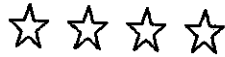


# FOURTH WORLD GOVERNANCE

By Wilson Manyfingers



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1985

## Introduction

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The four cardinal directions and the sacred circle are depicted in the *Popl Vuh*, the ancient book of the Quiche (Indians) of Central America, as the fundamental laws or principles of the red people. Ancient peoples the world over shared with the Quiche a deep understanding and respect for these important ideas. Those who share this deep respect make up the first nations that have occupied this earth for thousands of years – they are the red people.

In ancient Hopi legend, it is said that the red people lived as the *First People* in the **First World** that was called by the name, *Tokpela*. It was the world of the creator, and it was made up of endless space. Its direction was west and its color was *sikyangpus*, yellow. Its mineral was gold and upon it were *kūtya*, the snake with a big head; *wisoko*, the fat-eating bird; *muha*, the little four-leaved plant. On it the first people were pure and happy.

The red people next emerged in the **Second World** which had the name of *Tokepa*, dark midnight. Its direction was south, colour blue and its mineral was silver. This world spun out of control, and, so the red people climbed a ladder to the **Third World** which was called *kuskurza*. Its direction was east, and its color red. Its mineral was copper, plant was tobacco, bird was the crow and the animal was the antelope or deer. The Third World was destroyed by the Creator.

In the First World, the red people lived simply with animals. In the Second World, they had developed handi-crafts, homes and villages. In the Third World the red people multiplied in such numbers they created cities, countries – a whole civilization. This made it difficult for them to conform to the creation and to sing praises to the Creator. More and more the red people became wholly occupied with their own selfish earthly plans.

The Creator made the **Fourth World**, and it was called *Tūwagachi*, world complete. Its direction is north and its colour is pure yellowish-white. Upon it are the juniper tree, the bird, owl; the animal *tohopko*, the mountain lion; and the mixed mineral *sikyapala*.

It is into the Fourth World that the red people are now emerging according to the legends. Red peoples throughout the world have similar legends of their beginning and their emergence into the world complete – **the Fourth World**.

In 1974, the great Shuswap Chief George Manuel wrote a book that describes his personal emergence, and the emergence of Indians of Canada. The book is entitled, *THE FOURTH WORLD – An Indian Reality* (Collier-Macmillan Canada, Ltd.). Chief Manuel raises basic questions for the emerging red people – to call their attention to the task at hand. He asks, "What makes a 'nation'? How do peoples come into existence? How do peoples relate to one another?" He is the first of the red people to begin describing the answers in written form.

As an Indian in North America, and a member of the red race of people, I believe the ancient legends of my people and I see the Fourth World is here. I believe we have a duty to complete our reemergence, and it is to this end that *FOURTH WORLD GOVERNANCE* was written. We must answer Chief Manuel's questions completely, and the red people must take their place in the Fourth World.

Wilson Manyfingers  
1985

# I

## TRIBAL LIFE & GOVERNMENT

### In the Beginning . . .

Human beings, like their brothers among other animals, come into this world with a ravenous appetite, a boundless energy, and a glowing optimism. Ideas like freedom, liberty and the enjoyment of life are not questioned; they are not even matters for intense thought. They are taken for granted. A part of the natural birth-right of all living things.

Plenty of food, comfortable surroundings, friendly relations with other human beings and excitement for the mind are the basic elements for what make up what may be called a **quality of life**. These basic things are provided from the natural environment and by the family that surrounds a newborn child. When these basic elements are present, the human being is happy; and is satisfied. But, when any of these things is in short supply or absent, the human being like his brother animals expands the family, **extends the family**, to include more members. More land is needed to collect food and to provide for the comforts of the family. The extended human family seeks to establish a balance between its needs and the capacity of the surrounding environment to provide for those needs. When plenty of food, comfortable surroundings, friendly relations with other human beings and excitement for the mind are once again provided to all members of the human community, a balance is achieved.

### The Law of Nature

Time and change combine with growing needs to cause a tribal society to unfold — **tribal life** — a way of life enjoyed by millions of people in the world. Over time, the tribal society becomes so distinct in its culture that it becomes a **people**, different from all others except that they are human beings. All of the basic needs of the human being are finally provided in balance and a human society is formed with all of the social, economic and political qualities that make it unique.

But, like the changing weather, the changing tide and the changes in other animal life, the tribal society changes to match the new variety that surrounds it. And, so the patterns of tribal society, its traditions, customs and everyday practices alter to meet the needs of the people.

The single most successful form of human society is the tribal society; a nation of people large enough to satisfy the needs of its members, but small enough to remain flexible and adaptable to change. There are, of course, larger human societies in towns, cities, states and empires. Beyond the city, however, empires and states are relatively recent forms of human organization. The tribal society has existed for tens of thousands of years, while modern states and empires have

come into being and existed for only a few hundred years. When states and empires crumble, the tribal society is once again formed.

Tribal life is the primary form of human organization throughout the world. Though most tribal peoples are surrounded by states and empires created during recent centuries, the vast majority of the earth's citizens continue tribal society. There are several reasons for this: Tribal society provides the individual human being with a clear identity. Tribal society contains enough variety that each person can reach his or her greatest creative potential as food gatherers, builders, community helpers, spiritual leaders, political leaders, artists, thinkers and countless other activities. Tribal society is manageable; it remains small enough to equal human sized successes and human sized problems. Tribal society is equal to the power of human beings and balanced with the natural world. Tribal society is intensely human, vigorous and it is the chosen way of life of the red peoples the world over.

### **Original Power and the Foundations of Government**

A Tribal society is a nation of people joined together by common ancestry, origins, heritage, language, beliefs and commitment of mutual support – a common culture. Each society organizes according to its needs and wants, provides for its common desires, its defense and determines its own future. It is governed by its own traditions, customs and passions; and it establishes specific organizations or institutions made up of its members to perform special activities for the benefit of all or part of the society. Institutions are created to collect food, build homes, provide for spiritual well-being, encourage cooperation and mutual support, help the infirm, care for the sick, provide for the common defense and, among other things, make collective decisions. All of these institutions contribute to the **governance** of a tribal society. They perform activities within the society that cannot be performed by a single person, but contribute to the well-being of each individual. All together, they make up the **government** of the society.

All tribal societies are governed by special organizations or institutions, though their character and form may vary from one nation to another. The form of **governance** reflects the special needs and wants of each tribal society. And it is due to the unique character of each tribal society, its geographical location in the world, the natural environment along with the distinct passions of the people that the various forms of government have developed throughout human history. Each form of government is suitable to the society that created it. So there are as many forms of governance – organization or institutions – as there are tribal societies. None can be said to be perfect or suitable for any other nation, but each can be said to reflect the the most desirable form of government suitable for the people who established it.

### Government and the People

No nation exists without some form of government. Like the tribe itself, the government must reflect the needs and wants of the people who create it or it becomes a threat to the survival of the nation. When governments fail to meet the needs and wants of the nation — and many governments have and do fail — either the nation creates new organizations and institutions of governance or the nation dissolves — and many have. It is essential, therefore, for the governing institutions of a nation to change at a pace equal to or ahead of the people. It is through flexibility that the institutions of government continue to fulfill the needs and wants of the nation. Tribal institutions of governance must, as a result, maintain sensitivity to the changing needs and wants of the nation, and, they must be ever vigilant and active in their ability to adjust to the changing natural environment. Governments function in two important broad capacities: As the instrument or instruments by which the **internal needs** of a nation are provided, and an instrument by which the **external needs and interests** of a nation are defended, protected or advocated. Though the broad functions of government are described as dealing with internal needs and external needs, such a description should not lead one to believe that a tribal society or any nation has divided needs and interests. Like a person, a tribal society or nation has an internal life and an external life — both of which must be balanced to ensure health. Tribal government must function to balance the internal and external life of a nation.

Traditional and modern governments in tribal societies function as the "glue" that holds the society together, and government is the organized instrument through which the society adjusts to the changing natural environment as well as the changing relations between nations. The continuous existence of a nation is dependent upon its government performing both internal and external roles. A successful and prosperous nation achieves a balance between its internal world and the external world. On the basis of this requirement, tribal societies and their governments have done very well. The people and their government must remain intimately connected, and tribal society proves this clearly.

### Question of Loyalty

A people remain a distinct, identifiable nation as a result of individual loyalties between individual persons, and between individual persons and the nation. To close the circle, the nation is, out of necessity loyal and committed to the well-being of the individual. But, as is only common sense, unless the individual sustains a commitment to the well-being of the nation, the nation cannot long endure. And, without the nation, the individual has nothing. The individual cannot survive without the nation. The individual has no identity, no support or meaning except as a part of the nation. It is, therefore, a necessary bond of commitment and loyalty that ensures the continuous existence of the nation. An act of will causes the nation to come into being, and the same act can destroy a nation.

The loyalty one feels toward the nation must also be expressed toward the institutions of governance, for it is equally true that government cannot exist without the loyalty of those who created it. In this respect, loyalty is like a **mandate** to the nation and its government. Without the mandate neither exists.

With the mandate, the nation survives and the government performs its essential internal and external roles.

**"On Our Own!"**

The tribal society grew out of the common and natural need among human beings for mutual support, common defense, and spiritual, physical and social comfort. Its success as a way of life is a tribute to the ability to satisfy these basic human needs and provide for an infinite variety of choices. But, despite the qualities of tribal life and its natural suitability to human beings, nations must struggle to secure and maintain this way of life. Natural environmental changes constantly challenge the tribal society. Neighboring nations compete for natural wealth, for land, and seek to impose their way of life on other nations. Each nation is truly on its own to make its own way.

The institutions of governance provide the internal glue to hold a nation together, but they must also promote the interests of a nation and defend those interests externally. Just as the people of a nation constitute themselves as a nation through traditions and customs, it becomes necessary for a nation to establish friendly relations with other nations. Between the people of a nation, a sacred contract is made – a constitution. Between nations, sacred contracts are also made in the form of agreements or compacts – treaties. Just as natural law constituted the nation, natural law also determines the relations between nations. While individuals in a nation have a place and the support of other individuals in a nation, each tribal society – each nation – is on its own to determine how it will survive in the natural world and in relations with other nations. Among brother animals, their nations choose to coexist with their neighbors or they are natural enemys.

If they are to survive as a nation, they must first choose to make a nation from the individual needs and wants of each person. If they are to survive as a nation, they must maintain a loyalty to the nation and its governing institutions. If they are to survive, they must find ways to deal with the external world – the natural environment and neighboring nations – that preserve the nation and permit it to prosper.

## II

# Constitution: The Social Contract

Traditions and customary association between people over time supply the basic necessities for a nation to naturally unfold. This process requires no intervention from outside the population, nor does it require conscious effort by the people of the nation itself. Simple need and mutual want – the act of unconscious will – allow a nation of people to form a common heritage, and a common culture. When social and cultural patterns become encoded in the collective consciousness of the nation so that all of the nation's members come to accept and respect particular customs and rules of conduct, the nation may be said to have established a **constitution** or a **social contract**.

All tribal societies, in order to conduct tribal life, have a constitution that defines the organizations, institutions and customary laws of the nation. While no other nations may know or understand the constitution of a tribal society; and while no other nation may recognize the constitution that guides tribal life the tribal constitution remains in place until the nation changes its way of doing things.

### **What is a Constitution?**

The customary rules of conduct, the organizations and institutions and the collective aspirations of a nation of people, form the basis of a constitution. Whether a part of society's oral tradition, symbolized in beaded belts, totem poles and markings on stone walls, or etched on clay tablets or written on paper a nation's constitution functions as the law that binds the people of a nation together in a common cause.

A tribal civilization's system of rule and order is contained in the constitution. The constitution is the **sacred contract** between all of the people in the nation; committing all members of the nation to common goals and aspirations – a collective commitment to the well-being of each individual and a commitment by each individual to the well-being of the nation.

### **Constitutions, their form and contents**

**Sacred contracts** or constitutions between the people of a nation exist in many forms. They are a part of the oral tradition or the symbolic tradition. By either means, a nation records its constitution for its present and future guidance. Many nations express their constitution solely in the form of oral tradition. Spiritual leaders or other selected individuals are recognized by the society as having the responsibility for explaining the customary laws of the nation. Such individuals are



highly regarded and respected. Their role among the people is so very special that their duty to the people demands exacting honesty, consistency and selflessness. Keepers of the Law or similar descriptions are usually attached to these individuals or groups of people within a nation.

Constitutions are also recorded in the form of beaded belts, etchings on stone or wood in the form of pictorial displays, and even in the placement of natural elements on the landscape in the form of mounds of soil, movement of stones and the building of stone and soil monuments. Finally, constitutions are written in symbolic language in clay hardened for permanence, or on bark, parchment and paper. The many constitutional forms reflect the wide diversity and variety among nations themselves. No single form is any more or less valid than any other — it is only different.

As the form of constitutions varies from nation to nation, so it is true that the contents of constitutions vary. Some constitutions are primarily concerned with rules of conduct and descriptions of institutions for governing. Some constitutions simply describe principles. Whether recorded as oral tradition, ceremony or encoded in pictorial or written form **all constitutions describe the fundamental laws of a nation.**

Unwritten constitutions, as well as written constitutions vary from the simple and direct to the complex and obscure. The more simple and direct a constitution, the more precise and consistent it tends to be. And, such constitutions tend to be understood and carefully followed by the members of the nation. It is also generally true that the simple and direct constitution tends to change more smoothly with the needs and wants of the nation. The unwritten constitutions of nations tend to be more clearly understood by succeeding generations, and they tend to create a stronger bond among the people — especially if there is no external interference.

Written constitutions which are short and which are written in a language in which the population is wholly literate also tend to create strong bonds among the people. But, when a written or unwritten constitution is long and complicated, containing many details, members of a nation tend to engage in many disputes — causing the nation to be unstable and confrontational. While simple and direct constitutions tend to be flexible and adjustable according the people's needs and wants, a long and complex constitution tends to promote rigidity and a general inability to meet changing needs and demands.

All constitutions are subject to change. Changes in a nation's constitution either simply evolve over time, or a specific decision is made to change or amend the constitution. The method for making such changes is determined by the accepted practices of the people, and the method, therefore, varies from nation to nation.

Nations may employ different methods to change a constitution, but the **reasons** for changes are commonly shared by all nations. These include: debates between members of a nation over the meaning of certain constitutional provisions; changing social, cultural, and environmental conditions; adjustments in the relations between members of a nation; and, adjustments in the exercise of power among groups or factions within a nation.

When the method for making changes in a nation's constitution are well understood and satisfactory to the people, changes are not only possible, but they are generally accomplished without significant disruption of the nation. If, however,



the methods are not acceptable to parts of the nation, then conflict and social disintegration of the nation can result. A naturally evolved or well considered constitution reduces the likelihood of serious national upheaval.

### **The People, Tribal Government and Law of the Land**

According to its wants and needs, a nation, a tribal society develops a constitution that provides for continuity and general stability in the social, economic, political and cultural life of the people. Whether written or unwritten, the constitution governs the life of the nation and its affairs. Again, according to its needs and wants, a nation forms organizations and institutions to provide for the people. Often, the organizations and institutions of a society operate in a **decentralized** fashion in accordance with the laws of the land. Sometimes the organizations and institutions of governance are partially decentralized and partially centralized. And, finally some nations completely centralize the institutions of governance. The constitution of a nation usually describes or provides for the organization of governance in one of these three ways.

The degree of decentralization and centralization of a nation's system of governance is largely determined by the extent and degree the nation perceives its interests as being threatened by outside forces. Depending on the rise and fall of external hostilities, and sometimes the extent of internal instability, a nation will fortify its ability to defend collective continuity by increasing or decreasing the authority of its governing institutions.

When a tribal government is broadly decentralized, the level of control and influence the people have over their lives is considerable, though the ability to consistently and vigorously defend the collective interests of a nation against rival neighbors is reduced. Highly centralized tribal governments reduce the possibility of the people to control and influence the future of the nation, but the ability to defend against outsiders is enhanced. A balance between decentralization and centralization of tribal governance typically results in favorable conditions for the nation both internally and externally.

Under all circumstances of decentralization and centralization, the people and their institutions of governance are bound by the **law of the land** as provided in the tribal constitution. When the institutions of governance fail to abide by the laws of the land, they become an obstacle to the nation's security and sense of well-being. It is under such circumstances that a tribal government is changed by the nation that created it. By virtue of willful acts by the nation's population, a government which no longer serves their needs will inevitably be changed or replaced by the people.

### **What about Constitutions of Nations and States?**

When some people think of constitutions, they think of them as being documented on slips of paper, and because of this they think that only states have a constitution. Others think of constitutions as a form of government, and they assume that if a state has a constitution written down then it is some how more "legitimate" than states which have unwritten constitutions. Similarly, there is the unwarranted belief among many that a nation with a written constitution is somehow more legitimate than a nation which has a unwritten constitution. Such

beliefs are more a product of "blind patriotism" for one's own state or nation than they are a product of clear understanding.

Most nations in the world have not documented their constitution in written form. The Yakima, Nuxalk and Iroquois Confederacy in North America, the Yanomamo and Mapuche of South America, and the Kapauku Papuans of West New Guinea along with the Chakma and Tanchangyas of Bangladesh are among the many nations in the world that have constitutions which are not written down. Great Britain and Israel are among the several states that have constitutions which are not written.

Still, many nations have documented their constitution in written form. The Moari of New Zealand, Palestinians of the Middle East and the Onieda, Navajo, Cree and Quinault of North America have written constitutions. States like China, France, Australia and Colombia have written constitutions.

Whether written or unwritten, the concept of a constitution or body of laws to guide a people is universal throughout human society. From nation to nation, and state to state the constitution has the same significance and function. But, even as some are willing to recognize the universality of constitutions among nations and states, they are unwilling to recognize that nations have the same standing as states among human societies in the world.

Nation, as the word implies, is the result of a natural coming together of human beings without coercion. A state, on the other hand, is commonly the result of an artificially imposed process of people being placed within the bounds of an entity that is established without concern for natural environmental limitations or consideration of commonalities among peoples. Many nationalities may be embraced by a state including some which neither chose to join the state or participate in its formation. While states often encompass many nationalities, there are few contemporary examples where a nation has formed a state.

The world community includes about 165 states, but there are literally thousands of nations. The constitution of each nation and each state largely determines how they deal with each other. Since nations are often neighbors, and states frequently geographically surround nations, certain conventions or rules of conduct between nations and between nations and states have developed over centuries. The root source of these international rules of conduct can be found in the constitutions of nations and states. The customary relations between members of a nation are drawn from natural law, and so it is also the case that relations between nations are determined by natural law. But, as we shall see, while human societies have achieved great stability and prosperity under their constitutions — the compacts between members of a nation; relations between nations, and nations and states, have not been marked with such success.

Neighboring nations have demonstrated over hundreds of centuries that they can have friendly and non-confrontational relations for long durations of time. And, that nations can coexist as a part of the theoretical family of nations. Just as nations have constitutions to ensure a cooperative and orderly life between members, nations extended this natural concept into efforts aimed at establishing cooperative and orderly relations between nations. Relations between nations, and between nations and states, are formed through international contracts known simply as agreements or treaties, compacts and conventions. Unlike constitutions of nations, international agreements have few commonly accepted methods for ensuring consistency and continuity. We will discuss these matters next.

# Quinault Governance Seminar

1985

**SESSIONS I, II, III**

**FOUNDATIONS OF TRIBAL SOCIETY  
SACRED CONTRACTS: CONSTITUTIONS AND TREATIES  
GOVERNANCE, THE COMMON WELFARE AND OUR CHOICES**

**Fourth World Seminar Series I  
CENTER FOR WORLD INDIGENOUS STUDIES**

# QUINAULT GOVERNANCE SEMINAR

## SESSION I

### Foundations of Tribal Society

#### *Schedule*

June 17, 1985

2:00 pm Introduction

2:15 Preview of Part I Tribal Life & Governance

2:25 The Quinault Indian Nation – Historical Overview

2:45 Tribal Life & Governance – Lecture

3:05 Five minute break

3:10 Review of Part I – Tribal Life & Governance

3:20 Discussion – Questions & Answers

3:45 "On Our Own" – Slide Show

4:00 Instructions for Session II

# QUINAULT GOVERNANCE SEMINAR

## SESSION II

### Sacred Contracts: Constitutions & Treaties

#### *Schedule*

June 20, 1985

- 1:00pm Refresher and introduction to Part II
- 1:10 Preview of Part II: Constitution: The Social Contract
- 1:20 Constitutions: Agreement between People – Lecture
- 1:40 The Quinault Constitution
- 2:00 Review of Part II: Constitution: The Social Contract
- 2:10 Discussion – Questions and Answers
- 2:30 Five Minute Break
- 2:35 Refresher and Introduction to Part III
- 2:45 Preview of Part III:
- 2:55 "When Nations Make Treaties" – Slide Show
- 3:30 Quinault River Treaty
- 3:45 Review of Part III:
- 4:00 Discussion and Questions & Answers
- 4:15 Instructions for Session III

# QUINAULT GOVERNANCE SEMINAR

## SESSION III

### Governance, The Common Welfare and our Choices

#### *Schedule*

June 21, 1985

- |           |  |
|-----------|--|
| 1:00pm    | Review of Sessions I & II, Introduction to Part IV         |
| 1:10      | PBS Movie: <b>"Indian Self-Rule: A Problem of History"</b> |
| 2:00      | Preview of Part IV & Part V                                |
| 2:20      | Five Minute Break  |
| 2:25      | Government and the People's Welfare – Lecture              |
| 3:00–3:15 | Planning and Organizing the Future                         |
| 3:20      | Review of Part V   |
| 3:30–4:00 | Discussion   |

# Quinault Governance Seminar

## Tribal Life & Government Review

NAME \_\_\_\_\_ DATE \_\_\_\_\_

### REVIEW Part I

**READ THE FOLLOWING QUESTIONS CAREFULLY. THEN SELECT ONE RESPONSE WHICH YOU FEEL BEST ANSWERS THE QUESTION. ENTER YOUR ANSWER IN THE APPROPRIATE BOX IN THE FORM OF A LETTER (EXAMPLE: In response to a true or false question you**

would either enter a  or  .)

1. The natural Birth-Right of all human beings include at least the following things:

A. An education, free health services, and money to pay for electricity and telephone bills. B. Government services C. Freedom, liberty and the enjoyment of life D. All of the above.

2. The basic elements of what may be called quality of life include: plenty of food, comfortable surroundings, friendly relations with other human beings and excitement for the mind; and these are provided by the natural environment and by the family.

T rue or F alse?

3. Tribal societies and tribal life form the basis for most human societies in the world, and the single most successful form of human society is the tribal society.

T rue or F alse?



4. A Tribal Society may be describes as:

A. A unique minority population living in a larger society. B. A society created by treaties and other agreements with a government of a country. C. A nation of people joined together by common ancestry, origins, heritage, language, beliefs and committment of mutual support – a common culture. D. An artifical organization of people created by anthropologists to study unusual groups of people. E. Answers (A) and (B) together.

5. Native peoples began to have governments only after the concept was introduced by European settlers.

True or False?

6. A Nation is created when:

A. People express a collective act of will – they choose to create a nation. B. Legislation is adopted by a government C. A court decides that a group of people are a nation. D. One nation recognizes another nation through a treaty. E. All of the above.

7. A Tribe is a legitimate entity only if it has a written constitution, a government recognized by another government, a treaty and is defined as a "dependent sovereign".

True or False?

(CWIS-fwss061485N-5)

# Quinault Governance Seminar

## Tribal Life & Government Preview

NAME \_\_\_\_\_ DATE \_\_\_\_\_

### PREVIEW Part I

**READ THE FOLLOWING QUESTIONS CAREFULLY. THEN SELECT ONE RESPONSE WHICH YOU FEEL BEST ANSWERS THE QUESTION. ENTER YOUR ANSWER IN THE APPROPRIATE BOX IN THE FORM OF A LETTER (EXAMPLE: In response to a true or false question you**

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Unwritten constitutions, as well as written constitutions vary from the simple and direct to the complex and obscure. The more simple and direct a constitution, the more precise and consistent it tends to be. And, such constitutions tend to be understood and carefully followed by the members of the nation. It is also generally true that the simple and direct constitution tends to change more smoothly with the needs and wants of the nation. The unwritten constitutions of nations tend to be more clearly understood by succeeding generations, and they tend to create a stronger bond among the people -- especially if there is no external interference. Written constitutions which are short and which are written in a language in which the population is wholly literate also tend to create strong bonds among the people. But, when a written or unwritten constitution is long and complicated, containing many details, members of a nation tend to engage in many disputes -- causing the nation to be unstable and confrontational. While simple and direct constitutions tend to be flexible and adjustable according the people's needs and wants, a long and complex constitution tends to promote rigidity and a general inability to meet changing needs and demands.

All constitutions are subject to change. Either changes in a nation's constitution simply evolve over time or a specific decision is made to change or amend the constitution. The method for making such changes is determined by the accepted practices of the people and the method, therefore, varies from nation to nation. The reasons for change are more commonly shared by all nations. These include: debates between members of a nation over the meaning of certain constitutional provisions; changing social, cultural, and environmental conditions; adjustments in the relations between members of a nation; and, adjustments in the exercise of power among groups or factions within a nation.

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are generally accomplished without significant disruption of the nation. If, however, the methods are not acceptable to parts of the nation, then conflict and social disintegration of the nation can result. A naturally evolved or well considered constitution reduces the likelihood of serious national upheaval.

### **The People, Tribal Government and Law of the Land**

According to its wants and needs, a nation, a tribal society develops a constitution that provides for continuity and reasonable stability in the social, economic, political and cultural life of the people. Whether written or unwritten, the constitution governs the life of the nation and its affairs. Again, according to its needs and wants, a nation forms organizations and institutions to provide for the people. Often, the organizations and institutions of a society operate in a **decentralized** fashion in accordance with the **laws of the land**. Sometimes the organizations and institutions of governance are partially decentralized and partially centralized. And, finally some nations completely centralize the institutions of governance. The constitution of a nation usually describes or provides for the organization of governance in one of these three ways.

The degree of decentralization and centralization of a nation's system of governance is largely determined by the extent and degree the nation perceives its interests as being threatened by outside forces. Depending on the rise and fall of external hostilities, and sometimes the extent of internal instability a nation will fortify its ability to defend collective continuity by increasing or decreasing the authority of its governing institutions.

When a tribal government is broadly decentralized, the level of control and influence the people have over their lives is considerable, though the ability to consistently and vigorously defend the collective interests of a nation against rival neighbors is reduced. Highly centralized tribal governments reduce the possibility of the people to control and influence the future of the nation, but the ability to defend against outsiders is enhanced. A balance between decentralization and centralization of tribal governance typically results in favorable conditions for the nation both internally and externally.

Under all circumstances of decentralization and centralization, the people and their institutions of governance are bound by the **law of the land** as provided in the tribal constitution. When the institutions of governance fail to abide by the laws of the land, it becomes an obstacle to the nation's security and sense of well-being. It is under such circumstances that a tribal government is changed by the nation that created it. By virtue of willful acts by the nation's population, a government which no longer serves their needs will inevitably be changed or replaced.

### **What about Constitutions of Nations and States?**

When some people think of constitutions, they often think of them as being documented on slips of paper, and because of this they think that only states have a constitution. Others think of constitutions as a form of government, and they

assume that if a state has a constitution written down then it is somehow more "legitimate" than states which have unwritten constitutions. Similarly, there is the unwarranted belief among many that a nation with a written constitution is somehow more legitimate than a nation which has a unwritten constitution. Such beliefs are more a product of "blind patriotism" for one's own state or nation than they are a product of clear understanding.

Most nations in the world have not documented their constitution in written form. The Yakima, Nuxalk and Iroquois Confederacy in North America, the Yanomamo and Mapuche of South America, and the Kapauku Papuans of West New Guinea along with the Chakma and Tanchangyas of Bangladesh are among the many nations in the world that have constitutions which are not written down. Great Britain and Israel are among the several states that have constitutions which are not written.

Still, many nations have documented their constitution in written form. The Maori of New Zealand, Palestinians of the Middle East and the Onieda, Navajo, Cree and Quinault of North America have written constitutions. States like China, France, Australia and Colombia have written constitutions.

Whether written or unwritten, the concept of a constitution or body of laws to guide a people is universal throughout human society. From nation to nation, and state to state the constitution has the same significance and function. But, even as some are willing to recognize the universality of constitutions among nations and states, they are unwilling to recognize that nations have the same standing as states among human societies in the world.

Nation, as the word implies, is the result of a natural coming together of human beings without coercion. A state, on the other hand, is commonly the result of an artificially imposed process of people being placed within the bounds of an entity that is established without concern for natural environmental limitations or consideration of commonalities among peoples. Many nationalities may be embraced by a state including some which neither chose to join the state or participate in its formation. While states often encompass many nationalities, there are few contemporary examples where a nation has formed a state.

The world community includes about 165 states, but there are literally thousands of nations. The constitution of each nation and each state largely determines how they deal with each other. Since nations are often neighbors, and states frequently geographically surround nations, certain conventions or rules of conduct between nations and between nations and states have developed over centuries. The root source of these international rules of conduct can be found in the constitutions of nations and states. The customary relations between members of a nation are drawn from natural law, and so it is also the case that relations between nations are determined by natural law. But, as we shall see, while human societies have achieved great stability and prospered under their constitutions — the compacts between members of a nation; relations between nations and nations and states have not been marked with such success.

Neighboring nations have demonstrated over hundreds of centuries that they can have friendly and non-confrontational relations for long durations of time. And, that nations can coexist as a part of the theoretical family of nations. Just as nations have constitutions to ensure a cooperative and orderly life between members, nations extended this natural concept into efforts aimed at establishing cooperative and orderly relations between nations. Relations between nations, and

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between nations and states, are formed through international contracts known simply as agreements or treaties, compacts and conventions. Unlike constitutions of nations, international agreements have few commonly accepted methods for ensuring consistency and continuity. We will discuss these matters next.



## II

## Constitution: The Social Contract

Traditions and customary association between people over time supply the basic necessities for a nation to naturally unfold. This process requires no intervention from outside the population, nor does it require conscious effort by the people of the nation itself. Simple need and mutual want – the act of unconscious will – allow a nation of people to form a common heritage, and a common culture. When social and cultural patterns become encoded in the collective consciousness of the nation so that all of the nation's members come to accept and respect particular customs and rules of conduct, the nation may be said to have established a **constitution** or a **social contract**.

All tribal societies, in order to conduct tribal life, have a constitution that defines the organizations, institutions and customary laws of the nation. While no other nations may know or understand the constitution of a tribal society; and while no other nation may recognize the constitution that guides tribal life the tribal constitution remains in place until the nation changes its way of doing things.

**What is a Constitution?**

The customary rules of conduct, the organizations and institutions and the collective aspirations of a nation of people, form the basis of a constitution. Whether a part of society's oral tradition, symbolized in beaded belts, totem poles and markings on stone walls, or etched on clay tablets or written on paper a nation's constitution functions as the law that binds the people of a nation together in a common cause.

A tribal civilization's system of rule and order is contained in the constitution. The constitution is the **sacred contract** between all of the people in the nation; committing all members of the nation to common goals and aspirations – a collective commitment to the well-being of each individual and a commitment by each individual to the well-being of the nation.

**Constitutions, their form and contents**

**Sacred contracts** or constitutions between the people of a nation exist in many forms. They are a part of the oral tradition or the symbolic tradition. By either means, a nation records its constitution for its present and future guidance. Many nations express their constitution solely in the form of oral tradition. Spiritual leaders or other selected individuals are recognized by the society as having the responsibility for explaining the customary laws of the nation. Such individuals are

highly regarded and respected. Their role among the people is so very special that their duty to the people demands exacting honesty, consistency and selflessness. Keepers of the Law or similar descriptions are usually attached to these individuals or groups of people within a nation.

Constitutions are also recorded in the form of beaded belts, etchings on stone or wood in the form of pictorial displays, and even in the placement of natural elements on the landscape in the form of mounds of soil, movement of stones and the building of stone and soil monuments. Finally, constitutions are written in symbolic language in clay hardened for permanence, or on bark, parchment and paper. The many constitutional forms reflect the wide diversity and variety among nations themselves. No single form is any more or less valid than any other — it is only different.

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Written constitutions which are short and which are written in a language in which the population is wholly literate also tend to create strong bonds among the people. But, when a written or unwritten constitution is long and complicated, containing many details, members of a nation tend to engage in many disputes — causing the nation to be unstable and confrontational. While simple and direct constitutions tend to be flexible and adjustable according the people's needs and wants, a long and complex constitution tends to promote rigidity and a general inability to meet changing needs and demands.

All constitutions are subject to change. Changes in a nation's constitution either simply evolve over time, or a specific decision is made to change or amend the constitution. The method for making such changes is determined by the accepted practices of the people, and the method, therefore, varies from nation to nation.

Nations may employ different methods to change a constitution, but the **reasons** for changes are commonly shared by all nations. These include: debates between members of a nation over the meaning of certain constitutional provisions; changing social, cultural, and environmental conditions; adjustments in the relations between members of a nation; and, adjustments in the exercise of power among groups or factions within a nation.

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