

Strategies and Implications for American Indian Nations

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

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

The continuation and potential success of the self-governance process hangs on a very thin string, and frequently wavers between real progress and utter defeat. The reality is that with Indian government persistence there is a significant possibility of success resulting in the resumption of self-government for several tribes and a reduction of B.I.A. powers over those tribes. On the other hand, if Indian governments pull back, they risk the rapid increase of B.I.A. powers and a substantial further reduction of Indian government powers. Furthermore, the possibility of increasing tribal self-government powers in the future will have been substantially reduced. Clearly the self-governance process is a very risky proposition.

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

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These are the political realities faced by Indian nations involved in the self-governance process. Virtually all of the momentum thus far achieved in the self-governance process depends on tribal persistence and limited U.S. government tolerance. The achievements to-date have depended solely upon direct tribal and U.S. commitments within the framework of U.S. institutions and laws. The only leverage Indian governments have which may cause the United States government to continue the self-governance process to a satisfactory conclusion involves their own political commitment and the commitment of two Congressmen.

It is quite obvious that this extremely limited leverage is not enough to ensure that the United States government will actually negotiate Self-Governance Compacts under terms acceptable to Indian governments. Those Indian nations which seek to negotiate an agreement with the United States will need a great deal more political leverage than currently exists.

The need for greater political leverage becomes even more obvious when it becomes apparent that in addition to unofficial U.S. reluctance to enter into an acceptable Self-Governance Compact, the United States government is actively working to defeat Indian self-governance at the international level. This analysis reviews the international dimensions of tribal self-governance - those decisions and events outside U.S. boundaries which directly bear upon tribal self-governance. Consideration of the international dimensions is necessary for these reasons:

The United States government has for two generations had the benefit of international protection from political pressure and criticisms concerning its treatment of Indian nations.

Due to increased political activity by indigenous nations on the international plain since 1971, international opinion favoring Indian self-determination, self-government and sovereignty is better informed and potentially advantages to Indian nations seeking to exercise self-government.

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

The United States government, in cooperation with Canada, United Kingdom, Belgium and Australia, is within the frame work of United Nations organs working to limit or defeat international recognition of indigenous peoples' right to self-determination, self- government and sovereignty.

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

As a member of the Inter-American Indian Congress with Central and South American states' governments, the United States government seeks to promote multi-lateral cooperation in the Western Hemisphere to control Indian populations.

In cooperation with Canada, the United States government seeks to limit the scope of the Universal Declaration on the Rights of Indigenous Peoples now under consideration by the United Nations Working Group on Indigenous Populations - eventually to be placed before the United Nations General Assembly for final adoption.

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

These conditions combine to illustrate the magnitude of effort presently under way on the international plain either to advance indigenous self-government or defeat it. Clearly, if indigenous nations succeed in formalizing an international consensus which favors indigenous peoples' self-determination, self-government and sovereignty, American Indian nation's self-government interests will be served. However, if states' governments succeed in formalizing limitations, the Indian nations will suffer serious set-backs their relations with the United States.

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

In the following pages, we will examine in some details the emerging international Indian Affairs agenda. We will review the historical background of the emerging agenda, the growing role of indigenous nations in the international arena, the significance of the Tribal Self-Governance Demonstration Project within the international context, and the key issues being debated in the international sphere affecting tribal self-governance. We will review, in addition, the recent decisions and events flowing from the United Nations Working Group on Indigenous Populations which have importance to the tribal self-governance process.

1. HISTORICAL OVERVIEW: Expanding External Indian Affairs

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

Nearly one quarter of all Indian nations in the United States engaged in the Self-Governance Planning process and entered into new treaties with the United States government in the form of Self-Governance Compacts. The very act of planning to govern itself is an act which has major external significance. It is an activity which has dramatic importance internally and internationally.

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Even with the self-governance compacts there are now no fully self-governing Indian nations inside the boundaries of the United States. Virtually all Indian nations exercise very limited self-government, or no self-government at all. Rebuilding self-governance institutions in the slowly emerging “self-governance tribes” has already caused ripples of controversy internally, in neighboring county and state communities and in the government of the United States. Similar ripples are being felt in the councils of the United Nations, Organization of American States, World Bank and many other international organizations.

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

The drive for self-government over the last fifty years, radically changed Indian Affairs. The language used to describe Indian Affairs issues became more extensive; and the methods for conducting external affairs became more complex. If Indian nations attain full self-governance, a new threshold will have been achieved.

In the one hundred years between the mid-1840s and the mid-1940s Indian nations became politically invisible to the world. It was in this period that the United States of America moved to internalize Indian nations. Before the 1840s, Indian nations throughout North America had both an internal personality and an external personality known by their neighbors and many countries around the world. Like a great shroud pulled over a table hiding it from view, the United States imposed its will over Indian nations. By so doing, the United States worked to absorb Indian nations and their territories, thus cutting contact between Indian nations and the rest of the world. Economic, social and political ties between Indian nations, and other nations and countries in the world were blocked by the United States. U.S. obstructions rendered each Indian nation wholly dependent on the United States of America. The strongest expressions of self-government by each Indian nation - social, economic and political self-rule - came to a halt. Absent the power to rule themselves, some Indian nations disappeared while the remainder became mere shadows of their former political existence - they lost all remnants of an external personality.

In the late 1930s this condition began to change. The world was in an economic depression and the United States, like virtually all other countries, was seriously weakened. New political winds were blowing in Washington, D.C. and in the capitols of the western hemisphere. The United States government was a neutral party to the growing conflicts in Europe. A revolution had been fought in Mexico ending in the emergence of a government heavily influenced by a very large Indian population. The civil war in Mexico resulted in a government which promised restructuring of the land tenure system. This meant land reform for millions of Indians in Mexico.

The United States government regarded the changes in Mexico as important to the strategic, economic and political interests of the United States. To serve its own interests, the United States accepted an invitation from Mexico's new President to open discussions about a treaty that would deal with Indian land

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tenure and the preservation and protection of Indian peoples. The result of these discussions was the conclusion of the Inter-American Treaty on Indian Life in 1941 (See Appendix A). This treaty established an Inter-American Indian Congress with representatives from seventeen western hemisphere countries which would meet every four years. It also established the Inter-American Indian Institute with the responsibility for conducting research and publishing reports on Indian peoples in the western hemisphere.

The Inter-American Treaty of 1941 proved to be a catalyst for the re-emergence of Indian nations into international affairs. By 1944, Indian nations formed the first inter-tribal organization which involved nations from across the country. This organization became the National Congress of American Indians. Until 1944, Indian nations had been dealing with one another through loosely organized local inter-tribal groups. The most active of these was the Northwest Inter-Tribal Council.

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

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

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

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

The Committee finished its inquiries into the living and labor conditions of indigenous peoples and made recommendations to the 1956 and 1957 Sessions of the International Labour Conference. From these recommendations the International Labour Organization drafted and approved the **Convention**

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concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries - known popularly as I.L.O. Convention 107.

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

Indian leaders vigorously opposed U.S. termination and assimilation policies in the **Point 4 Program** and later in the **Declaration of Indian Purpose** (1961). In part because of Indian opposition, but more because of the problem of resolving multiple-heirship problems on Indian land, the United States government officially ceased efforts to terminate Indian reservations in 1961. Assimilation policies continued to persist.

In 1970, U.S. President Richard Nixon announced his Administration's Indian Affairs policy which rejected the termination policies of the past and emphasized Indian self-determination. Apparently unrelated to this, the U.S. government began talks with the U.S.S.R. as a part of the U.S. detente foreign policy. This activity pointed to the eventual negotiations of the Helsinki Accords binding the U.S., the Soviet Union, Canada and European states to a series of Human Rights principles. Though unknown by Indian leaders at the time, there was a direct connection between Mr. Nixon's Indian self-determination policy announcement and meetings with the Soviet Union. The United States government frequently relied on Mr. Nixon's Indian policy statement in discussions with the Soviet Union and other European states. As a counter to U.S. government charges of Soviet mistreatment of Jews, Soviet representatives charged the U.S. government with mistreating Indians. United States representatives simply pointed to Mr. Nixon's Indian self-determination policy statement as an example of how Indians received positive treatment. Self-determination for Indians was presented as a positive demonstration of U.S. compliance with international Human Rights standards. Under the Helsinki Final Act, the United States was obliged to report quarterly on its treatment of Indian peoples.

While the U.S. was pressing its detente policy with the Soviet Union, the National Congress of American Indians and the National Indian Brotherhood of Canada concluded an agreement of mutual cooperation. N.C.A.I. and the N.I.B. opened the door for expanding Indian nations' external agenda beyond the boundaries of the United States. In 1971, the International Indian Affairs Agenda broke all barriers to the complete re-emergence of Indian nations into international affairs. The tight of Indians to cross the U.S./Canada border without obstruction became an important issue. Border crossings between the United States and Mexico also became an agenda item.

Coincident with N.C.A.I. and N.I.B. cooperation, the United States government and the Canadian government began annual consultations on Indian Affairs.

The achievement of an expanded international agenda did not come too soon. Indeed, just as *N.C.A.I.* and *N.I.B.* developed their international efforts, the United States, Soviet Union and other European states more intensely considered the rights of Indians in their discussions in Helsinki International non-governmental organizations like the International Commission of Jurists organized an international

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conference concerning Indian rights with the participation of a number of individual Indians and called for international respect for Indian rights. The *NGO* conference also called upon the United Nations Commission on Human Rights to undertake a study of indigenous peoples and their treatment by states' governments. In 1971, the U.N. Commission on Human Rights authorized a **Study of the Problem of Discrimination Against Indigenous Populations** and commissioned Jose R. Martinez Cobo to direct the study as the United Nations Special Rapporteur. In 1973, the National Congress of American Indians adopted its **Declaration of Sovereignty**. Thus began the rapid growth of a wholly new dimension to Indian nations' external affairs. Not only would Indian nations' external affairs include issues and events within the domestic environs of the United States, but from 1971 onward, Indian nations would assume a role of increasing importance in the United Nations and similar international agencies. Of equal importance, Indian nations would assume a greater position of significance in the relations between the United States and other states' governments.

II. Re-emergent Nations on the International Stage

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

The diagram on the next page graphically illustrates the growth of international activity affecting Indian Affairs.

As a direct consequence of increased activities by Indian nations on the international plain, the United Nations expanded its ten-year study (Cobo Study) of the situation of indigenous populations. The U.N. established in 1982 the Working Group on Indigenous Populations (Economic and Social Council Resolution No. 1982/34 - 7 May 1982) and it now regularly considers recommendations and proposals concerning Indigenous peoples by four U.N. organs. The Sub-commission on Prevention of Discrimination and Protection of Minorities regularly considers indigenous rights issues. The Commission on Human Rights regularly hears direct presentations from indigenous representatives.

The most important United Nations organ next to the General Assembly and the Security Council, the Economic and Social Council receives at least one and sometimes more recommendations for its action each year. In 1985, the United Nations General Assembly voted in favor of establishing a Voluntary Fund for Indigenous Populations to help support the participation of indigenous nations in the deliberations of the Working Group on Indigenous Populations. This was the first time the U.N. ever approved funds specifically for use by indigenous peoples. The International Labour Organization is considering a partial revision of I.L.O. Convention 107. The World Bank now has an agenda item relating to its Tribal Economic Development policy which was adopted in 1982. The Organization of American States now considers issues relating to indigenous nations.

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

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

Since 1971, the framework within which indigenous nations pressed their agenda has been outside states' government in organizations like the United Nations and the World Council of Indigenous Peoples. For the most part, this time was used to acquire experience at the international level. Now that experience is being used to increase Indian nations' direct participation in the formulation of new international laws and apply political pressures on states' governments.

Three major initiatives affecting international rules of conduct have: been the focus of the International Indian Affairs Agenda In 1977, the World Council of Indigenous Peoples called for the development and adoption of an international declaration on the rights of indigenous peoples. Non governmental organizations joined in support of this call. By 1984, international opinion began to agree with the 1977 WCIP call for a declaration. The United Nations Working Group on Indigenous Populations toot up the challenge and announced that it would begin drafting the language for a Universal Declaration on the Rights of Indigenous Peoples. With the concurrence of the U.N. Economic and Social Counsel and the U.N. Commission on Human Rights it was agreed that a declaration on the rights of indigenous peoples would be placed before the United Nations General Assembly for its consideration. While work continues to progress on the Declaration, plans are now being made to ask the United Nations General Assembly to act on the final Declaration in 1992 - Me year marking 500 years since Spain entered the western hemisphere.

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

A third major initiative is the United Nations Study of the Significance of Treaties and Agreements and Other Constructive Agreements. Originally recommended by Special Rapporteur Jose R. Martinez Cobo in his ten-year Study of the Problem of Discrimination Against Indigenous Populations for the United

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Nations Commission on Human Rights, the U.N. Treaty Study was formally authorized by the United Nations in 1988. The three-year study of treaties and agreements between indigenous nations and states' governments was outlined to focus on the validity of such agreements and the degree to which they are enforced (See Appendix G).

While the United Nations and International Labor Organization actively include Indian Affairs issues in their agendas, the Inter-American Indian Congress focused on Indian Affairs as its primary agenda item. Every four years, eighteen member states from the Western Hemisphere meet to give direction to the Inter-American Indian Institute and to exchange policy on treatment of Indian nations. The most recent session of the Inter-American Congress took place in Santa Fe, New Mexico in 1985. The Inter-American Indian Institute plays a major role as an "expert agency" advising the United Nations and the International Labour Organization on their policies toward Indian and other indigenous nations. Particular emphasis has been placed on the development of the Universal Declaration on the Rights of Indigenous Peoples and partial revision of I.L.O. Convention 107.

III. Self-Government Demonstration Project/ International Agenda

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

As a result of three Indigenous Peoples' Preparatory Sessions (I.P. P.S.) convened in Geneva, Switzerland in 1985, 1987 and 1988 the issue of indigenous peoples' self-determination, thus the right of self-government, received concentrated attention in the early drafting sessions for the Universal Declaration on the Rights of Indigenous Peoples. In the I.P.P.S. Declaration of Principles (See Appendix D) indigenous representatives urged the adoption of twenty-two principles in the Universal Declaration on the Rights of Indigenous Peoples. Recommendations 2, 3, 5 and 9 specifically reflect the self-governance agenda of Indian nations in the United States

2. All Indigenous Nations and peoples have the right to self-determination, by virtue of which they have the right to whatever degree of autonomy or self-government they choose. This includes the right to freely determine their political status, freely pursue their own economic, social, religious and cultural development, and determine their own membership and/or citizenship, without external interference.
3. No State shall assert any jurisdiction over an Indigenous Nation and people, or its territory, except in accordance with the freely expressed wishes of the Nation and people concerned.
8. Rights to share and use land, subject to the underlying and inalienable title of the Indigenous Nation or people, may be granted by their free and informed consent, as evidenced in a valid treaty or agreement.
9. The laws and customs of Indigenous Nations and peoples must be recognized by States' legislative, administrative and judicial institutions and, in case of conflicts with State laws, shall take precedence.

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

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

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

1. Indigenous people shall have exclusive rights to their traditional land and its resources, and where the lands and resources of the indigenous people have been taken away without their free and informed consent such lands and resources shall be returned;
2. The land rights of an indigenous people include surface and subsurface rights, full rights to interior and coastal waters and rights to adequate and exclusive coastal economic zones within the limits of international law;
3. All Indigenous peoples may, for their own needs, freely use their natural wealth and resources in accordance with the two principles mentioned above; and
4. No action or course of conduct may be taken which, directly or indirectly, may result in the destruction of land, air, water, an ice, wildlife, habitat or natural resources without the free and informed consent of the indigenous peoples affected.

Some of the W.C.I.P adopted principles were incorporated in the final proposed revisions of Convention 107. The United States Department of Labor, Bureau of International Labor Affairs received the newly proposed International Labour Organization Convention Concerning Indigenous and Tribal Peoples in Independent Countries of 1989 on March 2, 1989. The proposed Convention was published in the Federal Register on March 8, 1989 (See Appendix F) requesting comments from tribal governments before April 7, 1989. While the U.S. Department of Labor with the assistance of relevant agencies has prepared the U.S. government's response to the International Labour Organization, there is no evidence that any tribal governments responded to the Federal Register request. The International Labour Organization will consider adoption of the new Convention on June 7, 1989 in Geneva, Switzerland. Subsequent to adoption, countries will be asked to ratify the Convention. We anticipate the request for ratification to be considered by the United States Senate in late 1989 or early 1990. The debate between indigenous nations representatives and states' government representatives in both the United Nations and the International Labour Organization have special relevance to the Self-Governance Planning process begun in 1988. Indeed, the outcome of the self-governance process in the United States will doubtless have an influence on the final language of both the Universal Declaration on the Rights of

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Indigenous Peoples and the revised Convention 107. Similarly, the debates in Geneva, Switzerland and other international forums concerning indigenous self-determination, self-government, and territorial rights will have a direct bearing on how the United States government negotiates with self-governance tribes.

We noted earlier that in the last twenty years, Indian nations and other indigenous peoples around the world assumed a more activist role in international events outside U.S. boundaries. As we illustrate in the **Emerging International Indian Affairs Agenda 1941 - 1989** diagram, Indian nations' international initiatives have been more than matched by expanded activities by the government of the United States. The United States government is now actively involved in Indian Affairs questions in bi-lateral discussions with the State of Canada. It is also involved in the Inter-American Indian Congress and the Organization of American States; all of the United Nations organs including the United Nations Working Group on Indigenous Populations. The U.S. deals with Indian Affairs issues in the Commission on Security and Cooperation in Europe (created by the Helsinki Final Act), the International Labour Organization and to a lesser degree in its human rights negotiations with the Soviet Union. Since the increased visibility of Indian nations on the international plain, the United States joined with Australia, Canada and New Zealand in a series of meetings every two years which we have called the "English Speaking Symposium."

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

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

The international debate shaping up pits the interests of indigenous nations against the interests of internationally recognized states. The basic questions are.

- Are states' governments abiding by internationally established human rights standards in their treatment of indigenous nations and peoples?
- Should indigenous nations have the right of self-determination: The right to freely choose a social, economic, political and cultural future without external interference?
- Should indigenous nations exercise political and legal control over territories, exclusive of states' government control?
- Do treaties and other agreements between indigenous nations and states' governments have the same standing as--any other international agreement; and should they be enforced in accord with international standards?

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- Do indigenous nations have the right to self-government without external interference?
- Are indigenous nations comprised of peoples with a distinct social, economic and political identity, or are indigenous nations populations similar to minorities subordinate to a state population?

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

The focus of the nation and state contest is on the actual language of a Universal Declaration on the Rights of Indigenous Peoples. A preliminary indication of the potential success of the indigenous nations' position is reflected in the final draft of the revised I.L.O. Convention 107 proposal.

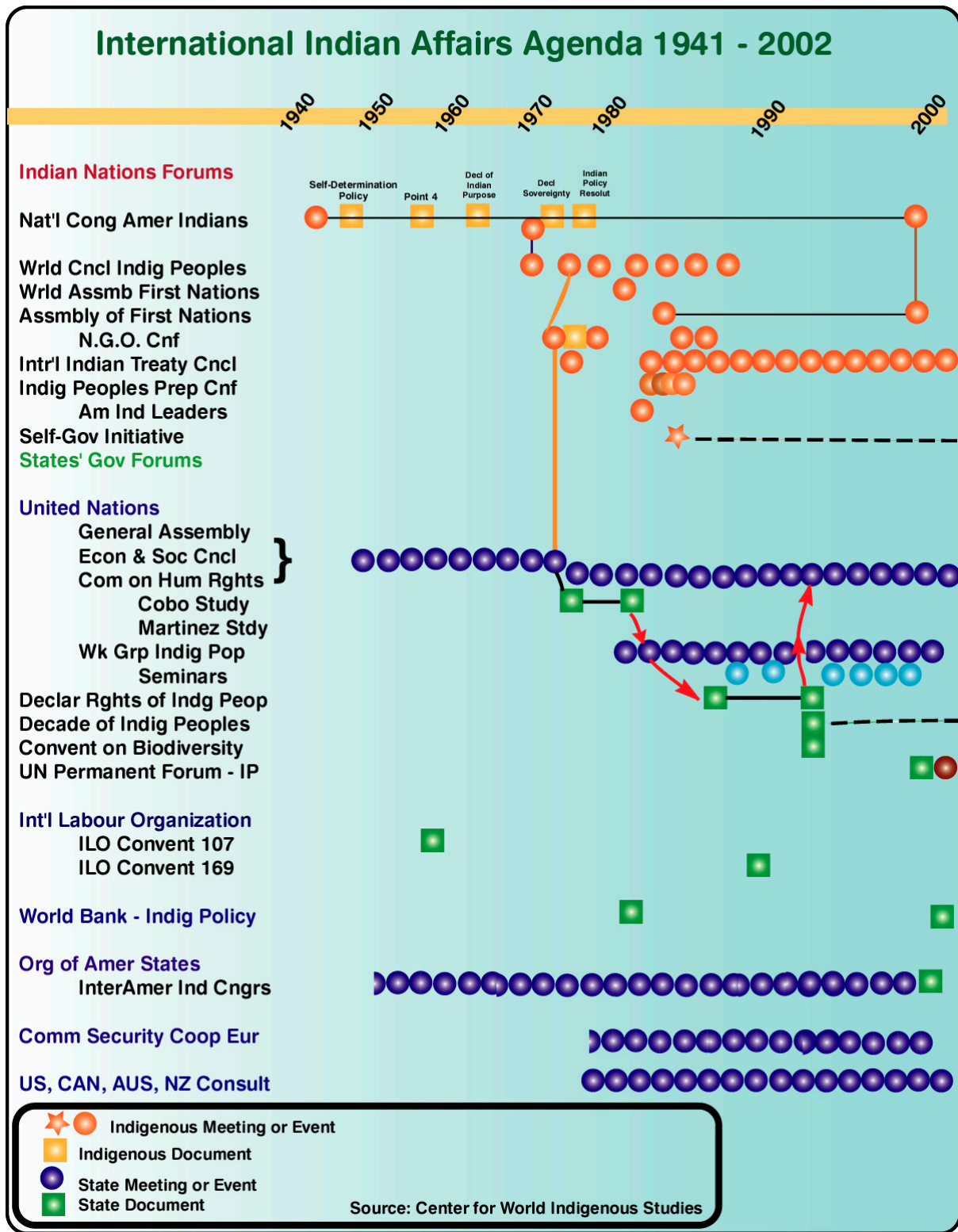
As we shall see in the next section, the debate over language to be contained in a United Nations Draft Declaration on the Rights of Indigenous Peoples and the revised I.L.O. Convention 107 now known as I.L.O. Convention 169 bear directly on Indian nations' self-governance. If the United States, Canada, Australia, Belgium and other vocal states' position favoring strict limitations on indigenous nations is adopted, self-government for Indian nations may well be seriously restricted. On the other hand, if the indigenous position carries the day, Indian nations will be in a much stronger position to press for the maximum degree of self government they require.

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

Nations and the United States of America have been engaged in a protracted struggle since before the signing of treaties. The contest has been over the question of sovereign domain. In other words: Who will govern the territory and people that makes up the Indian nations? The United States of America claims to have original sovereignty and original powers of self-government. Indian nations claim to have original sovereignty and original powers of self-government. The United States government asserts that a separate sovereignty inside its boundaries is inconsistent with its political interests. Indian nations assert that the intrusion of U.S. sovereignty into the Indian sphere of authority is inconsistent with its political interests. Both the U.S. and Indian nations seek to achieve a perfection of sovereign power within each of their domains.

A demonstration of this contest occurred recently when the Lummi Indian Tribe rejected U.S. government attempts to impose one of its taxing powers on the economic activities of Lummi fishermen. Similarly, when the U.S. wanted to claim the right to control Lummi salmon fisheries, the Lummi along with other Indian nations pressed a U.S. federal court to resolve the dispute. This dispute resulted in Lummi having control over fifty-percent of the salmon fishery in its waters. Now the Lummi seeks to resume wider self-governing powers, the consequence of which would mean a lessening of U.S. governing powers inside the Lummi domain. Like neighbors trying to determine the location of a fence

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between their properties, the Lummi and the United States have engaged in a push and shove over issues

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of governing powers.

Virtually all of the confrontations between Indian nations and the United States occurred inside Indian territory or in U.S. territory. Each of the confrontations involve negotiations to either reduce the heat or resolve the debate. Direct negotiations or negotiations in the federal courts or U.S. Congress have been the pattern. The emerging international Indian Affairs agenda has created yet another context within which the struggle between Indian nations' interests and U.S. interests continues. Within a growing web of international linkages, the United States government has for the last twenty years been able to shape the international Indian Affairs agenda without having to directly confront the Indian nations. Indeed, few Indian nations inside U.S. boundaries have actually participated in the twenty-year process of developing the international Indian Affairs agenda. Indian nations from Canada, Central America and South America; and indigenous nations from Northern Europe, the Pacific and Western Pacific and Asia have led in this process. Only have the Haudenosaunee, Hopi and Lakota consistently and actively pressed their interests at the international level outside U.S. boundaries. Their presence, combined with initiatives of individual Indians from inside the U.S. and political pressures from West Germany, Norway and the Soviet Union, caused the United States to deal with its treatment of Indian nations in the international arena.

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

Just as the many confrontations between the United States and Indian nations have involved the issue of political sovereignty in direct negotiations and in the courts and Congress, the same issue figures prominently in the international arena. While the Indian nations have experienced numerous achievements and set-backs confronting the United States within the framework of U.S. Laws, they have always been at a disadvantage. Most of the rules for dealing with U.S./Indian nation confrontations have been of the U.S. government's making; and not of the Indian nations. The international arena offers Indian nations the opportunity to deal with the U.S. on a "level playing field" in a climate of relative equality. In addition, Indian nations have the opportunity to directly participate in the making of the rules on an equal basis with the United States. Instead of being the dominant rule maker in the international arena, the U.S. government is merely one of many which may participate in the rule-making process.

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

Indian nations in the United States have entered upon the most ambitious effort to secure their social, economic and political future since concluding the initiating self-determination in 1919. Nations are

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working to resume self-governmental powers after negotiating a Self-Government Compact with the United States government. While a major focus of ongoing negotiations are on the quantification of funds for direct transfer to the Indian governments from the US government, wider issues of self-determination will remain a persistent theme. Since the Quinault President Joe DeLaCruz along with the Lummi Nation's Chairman Larry Kinley initiated discussions with U.S. Congressional representatives to begin the self-governance process in 1987, the Bureau of Indian Affairs has persistently worked to narrow the scope of the self-governance process. The Bureau of Indian Affairs wants to stress a simple transfer of funds from the United States to the Indian tribes in the fashion of a block-grant where the BIA retains strict administrative oversight. The central issue for the Bureau of Indian Affairs is its ability to remain in control of the Indian tribes through the fund transfer process. B.I.A. officials demonstrate great reluctance to consider the broader "self-governance issues" so carefully crafted into the foundations of the self-governance process by Lummi and Quinault.

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

The International option

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

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

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

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1. The Canadian Government is providing a fair and equitable process for Indian populations to secure protected rights under the Canadian Constitution.
2. Canada's aboriginal peoples are not in the international sense, but they are more accurately characterized as ethnic groups" or minorities.
3. The right to self-determination of Canada's aboriginal peoples is not a guaranteed international right - it is barred as a result of the United Nations Declaration on Friendly Relations and Cooperation among States (1970). This declaration asserts that actions "which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination" is unacceptable. As Canada stated in its remarks: 'If the right of peoples to self-determination were interpreted so broadly that many smaller groups within a democratic and independent state were entitled to establish unilaterally a separate political system, then both the political unity and perhaps the territorial integrity of many non-colonial, democratic and independent States members of the United Nations would be in jeopardy'
4. Canada has increased its financial assistance to aboriginal programs by 76% over a ten-year period (1976 -1986), and aboriginal people benefit from universal access programs.

By virtue of these remarks, the Canadian government with the concurrence of the United States, drew a line in the dirt. Canada and other states' governments said, in effect in 1986, 'we will not accept language in new international law which accepts tribal sovereignty, tribal self-determination, tribes defined as peoples, or tribal self-government.' Instead, states' governments are pressing for language that effectively formalizes Indian tribes as minorities or ethnic groups under their direct control. The countries now most visibly taking this position include: Canada, United States of America, Peoples Republic of China, Great Britain, France, Belgium, Australia, India, Brazil, Nicaragua, Sri Lanka and Indonesia. Countries willing to take a more flexible view of the rights of indigenous nations to determine their own future include: West Germany, Cuba, Peru, Panama, Tanzania, Denmark, Norway, Sweden, Vanuatu and the Netherlands.

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

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

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

As the list of terms above indicates, the terms being advanced for use in the Declaration by indigenous nations would clearly enhance Indian self-governance. The terms states' government advance would clearly defeat Indian efforts to resume self-government. The Bureau of Indian Affairs is plainly committed to defining Indian tribes in accord with states' government terms. If the Universal Declaration on the Rights of Indigenous Peoples becomes heavily slanted toward the states' government position, the Bureau of Indian Affairs position of narrowing the meaning of self-government will receive a strong boost. The Indian position will be weakened.

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

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

By denying that indigenous nations are peoples, states' governments believe they can maintain absolute control of indigenous populations even without their consent. Upon close inspection of the U.S. government's 1979 report to the Commission on Security and Cooperation in Europe (Helsinki Final Act), we find that it is on this very point the United States presents an opposite view. According to the

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National Congress of American Indians submission to the U.N. Working Group on Indigenous Populations in 1983:

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

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

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

V. Political (Strategic and Tactical) Significance of S.G.D.P.

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

Treaties, compacts and agreements between Indian nations and the United States have been a rare occurrence since 1871. The potential for negotiated Self-Governance Compacts now radically alters the 118 year treaty hiatus. The prospect of negotiated Self-Governance Compacts between Indian nations and the United States is not happening in a vacuum. Many other indigenous nations and states' governments began the process of seeking negotiated settlements to unresolved disputes in the 1980s. Political Status Compact negotiations between the United States and representatives of the Federation of Micronesia, Belau, and the Marianas continued or were concluded to restore self-government to these indigenous peoples. To resolve long-standing territorial and political disputes between Aboriginal peoples and the state of Australia, discussions began in 1981 to negotiate the Makarata Treaty. In 1980, the Inuit peoples of Greenland and the government of Denmark entered negotiations of a Greenlandic Home Rule Compact restoring internal self-government to Greenland. Many Indian nations and the state of Canada began talks and negotiations concerning territory and self-government in 1982. The government of Sri Lanka and the Tamil began negotiations in 1987 to end a war in that island country. In 1984, the government of the Republic of Nicaragua and representatives of the Miskito, Sumo and Rama

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Indian nations began peace treaty negotiations aimed at bringing an end to the Indian/Nicaragua war. In 1988, the Swedish government and the Nordic Sami Council announced the beginning of negotiations of a treaty to restore self-governance to Sami territories. Indigenous nation and states' government negotiations of new treaties, compacts and agreements elsewhere in the world demonstrates a growing pattern. Instead of depending solely on states' court systems, legislative systems and outright violent confrontations, direct nation/state negotiations has become an increasingly acceptable alternative.

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

So satisfied was the Canadian government with the agreement in 1987 that it decided to use what became known as the Sechelt Formulae as the approach it would use in future negotiations with other Indian nations. Other Indian nations did not share Canada's satisfaction. Wide-spread opposition to negotiating "self-government and transfer agreements" grew rapidly because of the tendency for these agreements to be used as a pretext for placing Indian nations under direct control of provincial governments instead of affirming separate self-rule in an Indian government. Despite opposition, many Indian nations are now engaged in negotiations with the Canadian government.

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

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

These are virtually the same conditions which prevail around the Self-Governance Demonstration Project and the potential negotiations of Self-Government Compacts. Many self-governance nations seek to maximize the political significance of a Self-Government compact to not only establish a procedure for "direct funding from the U.S. government," but to restore its self-governing powers and

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formalize government to government relations with the United States. The prospect of negotiated Self-Governance Compacts between Indian nations and the United States is not happening in a vacuum. Many other indigenous nations and states' governments began the process of seeking negotiated settlements to unresolved disputes in the 1980s. Political Status Compact negotiations between the United States and representatives of the Federation of Micronesia, Belau, and the Marianas continued or were concluded to restore self-government to these indigenous peoples. To resolve long-standing territorial and political disputes between Aboriginal peoples and the state of Australia, discussions began in 1981 to negotiate the Makarata Treaty. In 1980, the Inuit peoples of Greenland and the government of Denmark entered negotiations of a Greenlandic Home Rule Compact restoring internal self-government to Greenland. Many Indian nations and the state of Canada began talks and negotiations concerning territory and self-government in 1982. The government of Sri Lanka and the Tamil began negotiations in 1987 to end a war in that island country. In 1984, the government of the Republic of Nicaragua and representatives of the Miskito, Sumo and Rama Indian nations began peace treaty negotiations aimed at bringing an end the Indian/Nicaragua war. In 1988, the Swedish government and the Nordic Sami Council announced the beginning of negotiations of a treaty to restore self-governance to Sami territories. Indigenous nation and states' government negotiations of new treaties, compacts and agreements elsewhere in the world demonstrates a growing pattern. Instead of depending solely on states' court systems, legislative systems and outright violent confrontations, direct nation/state negotiations has become an increasingly acceptable alternative.

Several strategic and tactical initiatives undertaken by the Indian nations may be decisive in the conclusion of a balanced Self-Governance Compact which meets most of what the Indian peoples want. Indian nations' incorporation of the following in an expanded external agenda would give the Indian peoples added political leverage to meet the United States government in negotiations on more equal terms:

1. Undertake formal government to government Self-Government Compact negotiations with the United States government at the earliest possible date. These negotiations ought to be based on "a mutual recognition of sovereign identity." Consider negotiating the involvement of third-party observers (invited representatives of the U.N. Working Group on Indigenous Populations and perhaps several representatives of other Indian Tribes).
2. Establish an on-going diplomatic monitoring and representational capability for participating in United Nations dialogues on the formulation of the Universal Declaration on the Rights of Indigenous Peoples. This external diplomatic capability ought to include inserting the Indian nations as major participants in the United Nations Study on the Significance of Treaties and Agreements and Other Constructive Arrangements.
3. The Indian governments ought to actively press the U.S. Congress to ratify the partial revisions of I.L.O. Convention 169 with specific reservations for interpreting the term peoples.

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

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has the dual benefit of broadening the scope of negotiations with external leverage and influencing the international dialogue to support the sovereignty of Indian nations.

VI. Background of UN Initiative 1973 - 1988

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

In 1977, representatives of Indigenous Nations and various non-governmental organizations conducted an international meeting in Geneva, Switzerland which, among other things, called upon the United Nations Commission on Human Rights to establish a special working group to inquire into the international standards for the protection of the rights of Indigenous Populations. The United Nations Economic and Social Council finally considered and adopted **Resolution 1982/34** of May 1982 which authorized the Sub- Commission on Prevention of Discrimination and Protection of Minorities to establish a pre-session Working Group on Indigenous Populations. The Working Group on indigenous Populations was directed to conduct annual sessions to "review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous populations, including information requested by the Secretary-General from States Governments, specialized agencies, regional inter- governmental organizations and non-governmental organizations in consultative status, particularly those of indigenous peoples. The Council also decided that the Working Group 'shall give special attention to the evolution of standards concerning the rights of indigenous populations, taking account of both the similarities and the differences in the situations and aspirations of indigenous populations throughout the world."

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

The Working Group Sessions in 1983, 1984 and 1985 were convened in a like fashion except that Working Group membership was changed in 1985. Ms. Erica-Irene A. Dam of Greece became the new Chairman/Rapporteur. The 1985 session included participation of the following Working Group members in addition to the Chairman/Rapporteur Mr. Miguel Alfonso Martinez, Ms. Gu Yijie, Mr. Kwesi B.S. Simpson and Mr. Ivan Tosevski. The following States' Governments were, represented: Argentina, Australia, Bangladesh, Brazil, Canada, China, France, Honduras, India, Indonesia, Mexico,

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Nicaragua, New Zealand, Norway, Peru, Sri Lanka, Sweden, Turkey, United States of America and Viet Nam. The Holy See was also represented by an observer. About sixty Indigenous Nations and Indigenous organizations were represented at this session.

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

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

1. The right to the full and effective enjoyment of the fundamental rights and freedoms universally recognized in existing international instruments, particularly in the Charter of the United Nations and the International Bill of Human Rights.
2. The right to be free and equal to all other human beings in dignity and rights, and to be free from discrimination of any kind. The collective right to exist and to be protected against genocide, as well as the individual right to life, physical integrity, liberty, and security of person.
3. The right to manifest, teach, practice and observe their own religious traditions and ceremonies, and to maintain, protect, and have access to sites for these purposes.
4. The right to all forms of education, including the right to have access to education in their own languages, and to establish their own educational institutions.
5. The right to preserve their cultural identity and traditions, and to pursue their own cultural development.
6. The right to promote inter-cultural information and education, recognizing the dignity and diversity of their cultures.

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

Review of Session V

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

The first statement was delivered by a minor functionary from the Canadian Mission in Geneva. The second statement, however, was delivered by the head of the delegation who traveled from Ottawa. Mr. Scott Serson is the Assistant Secretary to Cabinet, Privy Council Office. He delivered a six-page statement defending Canadian Government initiatives to promote "aboriginal self-government," and

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announced a kind of Canadian Government policy directed at limiting the definition of "Indigenous Nations as peoples." The Canadian Head of Delegation also emphasized the view that self-determination cannot "permit groups unilaterally to establish their own governments within a particular state." These positions were directly contrary to the positions taken by Indigenous Nations and organizations.

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

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

By virtue of its focused remarks in statement two, the Canadian government revealed areas of political vulnerability which should be carefully considered as illustrative of weaknesses shared among states' governments. Like other countries, Canada seeks political protection from challenges by Indigenous Nations through four arguments:

1. The Canadian Government is providing a fair and equitable process for Indian populations to secure protected rights under the Canadian Constitution.
2. Canada's aboriginal peoples are not peoples in the international sense, but they are more accurately characterized as "ethnic groups" or minorities.
3. The right to self-determination of Canada's aboriginal peoples is not a guaranteed international right - it is barred as a result of the United Nations Declaration on Friendly Relations and Cooperation among States (1970). This declaration asserts that actions "which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination" is unacceptable. As Canada stated in its remarks: "If the right of peoples to self-determination were interpreted so broadly that many smaller groups within a democratic and independent state were entitled to establish unilaterally a separate political system, then both the political unity and perhaps the territorial integrity of many non-colonial, democratic and independent States members of the United Nations would be in jeopardy."
4. Canada has increased its financial assistance to aboriginal programs by 76% over a ten-year period (1976 -1986), and aboriginal people benefit from universal access programs.

These arguments appear to strongly support states' government claims, but in reality they reveal serious weaknesses in their political position. As your first argument, strong evidence exists to demonstrate the coercive and manipulative use of money and intimidation the Canadian government has used to force participation in its Constitutional process. On Canada's second argument, persuasive proof can be developed to demonstrate that the Indian nations are in fact peoples, and indeed, it is the state's citizenry that is not often a people, but made up of a collection of minorities (French, English, Ukrainian, etc.). The third argument is not an argument at all, but a call to other states to protect their

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self interest against indigenous nations within their boundaries by supporting Canada's denial of self-determination to Indigenous Nations inside its boundaries. Finally, the fourth argument simply doesn't hold water. It implies that greater funding ensures improved economic and social conditions among Indigenous peoples - no such evidence supports this contention. As most Indigenous Nations inside Canada would agree, their economic and social conditions are worse now than they were ten-years earlier. And, ten-years earlier Indigenous Nations suffered the worst economic and social conditions by all measurements.

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

Review of Session VI

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

Mr. J.D. Livermore of Canada's Human Rights and Social Affairs Division of the Department of External Affairs headed a five member Observer Delegation. He and his delegation entered three separate interventions during the proceedings. The first of these addressed agenda item #4 on "review of developments." His second intervention addressed agenda item #5 on 'standard setting.' The third intervention was an unusually direct commentary on item #6 concerning the U.N. Treaty Study. Canada's Observer Delegation can be said to have been dominant as spokesman of the other estimated 27 state observer delegations. No other state delegation was so formally active, nor active in the informal corridors.

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

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

The recent actions of the Canadian government and Canada's Observer Delegation remarks at Session VI of Ills 11.N. Working Group regarding entrenching self-government in the Constitution must now demonstrate the folly of past efforts to entrench Indian Self- Government in Canada's Constitution Like other states' governments present, Canada is intent upon politically absorbing Indian Nations in lice with the Sechelt Formulae This course of action demonstrates Canada's to dissolve the sovereignty o(Indian Nations over people and territories through "self-government agreements. "Through such agreements Canada is able to assert that Indian Nations have consented to the dissolution of their sovereign authority and their acceptance of **minority status within Canada.** Combined with its desire to establish "Indian consent for the dissolution of Indian sovereignty,"

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Canada seeks to create not only political dependence on its government but economic dependence through "funding agreements."

Canada also indicates its intent to broaden its political and economic absorption policy to include social absorption. Social absorption, the Canadian Observer advised, will be achieved through "development of an aboriginal languages program" and the establishment of a "Canadian broadcasting policy" with more aboriginal content in operations and programming.

Canada is undertaking perhaps the most ambitious effort of **any** country in the world to politically, economically, and socially absorb indigenous nations. Such effort is clearly in the strategic, economic, and political interest of Canada. Perhaps more aware than anyone, Canada knows that it does not have full political, economic, and strategic control over its claimed territory. The principal obstacle to this control is Indian people and Indian nations which continue to claim and assert their separate political sovereignty. It should be no surprise, therefore, that Canada is going to such lengths to establish a comprehensive process of absorbing Indian nations.

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

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

Based on what is known about Canada's policy toward Indian nations (Absorption through: self-governance and funding agreements - Constitutional Amendment, etc.), its desire to display these actions as progressive during the Sixth Session of the Working Group and its fundamental need to establish its sovereign domain over Indian territories which make up about 2/3 of upper North America, such a maneuver can only be seen as a way of further protecting what I will call the Canadian Indian Absorption Sham! The U.N. Treaty Study promises to expose Canada's Indian Absorption Sham.

When the study was first proposed in the **Cobo Study**, it was being proposed to determine: [1] If Treaties and Agreements between Indigenous nations and State governments have international standing; and, therefore, should be enforced according to international standards, and [2] If future Treaties and Agreements between Indigenous nations and states' governments should have

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international standing and be enforced according to international standards. If agreements between Canada (or any other state for that matter) and indigenous nations are to be held up to international standards and scrutiny, Canada's hold on two-thirds of the upper North American continent would possibly evaporate. Canada's sovereignty over the Indian territories would be called into question. Indeed, Canada's sovereignty generally would be called into question.

Canada has no treaty with Indian Nations in the vast portion of its claimed territory. If the U.N. Treaty Study concluded that international standards must be used in relations between indigenous nations and states would be called into question.

Canada has no treaty with Indian Nations in the vast portion of its claimed territory. If the U.N. Treaty Study concluded that international standards must be used in relations between indigenous nations and states governments, this would put enormous pressure on the Canadian government. It would probably have to open treaty negotiations with most Indian nations inside the boundaries of Canada. These negotiations would not be within the framework of the Canadian government (hidden from international scrutiny), but rather they would have to take place within the international environment. Canada would have to establish treaties with all those nations which it wanted to have within Canadian Sovereign Domain. Without such treaties, Indian Nations like Lil'Wat would be internationally recognized as separate and distinct from Canada - outside her sovereign domain.

Canada and the United States, Australia and Belgium are also eager to insert narrowing language in the developing Draft Universal Declaration on the Rights of Indigenous People. Canada opposes the use of the terms self-determination, sovereignty, peoples, and territory in connection with the rights of Indigenous peoples. The presence of such terms in the Declaration would also place enormous pressure on the Canadian government to deal with Indian nations according to international standards. At present, self-governance and funding agreements need not contain provisions which would normally be required under international standards. These "domestic agreements" need only reflect Canadian constitutional requirements. Under this circumstance, Canada retains absolute control over the meaning and interpretations of such "domestic agreements." U.N. Human Rights standards, or World Court standards need not apply. Canada, is left to do what ever is in its own political, economic and strategic interest - even though Indian nations may be the losers. The conditions which surround pending Self-Governance Compacts with the United States may be described in the same way.

The I.L.O. Convention 107 is equally important since it is an existing international convention which binds the Canadian government. Narrowing language which perpetuates the original character of this Convention (integration, individual rights, land rights as opposed to self-determination, collective rights and territorial rights) is essential to Canada's absorption policy.

Canada's external and internal policies regarding indigenous nations are remarkably well coordinated and consistent. This is unusual for most states. (The United States government does not have such close coordination between its internal policies and external policies) Such consistency shows how fundamentally important to the security and political stability of Canada the question of indigenous rights is. Canada is working on three fronts internally: Self-governance agreements, funding agreements and constitutional amendment. Externally, Canada is working on a broad range of fronts including: U.N. Commission on Human Rights (in 1989 Canada will become a full member), the International Labor Organization in connection with I.L.O. Convention 107, U.N. Working Group on Indigenous

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Populations in connection with the Universal Declaration on the Rights of Indigenous Peoples, the English Speaking Symposium consultations between Canada, U.S.A., Australia and New Zealand every two years; Inter-American Indian Institute meeting every four years where Canada will become a formal member in 1989; Negotiations between Yapti Tasba and the government of Nicaragua where Canada is a guarantor state.

As this brief discussion illustrates, states' governments increasingly regard the outcome of decisions in the U.N. Working Group on Indigenous Populations as critical to their political interests. As the time draws near when a final draft of the Universal Declaration on the Rights of Indigenous Peoples goes before the U.N. General Assembly, the level of activity increases.

VII. Active Indigenous Nations in International Dialogue

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

1. The Draft Universal Declaration on the Rights of Indigenous Peoples
2. Progress on Revisions to the I.L.O. Convention 107
3. Study of the Status of Indigenous Treaties

Reports from attendees indicated that participation in the Indigenous Peoples' Preparatory Session declined in 1988 though the substance of the session was much more focused. Shortage of funds and higher exchange rates favoring the Swiss Franc were cited as reasons for the lower level of participation.

ITEM #1: Draft Declaration on the Rights of Indigenous Peoples

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

ITEM #2: International Labor Organization Convention #107

A similar debate arose over the two-year long International Labor Organization revision process of Convention 107. (See Attachment 4.1) Appearing before the Preparatory Session, the I.L.O.

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

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

An adjunct to the second issue was the question of "the extent to which and the way in which these peoples will be protected against involuntary removals from their lands, and from exploration for and exploitation of non-renewable resources." Like the terminological debate, this too was left unresolved and deferred to 1989.

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

ITEM #3: Outline of the Status of Indigenous Treaties

One of the recommendations of the ten-year U.N. Commission on Human Rights Study of the Problem of Discrimination Against Indigenous Populations (1983) was for the Commission to undertake a study on the status and significance of treaties between states' governments and Indigenous peoples. At the March 1988 meeting of the U.N. Human Rights Commission, the study proposal was raised for consideration and authorization. The proposal was made to allow Mr. Miguel Alfonso Martinez (a member of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, and a member of the U.N. Working Group on Indigenous Populations) to serve as the Special Rapporteur for the Study on the Status of Indigenous Treaties. (See Attachment 3.1)

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

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

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

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

In sum, the Indigenous People's Preparatory Meeting took on a much more serious and political focus as the issues of controversy between Indigenous peoples and states' government are more sharply defined. As Indigenous Nations increase their pressures on states' governments at home, they have forced the U.N. into daring new feats of standard-setting. Conversely, with their increased visibility at the international level, Indigenous nations have forced many states government to become more directly involved in an international dialogue about the future rights of Indigenous peoples.

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

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

The pending debates at the U.N. and in the International Labor Organization about the Universal Declaration on the Rights of Indigenous Peoples, Revisions of the I.L.O. Convention 107 and the U.N. Treaty Study now combine to sharpen the positions between states' governments and Indigenous nations. The U.N., now in effect, serves as the arbitrator of this debate. It will become more intense between 1989 and 1992. It is in this four- year period that the Draft Declaration will be carried through the U.N. to the General Assembly for final adoption. The I.L.O. revised Convention will be under consideration for ratification by states' governments. Perhaps most upsetting to states governments will be the results of the U.N. Treaty Study to be authored by Mr. Miguel Alfonso Martinez of Cuba. All are converging on a date certain for the U.N. to proclaim an International Year of Indigenous Peoples to be authorized by the U.N. General Assembly.

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Table 2: Chronology of International Indigenous Initiatives 1941 - 2000

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

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

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Year	International Activity affecting Indigenous Peoples' Interests
1982	World Bank "Tribal Peoples and Economic Development Policy" Washington, D.C.
1983	NCAI Submission to UN WGIP - Geneva, Switzerland
1983	Reagan "Government to Government" Policy
1983	U.S./Canada Talks on Indian Affairs
1983	U.N. - WGIP Second Session - Geneva, Switzerland
1983	NCAI submission to the UN Working Group on Indigenous Populations – Geneva.
1983	NCAI delegate participation in Central American Regional Meeting of Indians - Mexico
1983	U.N. <u>Study of the Situation of the Situation of Indigenous Populations – M. Cobo.</u> completed
1983	World Assembly of First Nations - Regina, Canada
1984	"English Speak Symposium" Warm Springs Reserve, USA
1984	4th General Assembly WCIP - Panama
1984	U.S./Canada Talks on Indian Affairs
1984	U.N. - WGIP Third Session - Geneva, Switzerland
1984	US Presidential Commission on Reservation Economies
1985	U.S./Canada Talks on Indian Affairs
1985	9th Inter-American Indian Congress (Canada & Australia observers) - Santa Fe, USA
1985	Lummi Submission to UN WGIP Geneva, Switzerland
1985	Quinault Submission to U.N. WO IP - Geneva, Switzerland
1985	U.N. Commission on Human Rights considers various recommendations from Working Group on Indigenous Populations; authorizes WGIP to formulate a Draft Universal Declaration on the Rights of Indigenous Peoples
1985	Indigenous Peoples' Preparatory Session I - Geneva, Switzerland
1985	<i>U.N.</i> - WGIP Fourth Session - Geneva, Switzerland
1986	U.S./Canada Talks on Indian Affairs
1986	"English Speaking Symposium" Australia
1987	ILO Convention I07 Revision Session 1- New York, USA
1987	U.S./Canada Talks on Indian Affairs
1987	Indigenous Peoples' Preparatory Session 2 - Geneva, Switzerland
1987	5th General Assembly WGIP - Bolivia
1987	<i>UN</i> - WGIP Fifth Session - Geneva, Switzerland
1987	International Silva-culturalists Conference - Indian Timber management - Yugoslavia

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Year	International Activity affecting Indigenous Peoples' Interests
1987	U.S. Appropriation for Self-Governance Demonstration Project
1988	I.L.O. Convention 107 Revision Session 2 - New York, USA
1988	U.S./Canada Talks on Indian Affairs
1988	U.S. Department of Labor, Bureau of International Labor Affairs requests tribal government comments on draft revisions in I.L.O. Convention 107 - Federal Register October 28, 1988.
1988	U.N. Commission Human Rights debates and authorizes U.N. Indigenous Treaty Study 1988 "English Speaking Symposium" Canada
1988	Indigenous Peoples Preparatory Session 3 - Geneva, Switzerland
1988	U.N. - WGIP Sixth Session - Draft Universal Declaration on the Rights of Indigenous Peoples
1988	UN Treaty Study begins - Geneva, Switzerland
1988	NGO European Indian Support Groups Conference -Austria
1988	US Self-Governance Demonstration Project Planning Authorization
1989	10 th Session of the Inter-American Congress on Indian Life
1989	U.S. Department of Labor, Bureau of International Labor Affairs request tribal government comments on final draft or revisions in I.L.O. Convention 107 - Federal Register March 8, 1989.
1989	International Labour Organization - 76th Session -June 7,1989 - Geneva, Switzerland Signing of I.L.O. Convention 169 on tribal and semi tribal populations.
1989	International Indigenous Peoples' Preparatory Session - V July 24 - 28, 1989 - Geneva, Switzerland
1989	U.N. Working Group on Indigenous Populations - Session VII. July 31, 1989 - August 4, 1989 - Geneva, Switzerland
1992	UN – Biodiversity Convention International Conference – Argentina
1993	11 th Session of the Inter-American Congress on Indian Life
1994	UN – Convention on Biodiversity comes into force with Article 8j concerning Indigenous nations.
1997	12 th Session of the Inter-American Congress on Indian Life
1994 - 1999	Annual intersessionals scheduled for Indigenous nations to participate in “benefit sharing” discussions
1999	NCAI & Assembly of First Nations Joint Conference and Joint Cooperation Statement
2000	InterAmerican Declaration on the Rights of Indigenous Populations – Organization of American States.
2001	13 th Session of the Inter-American Congress on Indian Life
2001	United Nations Permanent Forum on Indigenous Peoples Issues authorized by UN Economic and Social Council.

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Year	International Activity affecting Indigenous Peoples' Interests
2001	World Bank Revision of Indigenous Peoples Economic Development Policy.
2001	World Health Organization – Draft Policy on Indian health
2001	Pan American Health Organization – Policy on Indigenous Health
2002	UN Permanent Forum on Indigenous Peoples Issues convenes first Session in New York with fifteen members (appointed by states' governments and by Sec General with recommendations of indigenous organizations.

Epilogue

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

The international Indian Affairs agenda continues to grow, touching on Indian nations' interests from month to month. In the Fall of 1989 or early 1990, the United States Congress was asked to consider ratification of the newly revised I.L.O.. Convention 169. The Inter-American Indian Congress convened its quadrennial sessions and the United Nations Working Group on Indigenous Populations Sessions in Geneva. On February 7, 1989 Congressman Benjamin A. Gilman of New York and a member of the House Foreign Affairs Committee introduced House Resolution 879 under the title of the **International Indigenous Peoples Protection Act of 1989**. Congressman Gilman and the bill's cosponsors introduced this legislation to "promote the rights of indigenous and tribal peoples and to ensure that no U.S. - funded program or project adversely affects indigenous or tribal peoples' rights or livelihood. The proposed legislation required the U.S. State Department to annually monitor the situation of indigenous peoples and report its findings in the annual country reports on human rights practices.

Meanwhile, the World Council of Indigenous Peoples formed in the 1970s collapsed and disappeared while the Inuit Circumpolar Council, Unrecognized Peoples and Nations Organization, International Indian Treaty Council and other regional indigenous organizations have continued and in some instances flourished. As many as five international meetings are convened each year on subjects like sustainability, international health, biodiversity, self-determination and slavery concerning indigenous peoples and where indigenous nations are now represented. Unfortunately, indigenous peoples themselves are not so often represented as they are "reflected" by non-governmental organizations that

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have greater financial support and flexibility to participate in such international meetings. Self-directed participation in international meetings by indigenous nations remains illusive as a goal. A limited number of nations actually engage the international arena at all. That will, perhaps be remedied in the future.