenya by Mainyoito Pastoralist Integrated Development Organization (2012))*
- *AMERICA, NORTH: Decisions and Recommendations of the North American Indigenous Peoples' Caucus (hosted by Kumeyaay Nation sponsored by Sycuan Band of the Kumeyaay Nation, the Haudenosaunee, the Viejas Band of the Kumeyaay Nation and the Lummi Nation March 1,2,3 2013)*
- *AMERICA, SOUTH: Foro Indígena de Abya Yala, Declaración of the Indigenous Forum of Abya Yala (Iximulew, Guatemala April 11-13, 2013)*
- *ARCTIC: Nuuk Arctic Declaration on the World Conference on Indigenous Peoples 2014 (Adopted in Nuuk, Greenland, October 23 -24, 2012)*
- *EUROPE, EASTERN: Discrimination against indigenous small-numbered peoples of North, Siberia and the Far East of the Russian Federation (CERD 82nd Session 11 February to 1 March 2013)*
- *PACIFIC REGION: The Pacific Declaration of the Preparatory Meeting for Pacific Indigenous Peoples on the World Conference on Indigenous Peoples 2014 (Redfern, Sydney, Australia. National Centre for Indigenous Excellence, 19-21 March 2013)*
- *Global Indigenous Preparatory Conference for the United Nations High Level Plenary Meeting of the General Assembly to be known as the World Conference on Indigenous Peoples (Alta, Saamiland, 10-12 June 2013)*
- *Alta Outcome Document (Alta, Saamiland 2013)*

- *Resolution on Treaties and Implementation of the UN Declaration on the Rights of Indigenous Peoples and other International Human rights Standards. (IITC 40th Annual Conference (2014)).*

States Formalized and Enshrined State-based Law

Internationally recognized states have engaged in the organization and activation of multilateral bodies to represent the unified political and legal concepts, principles and commitments directly and indirectly affecting relations with indigenous nations. Numerous inter-national treaties have been concluded forming one of the foundations of state-based law added to decisions of the International Court of Justice and protocol agreements between states. In addition, temporary and long-term coalitions of states formulated specific policies and commitments in the form of declarations and policy resolutions. Examples of these instruments are located in the CNS Reference Library online, but some of the most notable instruments are as follows:

- UN Declaration of Human Rights (1948) [adopted by 48 of 58 UN members with eight abstaining and two not voting]
- Convention on the Prevention and Punishment of the Crime of Genocide (1948)
- European Convention on Human rights (1953)
- Convention Relating to the Status of Refugees (1954)

- Convention on the Elimination of All Forms of Racial Discrimination (1969)
- African Charter on Human and Peoples' Rights (1986)
- INTERNATIONAL NGO CONFERENCE ON DISCRIMINATION Against Indigenous Populations in the Americas (September 20-23, 1977)
- American Convention on Human Rights (1978)
- UN Convention Against Torture (1987)
- ILO Convention on Indigenous and Tribal Peoples (1989)
- Convention on the Rights of the Child (1990)
- CONVENTION ON BIODIVERSITY (1992)
- UN Framework Convention on Climate Change (1992)
- Draft UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES (1994)
- International Convention on the Protection of the rights of All Migrant Workers and Members of their Families (2003)
- UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES (2007)
- International Convention for the Protection of All Persons from Enforced Disappearance (2010)
- WORLD CONFERENCE ON INDIGENOUS PEOPLES – Outcome Statement (2014)

Multiple Topic Reference:

The following extraction reveals the decisions in 1977 taken by participants in the International NGO Conference on Discrimination Against Indigenous Populations in the Americas that stands as the contemporary statement of indigenous nations and state principles on which are based in much of the future international instruments concerning relations between indigenous nations and states. The main elements of outcome decisions of this conference are here fully presented.

Document: International NGO Conference On Discrimination Against Indigenous Populations in the Americas—September 20-23, 1977.

Economic

Multinational Corporations: Demands for materials and resources and the inherent profit quest, the multination corporations have accelerated development and exploitation of native peoples and resources resulting in many cultures and peoples are on the brink of annihilation.

Land Question: Mother Earth provides the sustenance of all life. The land must be respected, carefully used, and meticulously restored ... the land base of indigenous peoples has been steadily diminished by colonial exploitation and the result has been a policy of genocide against the indigenous peoples.

Recommendations:

- Investigation of inhumane and exploitive use of indigenous peoples' labor in South and

Central America and enforcement of the U.N. Convention and Supplementary Convention on Slavery, with Particular Regard to the Force Labour and Induced Indebtedness of Indigenous Peoples.

- Affirm the right of self-determination for Dené Nation and the Inuit
- Investigation of Alaskan Native Land Claims Act in cooperation with Alaskan Natives.
- Immediate action to arrest the genocide being committed by governments and multinational corporations and multilateral aid in the Amazon Basin.
- Protection and preservation of existing Native Land bases from exploitation by multinational corporations.
- Environmental impact investigations of the exploitation of non-renewable natural resources on Indian land, especially water.
- The right of self-determination of aboriginal people in the development of their land and resources according to their own values and social structures and laws.
- Affirmation of the Declaration of Principles of Indigenous Nations and Defense of Indigenous Nations and peoples of the Western Hemisphere.

Social and Cultural Commission

- Preamble Paragraph I. The destruction of indigenous cultures in the Americas is historically inseparable from the considerations which motivated, and which

still motivate the criminal acts of the European colonizers, the primary consideration being human exploitation and the greed for land and cheap labour. To destroy a culture is to destroy the basis for an autonomous society able to defend the interest of its members. It is noteworthy that this Commission has had great difficulty in isolating the destruction of culture from other acts of genocide, and it is necessary to constantly bear in mind the links existing between these phenomena.

- Culture is the heritage of all peoples. Its preservation among a community is a fundamental guarantee of that community's physical survival and well-being. It is the human right of all peoples to develop and transmit their own culture.
- The commission of Ethnocide must be defined as both a cause and a part of Genocide, in that the ulterior purpose is the disappearance of the indigenous community.
- CA guarantee must be secured where necessary for the right of indigenous peoples to participate in the national life of their countries wherever they live, on the basis of their own culture, values and ideals. Cultural and social assimilation into the dominant society must proceed from the free choice of individuals and never from the coercive effort of the dominant society.
- Indigenous communities must be guaranteed the control and supervision of both the form and content of education of their people.
- Indigenous peoples must be protected from the following practices:

- Sterilization in the absence of free and informed consent.
- Adoption, sponsorship and foster-home actions that remove Indian children from the native community and culture.
- Medical-experimentation practices at the risk of the health and integrity of their subjects.

Legal Commission

Legal Status of Indigenous Peoples

- Demand immediate application of the principle of self-determination for indigenous peoples, and their recognition as nations.
- Recognition of some nations that have concluded treaties assert immediate recognition as states under international law based on treaties that clearly recognized nations' sovereign status.
- States claim under the UN Charter the principle of territorial integrity and preservation of state sovereignty that can be affected by nations' assertion of self-determination.
- The Declaration of Principles for the Defense of Indigenous Nations and Peoples of the Western Hemisphere come under study by appropriate non-governmental organizations, and that the Declaration come to the attention of the appropriate organs of the United Nations.

Indigenous Laws and Courts

- Indigenous laws have existed and still exist among indigenous peoples.

- Customs are the sources of law.
- Traditional law and customs of indigenous peoples become respected, including the jurisdiction of their forums and procedures for applying their law and customs.

Legal Discrimination

- Outsider-imposed systems of justice negate the inherent legal right of indigenous peoples to control and regulate their own affairs, such as:
 - Acts of outright aggression by the military-police forces
 - Torture, arrest and false imprisonment
 - Failure to prevent violence persecution by racist/neo-fascist organizations, mineral companies, land agents.
 - Infiltration and destabilization of legally constituted indigenous organizations by security agents
 - Controlling or manipulating legal jurisdiction of major crimes, preventing indigenous peoples from being judged by a jury of their peers
 - Failure to respect the fundamental rights of women and children
 - Failure to respect indigenous graveyards and sacred places.

Recommendations of the Conference: revised ILO Convention 107, traditional law and customs of indigenous peoples respected including

jurisdiction of their own forums and procedures, engage the Intergovernmental Committee for European Migration, return control of suitable land to enable nations to live an economically viable existence, ownership of Indian land by indigenous peoples should be unrestricted.

Document: Draft Declaration of Principles for the Defense of the Indigenous Nations and Peoples of the Western Hemisphere-1977

1. Indigenous peoples shall be accorded recognition as nations, and proper subjects of international law, provided the people concerned desire to be recognized as a nation and meet the fundamental requirements of nationhood, namely:
 - a. A permanent population
 - b. Defined territory
 - c. A government
 - d. Ability to enter into relations with other [nations] and states.
2. Indigenous groups not meeting the requirements of nationhood are hereby declared to be subjects of international law ... provided they are identifiable groups having bonds of language, heritage, tradition, or other common identity.
3. No indigenous nation or group shall be deemed to have fewer rights, or lesser status for the sole reason that the nation or group has not entered into recorded treaties or agreements with any state.
4. Indigenous nations or groups shall be accorded such degree of independence as they

may desire in accordance with international law.

5. Treaties and other agreements entered into by indigenous nations or groups with ... states, whether denominated as treaties or otherwise, shall be recognized and applied in the same manner and according to the same international laws and principles as the treaties and agreements [as] with any state.

6. Treaties and agreements made with indigenous nations or groups shall not be subject to unilateral abrogation.

7. No State shall assert or claim to exercise any right of jurisdiction over any indigenous nation or group or the territory of such indigenous nation or group unless pursuant to a valid treaty or other agreement freely made with the lawful representatives of the indigenous nation or group.

8. No state shall claim or retain, by right of discovery or otherwise, the territories of an indigenous nation or group, except such lands as may have been lawfully acquired by valid treaty or other cessation freely made.

9. All states in the Western Hemisphere shall establish through negotiations or other appropriate means a procedure for the binding settlement of disputes, claims, or other matters relations to indigenous nations or groups. Such procedures shall be mutually acceptable to the parties, fundamentally fair, and consistent with international law.

10. It shall be unlawful for any state to take or permit any action or course of conduct

with respect an indigenous nation or group which will directly or indirectly result in the destruction or disintegration of such indigenous nation or group or otherwise threaten the national or cultural integrity of such nation or group, including but not limited to, the imposition and support of illegitimate governments and the introduction of non-indigenous religions to indigenous peoples by non-indigenous missionaries.

11. It shall be unlawful for any state to make or permit any action or course of conduct with respect to any indigenous nation or group which will directly or indirectly result in the destruction or deterioration of an indigenous nation or group through the effects of pollution of earth, air, water, or which in any way depletes, displaces or destroys any natural resource or other resources under the dominion of, or vital to the livelihood of an indigenous nation or group.

12. No state, through legislation, regulation or other means shall take actions that interfere with the sovereign power of an indigenous nation or group to determine its own membership.

Supplemental to the 1977 conference statements of principles and commitments it is important to note how the UN Working Group on Indigenous Populations (1982-1994) included many elements in the Draft UN Declaration on the Rights of Indigenous Peoples that was the foundation of the UN General Assembly approved Declaration in 2007. While states' representatives reviewing the Draft Declaration made significant changes

for the final Declaration key elements of the Draft did survive—further indicating nation and state agreement to principles and commitments. Detailed below are the main elements of the Draft Declaration that were announced and often carried over into the 2007 Declaration.

Document: UN Draft Declaration on the Rights of Indigenous Peoples (March 1994)

Part II, 6. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and to full guarantees against genocide or any other act of violence, including the removal of indigenous children from their families and communities under any pretext ...

Part II, 7. Indigenous peoples have the collective and individual right not to be subjected to ethnocide and cultural genocide, including prevention of and redress for:

- (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
- (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
- (c) Any form of population transfer which has the aim or effect of violating or undermining any of their rights;
- (d) Any form of assimilation or integration by other cultures or ways of life imposed on them by legislative, administrative or other measures;

(e) Any form of propaganda directed against them.

Part V. 19. Indigenous peoples have the right to maintain and develop their political, economic and social systems, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities. Indigenous peoples who have been deprived of their means of subsistence and development are entitled to just and fair compensation.

Part V. 22. Indigenous peoples have the right to special measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health and social security.

Part V. 23. Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to determine and develop all health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Part VI. 30. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands, territories and other resources, including the right to require that States obtain their free and informed consent prior to the approval of any project affecting their lands, territories and other resources, particularly in

connection with the development, utilization or exploitation of mineral, water or other resources. Pursuant to agreement with the indigenous peoples concerned, just and fair compensation shall be provided for any such activities and measures taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Part VII. 31. Indigenous peoples, as a specific form of exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, including culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resources management, environment and entry by non-members, as well as ways and means for financing these autonomous functions.

Part VII. 35. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with other peoples across borders.

Part VIII. 38. Indigenous peoples have the right to have access to adequate financial and technical assistance, from States and through international cooperation, to pursue freely their political, economic, social, cultural and spiritual development and for the enjoyment of the rights and freedoms recognized in this Declaration.

Part VII. 39. Indigenous peoples have the right to have access to and prompt decision through mutually acceptable and fair procedures for the resolution of conflicts and disputes with States, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall take into consideration the customs, traditions, rules and legal systems of the indigenous peoples concerned.

The next and most revealing stage of agreements between nations and states was revealed in the text of the UN World Conference on Indigenous Peoples Outcome Document adopted in September 2014. Key principles and commitments made by states to nations and commitments made by nations to states were explicitly stated in the text of Outcome Document.

Document: World Conference on Indigenous Peoples (2014)

Commitments made in the UN World Conference on Indigenous Peoples Outcome Statement concerning state and nation economic policy relations appear in: Paras. 9, 11, 17, 25*, 26

Of particular relevance to a need for domestic and international implementation protocols is the emphasis in paragraph 25 of the Statement emphasizing “traditional subsistence activities”

7. We commit ourselves to taking, in consultation and cooperation with indigenous peoples, appropriate measures at the national level, including legislative, policy and administrative measures, to achieve

the ends of the United Nations Declaration on the Rights of Indigenous Peoples and to promote awareness of it among all sectors of society, including members of legislatures, the judiciary and the civil service.

8. We commit ourselves to cooperating with indigenous peoples, through their own representative institutions, to develop and implement national action plans, strategies or other measures, where relevant, to achieve the ends of the Declaration.

9. We commit ourselves to promoting and protecting the rights of indigenous persons with disabilities and to continuing to improve their social and economic conditions, including by developing targeted measures for the aforementioned action plans, strategies or measures, in collaboration with indigenous persons with disabilities.

10. We commit ourselves to working with indigenous peoples to disaggregate data, as appropriate, or conduct surveys and to utilizing holistic indicators of indigenous peoples' well-being to address the situation and needs of indigenous peoples and individuals, in particular older persons, women, youth, children and persons with disabilities.

13. We commit ourselves to ensuring that indigenous individuals have equal access to the highest attainable standard of physical and mental health.

14. We commit ourselves to promoting the right of every indigenous child, in community with members of his or her group, to enjoy his

or her own culture, to profess and practise his or her own religion or to use his or her own language.

17. We commit ourselves to supporting the empowerment of indigenous women and to formulating and implementing, in collaboration with indigenous peoples, in particular indigenous women and their organizations, policies and programmes designed to promote capacity-building and strengthen their leadership.

18. We commit ourselves to intensifying our efforts, in cooperation with indigenous peoples, to prevent and eliminate all forms of violence and

25. We commit ourselves to developing, in conjunction with the indigenous peoples concerned, and where appropriate, policies, programmes and resources to support indigenous peoples' occupations, traditional subsistence activities, economies, livelihoods, food security and nutrition.

33. We commit ourselves to considering, at the seventieth session of the General Assembly, ways to enable the participation of indigenous peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them, including any specific proposals made by the Secretary-General in response to the request made in paragraph 40 below.

35. We commit ourselves to respecting the contributions of indigenous peoples to ecosystem management and sustainable

development, including knowledge acquired through experience in hunting, gathering, fishing, pastoralism and agriculture, as well as their sciences, technologies and cultures.

This emphasis is supplemented in Paragraph 26 by the text that reads how states and nation should recognize the role that indigenous peoples can play in economic, social and environmental development through traditional sustainable agricultural practices, including traditional seed supply systems, and access to credit and other financial services, markets, secure land tenure, health care, social services, education, training, knowledge and appropriate and affordable technologies, including for irrigation, and water harvesting and storage.

In paragraph 31 the World Conference emphasized the need for the Secretary-General of the UN “in consultation and cooperation with indigenous peoples” begin the development of a “system-wide action plan to ensure a coherent approach to achieving the ends” of the UN Declaration on the rights of Indigenous Peoples.

Having included the primary international instruments that enshrine principles and commitments, but provided no mechanism for implementation it may be helpful to know how the documented principles and commitments apply to the six categories of engagement between nations and states. I note them here:

ECONOMIC Policy and Commitments

These are the relevant international instruments indicating nation and state agreement or commitments concerning economic matters:

Reference Source: International NGO Conference on Discrimination Against Indigenous Populations in the Americas (September 20-23, 1977)

Reference Source to Documents: World Council of Indigenous Peoples (1977–1991)

World Council of Indigenous Peoples, Declaration on Human Rights. [fourteen principles] (Kiruna, Sweden, September 24–27, 1977)

World Council of Indigenous Peoples, Remarks before the Sub-Committee on Petitions, Information and Assistance of the World Council of Indigenous Peoples, President Jose Carlos Morales (New York City, 24 June 1981)

World Council of Indigenous Peoples, International NGO Conference on Indigenous Peoples and the Land (WCIP Third General Assembly, April 1981)

World Council of Indigenous Peoples, Land Rights of the Indigenous Peoples, International Agreements and Treaties, Land Reform and Systems of Tenure. (International NGO Conference on Indigenous Peoples and the Land September 1981)

World Council of Indigenous Peoples, Statement Prepared by Eloi Machoro of New

Caledonia before the Third General Assembly of the World Council of Indigenous Peoples. (WCIP Third General Assembly, April 1981).

World Council of Indigenous Peoples, Indigenous Homelands and Transnational Corporations. (WCIP, Canberra, Australia 1981)

Document: Convention on Biodiversity (1992)

Preamble. Paragraph 12: recognizing the close and traditional dependence of many indigenous and local communities embodying traditional lifestyles on biological resources, and the desirability of sharing equitably benefits arising from the use of traditional knowledge, innovations and practices relevant to the conservation of biological diversity and the sustainable use of its components,

ARTICLE 8(J) (IN-SITU CONSERVATION): Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices

Article 17 2. Exchange of Information: exchange of information shall include exchange of results of technical, scientific

and socio-economic research, as well as information on training and surveying programmes, specialized knowledge, indigenous and traditional knowledge as such and in combination with the technologies referred to in Article 16, paragraph 1. It shall also, where feasible, include repatriation of information.

Article 18 4. Based on state legislation and policies, encourage and develop methods of cooperation for the development and use of technologies, including indigenous and traditional technologies ...

Reference Document:

UN Draft Declaration on the Rights of Indigenous Peoples

Annexed to E.CN/Sub.2/1994/45

Reference Document: Cobo, JRM, (1981) Study of the Problem of Discrimination Against Indigenous Populations. Final Report. Special Rapporteur, Mr. José R. Martínez Cobo. E/CM.4/Sub.2/476/Add.4 30 July 1982.

Reference Document: Martínez, Miguel Alfonso. (1999). Study on Treaties, agreements and other constructive arrangements between States and indigenous populations. UN Economic and Social Council, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities. E/CN.4/Sub.2/1999/20

Reference Document: Daes, Erica-Irene (2004). Prevention of Discrimination and Protection of Indigenous Peoples,

Indigenous peoples' permanent sovereignty over natural resources. Final report. Economic and Social Council, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities. E/CN.4/Sub.2/2004/30.

Reference Document: Draft UN Declaration on the Rights of Indigenous Peoples (2007)

Reference Document: UN Draft Declaration on the Rights of Indigenous Peoples (March 1994)

Particular references to economic policy and commitments are these:

Document: Declaration on the Rights of Indigenous Peoples (2007)

25. We commit ourselves to developing, in conjunction with the indigenous peoples concerned, and where appropriate, policies, programmes and resources to support indigenous peoples' occupations, traditional subsistence activities, economies, livelihoods, food security and nutrition.

34. We encourage Governments to recognize the significant contribution of indigenous peoples to the promotion of sustainable development, in order to achieve a just balance among the economic, social and environmental needs of present and future generations, and the need to promote harmony with nature to protect our planet and its ecosystems, known as Mother Earth in a number of countries and regions.

Document: Alta Declaration (2013)

Principles and commitments made and proposed by more than 400 delegates to the Global Indigenous Preparatory Conference for the High-Level Plenary Meeting of the General Assembly to be known as the World Conference on Indigenous Peoples:

Part 1: Paragraph 3. ... establishment of mechanisms to ensure that States obtain the free, prior, and informed consent of Indigenous Peoples and Nations before entering their lands and territories or relocating them. Past relocations require just and fair compensation and, where possible, the option of return. In such instances where Indigenous Peoples have been forcibly evicted from their ancestral lands and territories, that States provide immediate redress including compensation and humanitarian assistance as required

Part 1: Paragraph 4. ... States uphold and respect the self determination of Indigenous Peoples and Nations who do not want resource extraction in their lands and territories

Part 2: Paragraph 2. ... the General Assembly [of the UN] call for the establishment of an international mechanism to provide oversight, redress, restitution and the implementation of Treaties, agreements and other constructive arrangements between Nations and States and successor states.

Part 3: Implementation of the rights of Indigenous Peoples

Paragraph 1. Self-determination includes, inter alia, the right and power of Indigenous Peoples to negotiate on an equal basis with States the standards and mechanisms that will govern relationships between them.

Paragraph 2. ... States, with full, equal and effective participation of indigenous peoples ...ensure that local, provincial and national laws, policies and procedures comply with international standards including human rights treaties and the United Nations Declaration on the Rights of Indigenous Peoples

Paragraph 3. ... States enter into new treaties, agreements and other constructive arrangements with Indigenous Peoples as a way to effectively implement their rights and to resolve violent conflicts and disputes

Paragraph 5. ... States refrain from further militarizing the lands and territories of Indigenous Peoples and Nations and that the security of all Indigenous Peoples be upheld with special measures being taken to ensure the protection of Indigenous women and children.

Paragraph 6. ... States consult with Indigenous Peoples and Nations on the establishment and development of national commissions of inquiry or other independent, impartial and otherwise effective investigative mechanisms to document matters of impunity and other human rights concerns of Indigenous Peoples, and to ensure the recommendations to governments to end impunity for violations of Indigenous Peoples' rights are effectively implemented.

Part 4: Indigenous Peoples' priorities for development – (free, prior and informed consent)

Paragraph 1. Indigenous Peoples' priorities for development are predicated on the full and effective recognition of their rights to lands, territories and natural resources and the connection between customs, belief systems, values and traditional knowledge ... culture be integrated as a pillar into strategies that relate to development

Paragraph 2. ... States uphold and respect Indigenous Peoples' and Nations right of free, prior and informed consent before any activities are carried out in the lands and territories of Indigenous peoples.

Paragraph 3. ... States take a strategic approach to crime and justice with Indigenous Peoples which is informed by standardized and disaggregated data collection ... focused on prevent and diversion as well as protection and rehabilitation.

Paragraph 5. ... States collect, analyze and disaggregate data

Document: World Conference on Indigenous Peoples (2014)

Commitments made in the UN World Conference on Indigenous Peoples Outcome Statement concerning state and nation economic policy relations appear in: Paras. 9, 11, 17, 25*, 26

Of particular relevance to a need for domestic and international implementation protocols is the emphasis in paragraph 25 of the Statement emphasizing "traditional subsistence activities"

7. We commit ourselves to taking, in consultation and cooperation with indigenous peoples, appropriate measures at the national level, including legislative, policy and administrative measures, to achieve the ends of the United Nations Declaration on the Rights of Indigenous Peoples and to promote awareness of it among all sectors of society, including members of legislatures, the judiciary and the civil service.

8. We commit ourselves to cooperating with indigenous peoples, through their own representative institutions, to develop and implement national action plans, strategies or other measures, where relevant, to achieve the ends of the Declaration.

9. We commit ourselves to promoting and protecting the rights of indigenous persons with disabilities and to continuing to improve their social and economic conditions, including by developing targeted measures for the aforementioned action plans, strategies or measures, in collaboration with indigenous persons with disabilities.

10. We commit ourselves to working with indigenous peoples to disaggregate data, as appropriate, or conduct surveys and to utilizing holistic indicators of indigenous peoples' well-being to address the situation and needs of indigenous peoples and individuals, in particular older persons, women, youth, children and persons with disabilities.

13. We commit ourselves to ensuring that indigenous individuals have equal access to

the highest attainable standard of physical and mental health.

14. We commit ourselves to promoting the right of every indigenous child, in community with members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion or to use his or her own language.

17. We commit ourselves to supporting the empowerment of indigenous women and to formulating and implementing, in collaboration with indigenous peoples, in particular indigenous women and their organizations, policies and programmes designed to promote capacity-building and strengthen their leadership.

18. We commit ourselves to intensifying our efforts, in cooperation with indigenous peoples, to prevent and eliminate all forms of violence and

25. We commit ourselves to developing, in conjunction with the indigenous peoples concerned, and where appropriate, policies, programmes and resources to support indigenous peoples' occupations, traditional subsistence activities, economies, livelihoods, food security and nutrition.

33. We commit ourselves to considering, at the seventieth session of the General Assembly, ways to enable the participation of indigenous peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them, including any specific proposals made by the Secretary-General in

response to the request made in paragraph 40 below.

35. We commit ourselves to respecting the contributions of indigenous peoples to ecosystem management and sustainable development, including knowledge acquired through experience in hunting, gathering, fishing, pastoralism and agriculture, as well as their sciences, technologies and cultures.

This emphasis is supplemented in Paragraph 26 by the text that reads how states and nation should recognize the role that indigenous peoples can play in economic, social and environmental development through traditional sustainable agricultural practices, including traditional seed supply systems, and access to credit and other financial services, markets, secure land tenure, health care, social services, education, training, knowledge and appropriate and affordable technologies, including for irrigation, and water harvesting and storage.

In paragraph 31 the World Conference emphasized the need for the Secretary-General of the UN “in consultation and cooperation with indigenous peoples” begin the development of a “system-wide action plan to ensure a coherent approach to achieving the ends” of the UN Declaration on the rights of Indigenous Peoples.

ENVIRONMENTAL policy and commitments

Numerous nation and state instruments enshrine principles, policies and commitments to

address the environment and related matters, but the most direct and clear relationship between nation policies and commitments and state policies and commitments appear in several key instruments. These are included below with relevant parts and sections of those instruments.

These are the relevant international instruments indicating nation and state agreement or commitments concerning environmental matters:

Document: International NGO Conference on Discrimination Against Indigenous Populations in the Americas—September 20-23, 1977.

1. Indigenous peoples shall be accorded recognition as nations, and proper subjects of international law, provided the people concerned desire to be recognized as a nation and meet the fundamental requirements of nationhood, namely:
 - a. A permanent population
 - b. Defined territory
 - c. A government
 - d. Ability to enter into relations with other [nations] and states.
2. Indigenous nations or groups shall be accorded such degree of independence as they may desire in accordance with international law.
3. Treaties and other agreements entered into by indigenous nations or groups with ... states, whether denominated as treaties or otherwise, shall be recognized and applied in the same manner and according to the same international laws and principles as the

treaties and agreements [as] with any state.

4. Indigenous groups not meeting the requirements of nationhood are hereby declared to be subjects of international law ... provided they are identifiable groups having bonds of language, heritage, tradition, or other common identity.

10. It shall be unlawful for any state to take or permit any action or course of conduct with respect an indigenous nation or group which will directly or indirectly result in the destruction or disintegration of such indigenous nation or group or otherwise threaten the national or cultural integrity of such nation or group, including but not limited to, the imposition and support of illegitimate governments and the introduction of non-indigenous religions to indigenous peoples by non-indigenous missionaries.

11. It shall be unlawful for any state to make or permit any action or course of conduct with respect to any indigenous nation or group which will directly or indirectly result in the destruction or deterioration of an indigenous nation or group through the effects of pollution of earth, air, water, or which in any way depletes, displaces or destroys any natural resource or other resources under the dominion of, or vital to the livelihood of an indigenous nation or group.

ILO Convention on Indigenous and Tribal Peoples (1989)

Part 1, Article 1: Convention Applies to:

(a) Tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations

(b) Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region which the country belongs, at the time of conquest or colonisation or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

Article 1.2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.

Article 1.3. The use of the term “peoples” in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law.

Part 2, Articles 13-19:

13.1. ... governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories.

13.2. The use of the term “lands” in Articles 15 and 16 shall include the concept of territories, which covers the total environment of the

areas which the peoples concerned occupy or otherwise use.

14.1 The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognized.

14.2 Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession.

14.3. Adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned.

15.1. The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.

15.2. In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programs for the exploration or exploitation of such resources pertaining to their lands.

16.1. Subject to the following paragraphs of this Article, the peoples concerned shall not be removed from the lands which they occupy.

16.2. Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent.

16.3 Whenever possible, these peoples shall have the right to return to their traditional lands, as soon as the grounds for relocation cease to exist.

16.4 When such return is not possible, as determined by agreement ... these peoples shall be provided in all possible cases with lands of quality and legal status at least equal to that of the lands previously occupied...

17.1. Procedures established by the peoples concerned for transmission of land rights among members of these peoples shall be respected.

17.3 Persons not belonging to these peoples shall be prevented from taking advantage of their customs or lack of understanding of the laws on the part of their members to secure the ownership, possession or use of land belong to them.

Article 4.1 Special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned.

Article 7.3. Governments shall ensure that, whenever appropriate, studies are carried out, in co-operation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental

criteria for the implementation of these activities.

Article 7.4. Governments shall take measures, in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit.

Article 32. Governments shall take appropriate measures, including by means of international agreements, to facilitate contacts and cooperation between indigenous and tribal peoples across borders, including activities in the economic, social, cultural, spiritual and environmental fields.

Document: UN Declaration on the Rights of Indigenous Peoples (2007)

35. We commit ourselves to respecting the contributions of indigenous peoples to ecosystem management and sustainable development, including knowledge acquired through experience in hunting, gathering, fishing, pastoralism and agriculture, as well as their sciences, technologies and cultures.

Document: Alta Declaration–Outcome Document (2013)

Principles and commitments made and proposed by more than 400 delegates to the Global Indigenous Preparatory Conference for the High-Level Plenary Meeting of the General Assembly to be known as the World Conference on Indigenous Peoples: Part 4: Paragraph 1, 2, 3, 4, 5.

Part 4: Indigenous Peoples’ priorities for development–(free, prior and informed

consent)

Paragraph 1. Indigenous Peoples’ priorities for development are predicated on the full and effective recognition of their rights to lands, territories and natural resources and the connection between customs, belief systems, values and traditional knowledge ... culture be integrated as a pillar into strategies that relate to development

Paragraph 2. ... States uphold and respect Indigenous Peoples’ and Nations right of free, prior and informed consent before any activities are carried out in the lands and territories of Indigenous peoples.

Paragraph 3. ... States take a strategic approach to crime and justice with Indigenous Peoples which is informed by standardized and disaggregated data collection ... focused on prevent and diversion as well as protection and rehabilitation.

Paragraph 5. ... States collect, analyze and disaggregate data

Document: World Conference on Indigenous Peoples (2014)

Commitments or points of “encouragement” made by states’ parties in the UN World Conference on Indigenous Peoples Outcome Statement concerning state and nation environmental policy relations appear in: Paras. 34, 35, 36.

The states’ agreed in Paragraph 34 to “encourage” UN member states to recognize the significant contribution of indigenous

peoples to the promotion of sustainable development to ... achieve... *a just balance between economic, social and environmental needs of the present and future generations.*

The Commitment is made in Paragraph 35 for UN member states to respect “*the contributions of indigenous peoples to ecosystem management and sustainable development, including knowledge acquired through experience in hunting, gathering, fishing, pastoralism and agriculture, as well as their sciences, technologies and cultures.*”

UN member states and recommendations from nations are presented in Paragraph 36 stating, “*indigenous peoples’ knowledge and strategies to sustain their environment should be respected and taken into account when we develop national and international approaches to climate change mitigation and adaptation.*”

25. We commit ourselves to developing, in conjunction with the indigenous peoples concerned, and where appropriate, policies, programmes and resources to support indigenous peoples’ occupations, traditional subsistence activities, economies, livelihoods, food security and nutrition.

33. We commit ourselves to considering, at the seventieth session of the General Assembly, ways to enable the participation of indigenous peoples’ representatives and institutions in meetings of relevant United Nations bodies on issues affecting them, including any specific proposals made by the Secretary-General in

response to the request made in paragraph 40 below.

35. We commit ourselves to respecting the contributions of indigenous peoples to ecosystem management and sustainable development, including knowledge acquired through experience in hunting, gathering, fishing, pastoralism and agriculture, as well as their sciences, technologies and cultures.

CULTURE AND SOCIETY principles and commitments

These are the relevant international instruments indicating nation and state agreement or commitments concerning cultural and social matters:

Document: International NGO Conference on Discrimination Against Indigenous Populations in the Americas—September 20-23, 1977.

Social and Cultural Commission

Preamble Paragraph I. The destruction of indigenous cultures in the Americas is historically inseparable from the considerations which motivated, and which still motivate the criminal acts of the European colonizers, the primary consideration being human exploitation and the greed for land and cheap labour. To destroy a culture is to destroy the basis for an autonomous society able to defend the interest of its members.

- Culture is the heritage of all peoples. Its preservation among a community is a

fundamental guarantee of that community's physical survival and well-being. It is the human right of all peoples to develop and transmit their own culture.

- The commission of Ethnocide must be defined as both a cause and a part of Genocide, in that the ulterior purpose is the disappearance of the indigenous community.
- CA guarantee must be secured where necessary for the right of indigenous peoples to participate in the national life of their countries wherever they live, on the basis of their own culture, values and ideals. Cultural and social assimilation into the dominant society must proceed from the free choice of individuals and never from the coercive effort of the dominant society.
- Indigenous communities must be guaranteed the control and supervision of both the form and content of education of their people.
- Indigenous peoples must be protected from the following practices:
 - Sterilization in the absence of free and informed consent.
 - Adoption, sponsorship and foster-home actions that remove Indian children from the native community and culture.

Medical-experimentation practices at the risk of the health and integrity of their subjects

Legal Commission

- Immediate application of the principle of self-determination for indigenous peoples, and

their recognition as nations.

- Recognition of some nations that have concluded treaties assert immediate recognition as states under international law based on treaties that clearly recognized nations' sovereign status.
- States claim under the UN Charter the principle of territorial integrity and preservation of state sovereignty that can be affected by nations' assertion of self-determination.

Indigenous Laws and Courts

- Indigenous laws have existed and still exist among indigenous peoples. Nations such as the Iroquois traditional councils continue to exercise their full system of law and custom.
- Customs are the sources of law.
- Traditional law and customs of indigenous peoples become respected, including the jurisdiction of their forums and procedures for applying their law and customs.

Document: ILO Convention on Indigenous and Tribal Peoples (1989)

Part 1, Article 1: Convention Applies to:

(a) Tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations

(b) Peoples in independent countries who

are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region which the country belongs, at the time of conquest or colonisation or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

Article 1.2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.

Article 1.3. The use of the term “peoples” in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law.

Part 2, Articles 13-19:

13.1. ... governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories.

13.2. The use of the term “lands” in Articles 15 and 16 shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use.

Article 4.1 Special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned.

Article 32. Governments shall take appropriate measures, including by means of international

agreements, to facilitate contacts and cooperation between indigenous and tribal peoples across borders, including activities in the economic, social, cultural, spiritual and environmental fields.

UN Declaration on the Rights of Indigenous Peoples (2007)

ARTICLE 8, 1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

Alta Declaration (2013)

Principles and commitments made and proposed by more than 400 delegates to the Global Indigenous Preparatory Conference for the High-Level Plenary Meeting of the General Assembly to be known as the World Conference on Indigenous Peoples contained in the WCIP (2014) Outcome Statement: Part 4: Paragraphs: 9, 10, 11, 12, 13,14, 19, 24, 25, 26, 27, 29

Paragraph 9: Commitment to promoting and protecting the rights of indigenous persons with disabilities and to continuing to improve their social and economic conditions, including by developing targeted measures for the aforementioned action plans, strategies or measures, in collaboration with indigenous persons with disabilities. We also commit ourselves to ensuring that national legislative, policy and institutional structures relating to indigenous peoples are inclusive of indigenous persons with disabilities and contribute to the advancement of their rights.

Paragraph 10: Commitment to work with indigenous peoples to disaggregate data, as appropriate, or conduct surveys and to utilizing holistic indicators of indigenous peoples' well-being to address the situation and needs of indigenous peoples and individuals, in particular older persons, women, youth, children and persons with disabilities.

Paragraph 11: Commitment to ensure equal access to high-quality education that recognizes the diversity of the culture of indigenous peoples and to health, housing, water, sanitation and other economic and social programmes..."

Paragraph 17: Commitment to empowerment of indigenous women and to formulating and implementing, in collaboration with indigenous peoples, ... programs designed to promote capacity-building and strengthen their leadership.

POLITICAL (GOVERNANCE) principles and commitments

These are the relevant international instruments indicating nation and state agreement or commitments concerning political governance matters:

Document: International NGO Conference on Discrimination Against Indigenous Populations in the Americas—September 20-23, 1977.

Legal Commission

Legal Status of Indigenous Peoples

- Demand immediate application of the principle of self-determination for indigenous peoples, and their recognition as nations.
- Recognition of some nations that have concluded treaties assert immediate recognition as states under international law based on treaties that clearly recognized nations' sovereign status.
- States claim under the UN Charter the principle of territorial integrity and preservation of state sovereignty that can be affected by nations' assertion of self-determination.
- The Declaration of Principles for the Defense of Indigenous Nations and Peoples of the Western Hemisphere come under study by appropriate non-governmental organizations, and that the Declaration come to the attention of the appropriate organs of the United Nations.

Indigenous Laws and Courts

- Indigenous laws have existed and still exist among indigenous peoples.
- Customs are the sources of law.
- Traditional law and customs of indigenous peoples become respected, including the jurisdiction of their forums and procedures for applying their law and customs.

Legal Discrimination

- Outsider-imposed systems of justice negate the inherent legal right of indigenous peoples to control and regulate their own affairs, such as:

- Acts of outright aggression by the military-police forces
- Torture, arrest and false imprisonment
- Failure to prevent violence persecution by racist/neo-fascist organizations, mineral companies, land agents.
- Infiltration and destabilization of legally constituted indigenous organizations by security agents
- Controlling or manipulating legal jurisdiction of major crimes, preventing indigenous peoples from being judged by a jury of their peers
- Failure to respect the fundamental rights of women and children
- Failure to respect indigenous graveyards and sacred places.

Recommendations of the Conference: revised ILO Convention 107, traditional law and customs of indigenous peoples respected including jurisdiction of their own forums and procedures, engage the Intergovernmental Committee for European Migration, return control of suitable land to enable nations to live an economically viable existence, ownership of Indian land by indigenous peoples should be unrestricted,

Document: ILO Convention on Indigenous and Tribal Peoples (1989)

Part 1, Article 1: Convention Applies to:

(a) Tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations

(b) Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region which the country belongs, at the time of conquest or colonisation or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

Article 1.2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.

Article 1.3. The use of the term “peoples” in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law.

Part 2, Articles 13-19:

13.1. ... governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories.

13.2. The use of the term “lands” in Articles 15 and 16 shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use.

Documents: UN Declaration on the Rights of Indigenous Peoples (2007)

ARTICLE 3: Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

ARTICLE 6: Every indigenous individual has the right to a nationality.

Document: Alta Declaration–Outcome Document (2013)

Principles and commitments made and proposed by more than 400 delegates to the Global Indigenous Preparatory Conference for the High-Level Plenary Meeting of the General Assembly to be known as the World Conference on Indigenous Peoples: Part 4: Paragraph 3,

World Conference on Indigenous Peoples (2014)

Commitments or points of “encouragement” made by states’ parties in the UN World Conference on Indigenous Peoples Outcome Statement concerning state and nation Justice policy relations appear in: Preamble, Paragraphs 5, 6, 7. Paragraphs 3, 15, 17, 20, 31

Preamble: Paragraph 5: United Nations must uphold their solemn obligations under the United Nations Charter to develop friendly relations among nations based on

respect for the principle of equal rights and self-determination of peoples, to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and to promote and encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and in particular in the specific cultural context of Indigenous Peoples and the standards recognized by the United Nations Declaration on the Rights of Indigenous Peoples.

Preamble: Paragraph 6: must uphold their obligations in relation to peremptory norms of international law, including equality, non-discrimination, the absolute prohibition of racial discrimination and genocide as well as existing state obligations under customary international law principles concerning the right of self-determination of all peoples, including Indigenous Peoples, and our rights to lands, territories and resources; redress and reparations; free, prior, and informed consent; and our distinct economic, social, cultural and political rights.

Preamble: Paragraph 8: ... affirm that the inherent and inalienable right of self-determination is preeminent and is a prerequisite for the realization of all rights.

SECURITY principles and commitments

These are the relevant international instruments indicating nation and state agreement or commitments concerning security matters:

Document: International NGO Conference on Discrimination Against Indigenous Populations in the Americas—September 20-23, 1977.

Economic Commission

Multinational Corporations: Demands for materials and resources and the inherent profit quest, the multinational corporations have accelerated development and exploitation of native peoples and resources resulting in many cultures and peoples are on the brink of annihilation.

Land Question: Mother Earth provides the sustenance of all life. The land must be respected, carefully used, and meticulously restored ... the land base of indigenous peoples has been steadily diminished by colonial exploitation and the result has been a policy of genocide against the indigenous peoples.

Recommendations:

- Investigation of inhumane and exploitive use of indigenous peoples' labor in South and Central America and enforcement of the U.N. Convention and Supplementary Convention on Slavery, with Particular Regard to the Force Labour and Induced Indebtedness of Indigenous Peoples.
- Affirm the right of self-determination for Dené Nation and the Inuit
- Investigation of Alaskan Native Land Claims Act in cooperation with Alaskan Natives.
- Immediate action to arrest the genocide being committed by governments and

multinational corporations and multilateral aid in the Amazon Basin.

- Protection and preservation of existing Native Land bases from exploitation by multinational corporations.
- Environmental impact investigations of the exploitation of non-renewable natural resources on Indian land, especially water.
- The right of self-determination of aboriginal people in the development of their land and resources according to their own values and social structures and laws.
- Affirmation of the Declaration of Principles of Indigenous Nations and Defense of Indigenous Nations and peoples of the Western Hemisphere.

Social and Cultural Commission

- Preamble Paragraph I. The destruction of indigenous cultures in the Americas is historically inseparable from the considerations which motivated, and which still motivate the criminal acts of the European colonizers, the primary consideration being human exploitation and the greed for land and cheap labour. To destroy a culture is to destroy the basis for an autonomous society able to defend the interest of its members. It is noteworthy that this Commission has had great difficulty in isolating the destruction of culture from other acts of genocide, and it is necessary to constantly bear in mind the links existing between these phenomena.
- Culture is the heritage of all peoples. Its preservation among a community is a

fundamental guarantee of that community's physical survival and well-being. It is the human right of all peoples to develop and transmit their own culture.

- The commission of Ethnocide must be defined as both a cause and a part of Genocide, in that the ulterior purpose is the disappearance of the indigenous community.
- CA guarantee must be secured where necessary for the right of indigenous peoples to participate in the national life of their countries wherever they live, on the basis of their own culture, values and ideals. Cultural and social assimilation into the dominant society must proceed from the free choice of individuals and never from the coercive effort of the dominant society.
- Indigenous communities must be guaranteed the control and supervision of both the form and content of education of their people.
- Indigenous peoples must be protected from the following practices:
 - Sterilization in the absence of free and informed consent.
 - Adoption, sponsorship and foster-home actions that remove Indian children from the native community and culture.
 - Medical-experimentation practices at the risk of the health and integrity of their subjects.

Legal Commission

Legal Status of Indigenous Peoples

- Demand immediate application of the

principle of self-determination for indigenous peoples, and their recognition as nations.

- Recognition of some nations that have concluded treaties assert immediate recognition as states under international law based on treaties that clearly recognized nations' sovereign status.

Document: ILO Convention on Indigenous and Tribal Peoples (1989)

Part 1, Article 1: Convention Applies to:

(a) Tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations

(b) Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region which the country belongs, at the time of conquest or colonisation or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

Article 1.2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.

Article 1.3. The use of the term "peoples" in this Convention shall not be construed

as having any implications as regards the rights which may attach to the term under international law.

Part 2, Articles 13-19:

13.1. ... governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories.

13.2. The use of the term “lands” in Articles 15 and 16 shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use.

15.1. The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.

15.2. In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programs for the exploration or exploitation of such resources pertaining to their lands.

16.1. Subject to the following paragraphs of this Article, the peoples concerned shall not be removed from the lands which they occupy.

16.2. Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent.

16.3 Whenever possible, these peoples shall have the right to return to their traditional lands, as soon as the grounds for relocation cease to exist.

16.4 When such return is not possible, as determined by agreement ... these peoples shall be provided in all possible cases with lands of quality and legal status at least equal to that of the lands previously occupied...

17.1. Procedures established by the peoples concerned for transmission of land rights among members of these peoples shall be respected.

17.3 Persons not belonging to these peoples shall be prevented from taking advantage of their customs or lack of understanding of the laws on the part of their members to secure the ownership, possession or use of land belong to them.

Document: UN Declaration on the Rights of Indigenous Peoples (2007)

Article 7, 1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

Article 7, 2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group or another group.

Article 30, 1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.

2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Document: Alta Declaration (2013)

Principles and commitments made and proposed by more than 400 delegates to the Global Indigenous Preparatory Conference for the High-Level Plenary Meeting of the General Assembly to be known as the World Conference on Indigenous Peoples: Part 3: Paragraph 5,

Part 3: Paragraph 5: *States refrain from further militarizing the lands and territories of Indigenous Peoples and Nations and that the security of all Indigenous Peoples be upheld with special measures being taken to ensure the protection of Indigenous women and children.*

Part 3: Paragraph 5: *States consult with Indigenous Peoples and Nations on the establishment and development of national commissions of inquiry or other independent, impartial and otherwise effective investigative mechanisms to document matters of impunity and other human rights concerns of Indigenous Peoples and to ensure that recommendations*

to [states'] governments to end impunity for violations of Indigenous Peoples' rights are effectively implemented.

JUSTICE principles and commitments:

These are the relevant international instruments indicating nation and state agreement or commitments concerning Justice matters:

Document: International NGO Conference on Discrimination Against Indigenous Populations in the Americas—September 20-23, 1977.

Legal Discrimination

- Outsider-imposed systems of justice negate the inherent legal right of indigenous peoples to control and regulate their own affairs, such as:
 - Acts of outright aggression by the military-police forces
 - Torture, arrest and false imprisonment
 - Failure to prevent violence persecution by racist/neo-fascist organizations, mineral companies, land agents.
 - Infiltration and destabilization of legally constituted indigenous organizations by security agents
 - Controlling or manipulating legal jurisdiction of major crimes, preventing indigenous peoples from being judged by a jury of their peers

- Failure to respect the fundamental rights of women and children
- Failure to respect indigenous graveyards and sacred places.

Document: ILO Convention on Indigenous and Tribal Peoples (1989)

Part 1, Article 1: Convention Applies to:

(a) Tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations

(b) Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region which the country belongs, at the time of conquest or colonisation or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

Article 1.2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.

Article 1.3. The use of the term “peoples” in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law.

Document: UN Declaration on the Rights of Indigenous Peoples (2007)

Article 7, 2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group or another group.

Article 8.1 Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

Article 8, 2, States shall provide effective mechanisms for prevention of, and redress for:

- (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights
- (d) Any form of forced assimilation or integration.

Document: Alta Declaration (2013)

Principles and commitments made and proposed by more than 400 delegates to the Global Indigenous Preparatory Conference for the High-Level Plenary Meeting of the General Assembly to be known as the World Conference on Indigenous Peoples: Preamble, Paragraphs 3 Part 1: Paragraph 3, Part 4: Paragraph 2, 3, 4 Preamble: Paragraph 2: *colonial strategies, policies, and actions designed to destroy Indigenous Peoples and Nations thereby resulting in the ongoing usurpation of Indigenous Peoples' lands, territories and resources; extensive destruction of Indigenous Peoples' political and legal institutions;*

discriminatory practices of colonizing forces aimed at destroying Indigenous Peoples' cultures; failure to honour Treaties, agreements and other constructive arrangements with Indigenous Nations; genocide, crimes against humanity, war crimes and the militarization of Indigenous Peoples and their lands; corporatization and commodification of Indigenous Peoples; and the imposition of "development" models that are destroying the life-giving capacities of Mother Earth and producing a range of detrimental impacts of which climate change could prove to be the most destructive.

Preamble: Paragraph 6: must uphold their obligations in relation to peremptory norms of international law, including equality, non-discrimination, the absolute prohibition of racial discrimination and genocide as well as existing state obligations under customary international law principles concerning the right of self-determination of all peoples, including Indigenous Peoples, and our rights to lands, territories and resources; redress and reparations; free, prior, and informed consent; and our distinct economic, social, cultural and political rights.

Part 1 Paragraph 3: ... establishment of mechanisms to ensure the States obtain the free, prior and informed consent of indigenous Peoples and Nations before entering their lands and territories or relocating them.

Part 4: Paragraph 2: ... States uphold and respect Indigenous Peoples' and Nations right of free, prior and informed consent before any activities

are carried out in the lands and territories of Indigenous Peoples

Part 4: Paragraph 3: ... States take a strategic approach to crime and justice with Indigenous Peoples which is informed by standardised and disaggregated data collection and which is focused on prevention and diversion as well as protection and rehabilitation

World Conference on Indigenous Peoples (2014)

Commitments or points of "encouragement" made by states' parties in the UN World Conference on Indigenous Peoples Outcome Statement concerning state and nation Justice policy relations appear in: Paras. 4, 16, 18

4. We reaffirm our solemn commitment to respect, promote and advance and in no way diminish the rights of indigenous peoples and to uphold the principles of the Declaration.

10. We commit ourselves to working with indigenous peoples to disaggregate data, as appropriate, or conduct surveys and to utilizing holistic indicators of indigenous peoples' well-being to address the situation and needs of indigenous peoples and individuals, in particular older persons, women, youth, children and persons with disabilities.

16. We acknowledge that indigenous peoples' justice institutions can play a positive role in providing access to justice and dispute resolution and contribute to harmonious relationships within indigenous peoples' communities and within society. We commit

ourselves to coordinating and conducting dialogue with those institutions, where they exist.

18. We commit ourselves to intensifying our efforts, in cooperation with indigenous peoples, to prevent and eliminate all forms of violence and discrimination against indigenous peoples and individuals, in particular, women, children, youth, older persons and persons with disabilities, by strengthening legal, policy and institutional frameworks.

21. We also recognize commitments made by States, with regard to the Declaration, to establish at the national level, in conjunction with the indigenous peoples concerned, fair, independent, impartial, open and transparent processes to acknowledge, advance and adjudicate the rights of indigenous peoples pertaining to lands, territories and resources.

FURTHER REFERENCES IN CNS REFERENCE LIBRARY:

Cobo, JRM, (1981) Study of the Problem of Discrimination Against Indigenous Populations. Final Report. Special Rapporteur, Mr. José R. Martínez Cobo. E/CM.4/Sub.2/476/Add.4 30 July 1982.

Martínez, Miguel Alfonso. (1999). Study on Treaties, agreements and other constructive arrangements between States and indigenous populations. UN Economic and Social Council, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities. E/CN.4/Sub.2/1999/20

Daes, Erica-Irene (2004). Prevention of Discrimination and Protection of Indigenous Peoples, Indigenous peoples' permanent sovereignty over natural resources. Final report. Economic and Social Council, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities. E/CN.4/Sub.2/2004/30.

The Center for World Indigenous Studies does not suggest that the information contained here is all encompassing, but rather we do suggest that key principles and commitments cited in the many documents and references may assist to advance the process of nations and states implementing procedures under free, prior and informed consent to establish comity in the 21st century.

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