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TRIBAL POLITICAL STATUS  
Finding A Place For Indigenous Peoples  
In The Family Of Nations

CONCEPT PAPER

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**WORLD  
COUNCIL  
OF  
INDIGENOUS  
PEOPLES**

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## I. EVOLUTION AND DOMINANCE OF NATION-STATES

The dynamic evolution of nation-states during the last four hundred years has produced 152 states in the global community. An emergence of nation-states as a dominant political reality pushed aside empires, kingdoms and indigenous tribes to set new rules for the organization of human political, economic and social affairs. Where there were empires, nation-states were formed. Where there were kingdoms, nation-states were established. Where indigenous tribes had lived for thousands of years, nation-states were created.

This process of nation-building was born from a set of beliefs which asserted that progress and civilization could be achieved only if whole peoples could govern themselves as separate and distinct political units. Whole peoples would separate from empires and form their own governing institutions based on the collective will of consenting individuals. While empires crumbled and kingdoms either assumed the character of nation-states or dissolved, thousands of indigenous tribal groups were absorbed into nation-states, often against their will or without their knowledge.

As nation-states grew, they acquired vast territories throughout the world and established certain of these territories as colonies. Nation-building grew dependent upon the exploitation of other peoples and resources other than their own. Colonial empires ruled the political and economic life of the global community for several generations. In an effort to create a new world order among nations, colonial empires themselves began to collapse and a new nation building began. Some former colonies emerged as nation-states equal to their former rulers. A process called decolonization, founded on the principles of self-determination and self-government, emerged as a conscious separation of colonies from the control of a single nation-state. The process of decolonization, it has been suggested, was nearly completed by the 1970s. The process of nation-building had been completed. The world had been ordered.

Despite this view, there remained an unsettled question of some importance: What was the status of whole populations of indigenous peoples who had neither chosen to join a nation-state nor to lose their separate and distinct political identity? To be sure, many indigenous tribal groups have assumed the character of nation-states (particularly in Africa and the Middle East) by having political control over the nation-state. But, what of the political future of indigenous tribal groups who had been surrounded by the forming nation-states and who are without influence or control in the national government? This condition of political subordination to a controlling nation-state may be illustrated by tribal/national relations in Canada, the United States, Mexico, Central America, South America, South Africa, Australia, New Zealand, the Phillipines, Taiwan, Japan, China, Sweden, Norway, Denmark, the Soviet Union, and numerous other nation-states. The political, economic and cultural rights of indigenous tribal groups which have fallen under the control of nation-states are being suppressed and exploited to the benefit of the nation-state. No legal or political recourse is offered the indigenous tribal group to determine its own future or govern itself except at the whim of the controlling nation-state.

The right of an indigenous group to express its own cultural, social and political values is denied or suppressed by the dominating influence of the nation-state. The ability to maintain or achieve economic self-sufficiency for an indigenous group is suppressed by the economic demands of a nation-state and its need to exploit and consume the resources upon which the indigenous tribal groups must depend. The controlling influence of nation-states denies indigenous tribal groups the right to express their group political will.

The right of any people to determine their own future and to govern themselves is an accepted principle of international law and a practical political reality in the global community. Indigenous tribal people make up thousands of distinct political, economic and cultural units throughout the world. Their right to an internationally recognized status ranks with the right of any people to freely express their distinct

interests. Without the right to choose their status and the methods and manner by which they deal with other peoples, indigenous tribal groups will remain as an exploited and externally controlled people.

## II. SELF-DETERMINATION IN THE WORLD COMMUNITY

All peoples in the world are said to possess, without qualification, the right to self-determination. They are inherently free to act and decide as a matter of principle on questions concerning their civil and human rights. In short, any grouping of people may choose a form of government and may, in time, choose to associate with any other government. They may also choose to remain independent.

As will be seen, this principle has gained wide support in the international community. In recently published documents, one finds expression of this principle as world organizations, such as the United Nations, seek to find ways to promote stability and peace in the community of nations. One finds expression of this principle in history and in law as jurists, leaders and theorists have sought to fulfill the goal of a peaceful and just world.

The principle of self-determination is specified in the Charter of the United Nations and it is given further expression in the Universal Declaration of Human Rights. Also supportive of this notion is the International Covenant on Economic, Social and Cultural Rights. Self-determination is also expressed in the International Covenant on Civil and Political Rights. These documents have been introduced to the world community in recent times.

One historical document recognized in the world community is the Declaration of Independence, introduced in 1776. This document is an expression of the aspirations of the people of the thirteen colonies who desired separation from (Great) Britain. They also sought independence as a form of political status. That they were successful and acknowledged by the international community can be seen in the existence

of the United States of America today.

Another historical document expressive of the fundamental concept of self-determination is the treatise, Law of Nations, by international lawyer Emmerich de Vattel. Vattel, in his work, popularized the earlier works of theorists Wolff and Grotius. This work by Vattel has been employed as an authoritative source in international law.

A corollary to this principle of political self-determination can be found in the Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly Resolution 1514), which provides that peoples (can) "freely determine their political status." This assertion also appears in the International Covenant on Human Rights and in the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations (General Assembly Resolution 2625). In this declaration is expressed the following: (that) "each state has the right freely to choose and develop its political . . . system." The idea of political self-determination is expressed in this wording of the Declaration.

Many peoples identified or recognized in the world as indigenous groups have not attained a measure of self-government by this international standard. For several hundred years, indigenous people, particularly in the "new" world, have been compelled to accept a lesser or non-existent status in the international community. Other populations, many who were former colonies of the European nation-states, have, in the 20th Century, attained independent political status and have achieved recognition in the international community. Many of these new countries are members of the United Nations (the majority of indigenous populations are found in the non-European world and they are not a part of the "Third World").

The former colonies, often referred to as 'developing nations,' are of the Third World. Their political status is largely recognized

in the international community, and arises as a result of decolonization. This is a fairly recent development in international relations. These latter-day nations have become nation-states in their own right and, with only a few exceptions, are established and recognized territorially-bound countries. Many of these same nations refuse to give political or social recognition to the status of indigenous populations within their territories. In short, these peoples remain unestablished politically as part of a "Fourth World."

The process of decolonization continues as a dynamic force within the international community, aspiring to attain world stability and peace. The Declaration on the Granting of Independence to Colonial Countries and Peoples asserts "the subjugation of peoples to alien subjection, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the U.N. and is an impediment to the promotion of world peace and cooperation." Currently, the violations of the rights of indigenous populations, due to their lack of any recognized political status, leaves them at the mercy of domestic policies of nation-states whose territories they share. Many of these policies (sometimes official, often unofficial) include the crime of genocide. Two countries in the world alleged to be pursuing such policies are Brazil and Paraguay. These two republics on the South American continent have been found to be flagrant violators of the basic principle of human rights and international law outlawing genocide. A current and important document which details discussion on the characteristics of genocide is the Convention on the Prevention and Punishment of the Crime of Genocide (adopted by the U.N. General Assembly, 9 December 1948).

One of the apparant objectives of these genocidal policies is to gain control over the lands of indigenous groups. Many of these lands are rich in natural resources such as minerals and timber. The factors of a world-wide energy crisis and the ever-growing industrial economies in the nation-state countries have increased pressure to exploit these resources controlled by indigenous populations, often in tribal groups.

This pressure points again to the need of these groups for recognition of their political status as distinct peoples occupying aboriginal territories.

Internationally, two documents enunciate a corollary to the self-determination principle in this area of human rights. (See International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights.) These two international covenants on human rights declare that "all peoples may, for their own ends, freely dispose of their natural wealth and resources." They assert: "In no case may a people be deprived of its own means of subsistence." In fact, the right of permanent sovereignty over natural resources is now firmly established in international law. No distinction is clearly made between peoples of independent countries or those living in non-self-governing territories (see also the Declaration on the Granting of Independence to Colonial Countries and Peoples, Resolution 1514, December 1960).

The ability to achieve or maintain economic self-sufficiency for indigenous groups is often suppressed by economic demands of a nation-state in pursuit of resources for exploitation, consumption and growth. Furthermore, an indigenous group's ability to fully express its own cultural or social values is impacted or impaired because of the dominance of the surrounding nation-state, whose interests are usually opposed to that of the indigenous peoples who are often found in tribal groups. In short, these seemingly captive populations are denied a way in which to express their group political will or aspirations.

The denial of the rights of indigenous populations to be economically or culturally self-determining is comparable to the situation of former colonies. The law of decolonization has, in effect, set precedents for the ways peoples may realize their right of self-determination. The implementation of this "law" is found in the statement:

The establishment of a sovereign and independent state, the free association of integration with an independent state, or the emergence into any other political status

freely determined by a people constitute modes of implementing the right of self-determination by that people."

(Declaration on the Granting of Independence to Colonial Countries and Peoples)

The usurpation of aboriginal or tribal boundaries by the dominant nation-state creates a denial of group identity and results in a loss of social and cultural cohesiveness. Often lost because of this denial of accustomed boundaries are entire populations. Continuity in language, custom, religion and like cultural identities are often irrecoverable, particularly in time. Nearly everywhere in the world can be found this phenomena which has resulted from the advent of the establishment of nation-states. Little wonder, then, that many tribal groups fail to retain their aboriginal governments.

These problems arise largely because of international disputes between nations whose political sectionalism demands clearly defined boundaries. Indigenous populations, during the period of European expansion, were believed to be indifferent to their boundaries. Nomadic groupings, in particular, were seen in this light. These migrations, while varying in periodicity, were one of the reasons explorers or conquerors mistakenly justified their invasions and boundary usurpations as claims over unoccupied lands, "res nullius" in Roman Law. In that system of law, the rule of alluvium (right to occupy or claim) required that lands must be "terra nullius" before the rule applied legally. Often a failure to recognize aboriginal title to lands to be occupied or settled occurred because of ignorance or cultural bias. Many observers sincerely believed that the indigenous populations were a species of early man or sub-human species. Still, others simply sought to serve their own interests, believing that they were opposed by a weak and primitive race of human beings. Unhappily, many of these encounters resulted in triumph for the invader's interests. The "whiteman's burden" serves as an illustration of the after-effect of those successes. The ideal of assimilation is certainly derived from the urge of these early invaders to "civilize" the people they found in their midst.

Observing the changing nature of international relations has



compelled a thoughtful recognition of the inter-relatedness of problems faced by both the modern nation-states and their indigenous populations living in their territories. This has resulted in a diminished notion of national sovereignty. Many issues thought to be exclusively domestic are now being seen as relevant to issues of concern to the international community.

Thus, one finds the General Assembly of the U.N. taking opposing positions against national governments in South Africa and Southern Rhodesia, whose policies concerning their native populations were found to be oppressive and racist. The U.N., in short, sought to protect and promote the rights of independence and self-determination of indigenous populations in Namibia and Zimbabwe. Both of these "white" governments have since responded to the world community's declarations on the question. New governments have been formed in an attempt to stabilize the area, although racial strife continues to threaten these efforts.

In the process of decolonization involving non-self-governing territories, certain principles have been enunciated by the U.N. One such principle originates from the General Assembly advising that:

Free association should be the result of a free and voluntary choice by the people of the territory concerned, expressed through informed and democratic processes. It should be one which respects the individuality and cultural characteristics of a territory and its people, and retains for the peoples of the territory which is associated with (an) independent state, the freedom to modify the status of that territory through the expression of their will by democratic means and through constitutional processes."

(U.N. General Assembly Resolution 1541)

That principle is again an expression of the right of self-determination. Peoples of these territories are to be given a choice in determining their political status. The Assembly resolution goes on to prescribe the terms under which these non-self-governing territories are to be given an opportunity to establish their political status. Relations with neighboring or dominant states are to be (1) free association, or (2) integration. These territories may also form independent governments.

Resolution 1541 also advises that the U.N., itself, reserves the right to supervise "these processes" and asserts that outside interference in these processes should be on a cooperative basis.

In the view of the world community, therefore, the right to choose to exercise self-determination is extended to those peoples now living in non-self-governing territories as a matter of principle. Political status is recognized as a function of popular will. It must be respected and promoted in the world community. Indigenous status within a territory or nation-state does not carry with it a non-status in international affairs. In other words, the assertion of this principle secures for indigenous peoples the right to decide freely what their status will be in the world and warns that this status should not be imposed upon them by any other peoples or any other nation-state.

### III. INDIGENOUS PEOPLES' POLITICAL STATUS IN THE WORLD COMMUNITY

It is estimated that more than forty million people, who are indigenous to their area of the world, live under the domination and control of nation-states. Though they are politically distinct peoples, thousands of indigenous groups are denied the fundamental right to express their own cultural, economic and political will. They do not have influence or control in a national government and their political identity has been suppressed by the nation-states that surround them or control their territories through colonial occupation.

The tendency of nation-states in dealing with indigenous peoples has been to absorb or assimilate them, isolate them, or destroy them to accomplish national economic and political goals. Pressure or intimidation has been used to induce indigenous populations to discontinue the expression of cultural practices, economic activities or social and political customs in order to promote a sense of national identity consistent with the goals of the nation-state.

All indigenous groups, communities and nations which have been vanquished in wars of conquest (or subjugation) or in 'punitive' campaigns, or which have been

placed under a regime of colonial subjugation in some other way, have been subjected to limitations and restrictions which placed serious obstacles in the way of their free expression and cultural development.\*

While nation-states variously describe their policies toward indigenous populations in terms which suggest benevolent protection, the results of their policies produce fragmentation and group disintegration. Countries like Brazil, the United States and Canada assert a kind of limited trusteeship as an expression of their relationship to indigenous populations. Countries like Taiwan, Japan, Spain and Costa Rica are unwilling to recognize indigenous populations within their boundaries as anything more than national minorities (even though the indigenous populations are frequently numerically in the majority as in Taiwan and Bolivia). Still other countries like South Africa have a policy of apartheid which seeks to isolate and eliminate political and economic power in indigenous populations.

While indigenous populations differ in their social, cultural, economic and political aspirations; and, while surrounding nation-states have varying policies toward indigenous populations, there is a common denominator which points a way to a rational alternative to the present state of affairs. Indigenous populations share a common reality: they lack full political control over their destiny so that self-determination is made impossible. Indigenous populations do not control political institutions of government which would permit the realization of self-determination and self-government.

The rational alternative is that indigenous peoples must be recognized to have the right to freely choose their political relations with other peoples. They must freely choose their political status among the peoples of the world.

Despite the fact that there is no global rule for the recognition of indigenous peoples as having the right to choose a distinct political status, many indigenous groups have begun to achieve distinct political identities.

In the island territories of Palau, Yap, Truk, Ponape, Kosrae and Marshal (North Pacific Ocean), the tribal populations have successfully negotiated a status of free association with the United States. By virtue of a bi-lateral compact with the U.S. Government, the indigenous peoples of these islands are guaranteed internal self-government and the full right to carry out their own relations with other peoples without U.S. interference. The compact (for five years) places the military defense of the islands under the authority of the United States. The free associate status permits the indigenous peoples to express their political will within the global community without interference from the state with which they have associated. Independence remains a full option that can now be considered by these island peoples.

Other indigenous peoples have achieved a measure of political self determination which further gives substance to the rational alternative. The Basque peoples of Northern Spain have achieved home rule in three provinces. The indigenous peoples of Greenland achieved a measure of home rule in 1979. The peoples of New Caledonia are presently having their future political status discussed in the United Nations. The Palestinian peoples continue to be the central political controversy in the Middle East. The tribal peoples of the Northern Territory in Canada have raised the prospect of gaining independence as a result of taking political control over the territorial government.

Indigenous peoples throughout the world have begun the process of assuming political control over their future. The Kurds in the Middle East, the Bengali tribes of Northeastern India, Iroquois of Central-eastern North America, and the Mong of Southeast Asia, among numerous indigenous groups are struggling to maintain their political identity. In these struggles, indigenous peoples are creating a new global climate which may hasten the day when all indigenous peoples will achieve the free right of self-determination.

Freedom for the indigenous peoples of the world can only be achieved when their political status is freely chosen. No nation-state has the right to make that choice. The first priority of any people is to be free, and indigenous peoples have demonstrated that this is true for them as well.

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