

The Anti-Indian Movement in the Wise Use Movement

*Threatening the Cultural and
Biological Diversity
of Indian Country.*



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The Anti-Indian Movement in the Wise Use Movement

Threatening the Cultural and Biological Diversity of Indian Country

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Indian nations' lands and resources are under attack. The successful confiscation of Indian lands and removal of Indians from the last remnants of their original homelands will open the door to expansionist exploitation of the western hemisphere's last biologically diverse regions. Indian nations in the Americas from the Arctic North to the rocky tip of South America are under systematic attack. From cold-war-like political conflicts in the northern continent to brutal, violent wars in middle and southern America resulting in thousands of Indian deaths each year, Indian nations face political movements and armies intent on taking lands and resources from their historical owners. In the United States of America an alliance of greed and deception has been formed from private property owners, recreation organizations, right-wing organizations, governments and business. Together they target Indian lands for transfer from Indian control to the control of private, non-Indian U.S. citizens. Domestic and multi-national corporations also want access to Indian lands and resources. In Central America, state governments hungry for new raw materials to diversify stagnant and unproductive economies have invaded Indian territories -- in many instances forcibly removing whole populations. Land and resources are the target. Indians are considered expendable. In the states of South America several states tolerate, or actively participate in the invasion of Indian territories. Conducting counter-insurgency sweeps against the Sendero Luminoso (Shining Path), the Peruvian government participates in attacks on Indian villages. Land and resources are at the root of the conflict. Thousands of Indians have been killed. In Brazil, gold-miners invade Indian lands and carry diseases into Indian society. The Brazilian government directly subsidizes invasion of Indian lands for raw materials as a matter of public policy. Nearly without exception, Indians peoples, their culture and their environment are under siege in the western hemisphere.

The systematic emphasis on Indian land transfers in the United States continues to grow.

Government, business and private citizens are a part of an effort organized Anti-Indian Movement intent on removing Indians from their reserved territories and replacing them with new outside owners. The Anti-Indian Movement also operates within the framework of the Wise Use Movement with the goal to replace Indian land rights with private non-Indian property rights -- public property with private individual and corporate property. These movements wrap their public statements in the protection of the U. S. Constitution and its emphasis on property rights. Underneath, there is a single-minded bigotry which not only threatens the cultural and biological diversity of Indian nations and their territories, but directly challenges U.S. public and private efforts to protect the environment from further degradation.

Indian Country is vulnerable to organized efforts aimed at land and natural resource expropriation. Next to the United States of America and all the states, Indian nations combined are the owners of the largest area of land. With more than 135 million acres of wilderness, range, desert, timber, tundra and other types of land Indian nations collectively have sixteen percent of the wild forests, eighty-percent of the uranium, vast quantities of coal, oil, oil-shale, natural gas, strategic metals, water, wildlife, fisheries, range-lands, and wilderness. These are the remaining lands and territories reserved to Indian nations after more than two centuries of land expropriations, treaties, land purchases and wars between the United States and Indian nations. Benefiting from years of U.S. government policy aimed at the dismemberment of Indian tribes, non-Indian U.S. citizens moved into Indian territories in increasingly larger numbers. Many became residents of Indian reservations. They became "on-reservation non-Indians." The successful encroachment of non-Indian populations on to Indian reservations serves now as the catalyst for growing outside pressures to put Indian lands under the control of state governments, county governments, private individuals and commercial enterprises. The effect of land transfers and in-

migration of non-Indian populations to reservations is reflected in the growing "near-reservation" Indian populations -- Indians unable to live on the reservations reserved by their ancestors. Instead of territories reserved for the benefit of Indian peoples, many Indian reservations are rapidly becoming the land and raw material source for the United States.

CULTURAL AND BIOLOGICAL DIVERSITY: A SUCCESSFUL STRATEGY IN THE AMERICAS

There was a time when the only people who lived on the American continent were America's original nations, now called Indians. The original nations of North America have names like Ojibaway, Haudenosaunee, Lakota, Hopi, Kiowa, Dene, Cree, and Yakima. Once these nations and scores of other nations lived on virtually all the lands of the Americas, from the highest mountains to the lowest beaches. The culture of each nation developed from the intimate relationship between people and land. Religious, political, legal, economic and social systems within each culture naturally developed from the interaction between the people and the territories to which each had systematically and successfully adapted. Some nations took as many as forty-thousand years to reach the level of sophistication and classical grace only achieved by very old cultures. Typical of all human nations throughout the world, America's original nations reflected the diversity of all the lands' varied ecological conditions. Those nations that balanced human needs with the regenerative capacities of the land, plants and other animals succeeded and developed into complex cultures still able to adapt. Those nations which demanded more of their environments than could be naturally regenerated, either became expansionist -- seeking sustenance and wealth from neighboring nations -- or they simply failed, collapsing into nothing. Either way, the key to any nation's survival is its culture, the land and the wealth of the land. Without a place on the land, a nation becomes spiritually and materially impoverished and dies or it becomes a threat to the peace and security of neighboring nations. Without a place, a nation can only have a culture of poverty.

America's great centers of complex culture were in the Mississippi Valley, what is now the Great Lakes Region and the east-central part of North America. Other centers included the desert regions of what is now Nevada, Arizona and New Mexico; and the region centered on the island of Haida Guui in the northwest part of the United States and southwest of Canada. America's many nations were prosperous and productive. These diverse nations developed not only complex economic

relations between themselves, but complex diplomatic, social and cultural ties. Though certainly not perfect, America's original nations had succeeded in developing successful societies after thousands of years. Each nation reflected the diverse character of America's complex eco-systems. Clothing, speech, spiritual systems, economies, and other life-ways differ between America's nations, accommodating the rich diversity of climates, terrain, and foods. What visitors from around the world could not have missed on their arrival over the centuries is the immense variety of peoples and their great wealth. America's nation's succeeded because of their cultural diversity and their ability to adapt to the variety of flora and fauna. The cultural strategies of America's nations endured the tests of time.

When immigrants from the world's other nations began to move to the Americas, everything changed. The descendants of these original nations now live on-and-near parcels of land called communities, allotments, rancherias, and reservations. During three hundred years in the northern Americas and more than four hundred years in the southern Americas the original nations of America faced land wars against increasing numbers of immigrants from Europe, Africa and Asia. The struggle for land and resources continues unabated to the present day. New strategies for nations to survive continue to evolve, but the main ingredients remain the same: Balance, culture, land and natural wealth.

MANIFEST DESTINY AND THE REMAKING OF AMERICA

When succeeding waves of non-American populations emigrated and settled in the western hemisphere whole nations were forced to moved from one piece of geography to another. Some nations fought defensive wars and held their ground. Most Indian nations were located in reserved territories called Indian Reservations. Many other nations were left completely landless-immigrants and governments simply took the land and moved in to replace the original occupants. The result of the historic movement of populations was the marginalization of Indian nations in tiny territories.

After lands had been reserved by treaty for most Indian nations, these lands were defined as lands which would be permanently the home of the many different Indian peoples. "For as long as the grass is green and the water flows," Indians were to be the sole occupants of reserved lands, "unless they shall consent to non- members of the tribe" residing inside Indian Country. The reserved character of Indian lands soon became "an invitation instead of a

barrier" to non-Indian populations wanting the Indians' last remaining lands. In modern times, the large-scale movement of non-Indians onto Indian reservations began when the United States government enacted General Allotment Act (1887). Acting contrary to promises made, the U.S. government moved to finally destroy tribal governments. U.S. policy was to break up Indian reservations -- ending more than 260 years of treaty relations between the independent state of the United States of America and hundreds of foreign Indian nations which remained outside the absolute control of the U.S. government. The General Allotment Act became the main effort of liberal democracy to eliminate so-called primitive and backward lifeways among Indian peoples. Liberal Senators committed to the Manifest Destiny Doctrine (the historical inevitability of Anglo-Saxon domination of North America from sea to sea) advocated the General Allotment Act as a progressive demonstration of liberal democracy. "Indians," it was often said, "must be protected from the ravages of progress." By moving non-Indians onto Indian reservations as the new reservation land-owners and locating individual Indians on parcels of reservation land or off the reservation completely, the United States government hoped to eliminate Indian nations once and for all. Indians, according to this thinking, would be integrated into civilized society, and "become productive members of a society comprised of people from many other nations who have become a part of the world's melting pot." This 19th century thinking was recently reaffirmed by the U.S. Supreme Court when it ruled on the question of whether Yakima County in the State of Washington could impose its governmental powers inside the territories of the Yakima Indian Nation. In Chief Justice William Rehnquist's majority opinion in the June 1989 decision in *Brendale v. Confederated Tribes and Bands of the Yakima Indian Nation*: It is "unlikely that Congress intended to subject non-Indian purchasers to tribal jurisdiction when an avowed purpose of the allotment policy was to destroy tribal government." Not only had the court reaffirmed the intent of the General Allotment Act as a basis for U.S. confiscation of tribal lands, but the court further asserted that the United States government will not recognize the authority of Indian governments inside their own territories when the Indian tribe exercises certain powers that affect non-Indian reservation residents -- a 19th century idea based on race.

AMERICA'S ORIGINAL NATIONS' STRUGGLE FOR THE LAND

Indian land rights are paradoxically the strongest and the weakest link in the mosaic of land

rights in the United States. Because Indian nations are not a part of the system of governments that make up the United States federal system, (to this day, Indian nations remain political entities exercising sovereignty outside the framework of the U.S. Constitution), they are vulnerable to unrestrained political, economic and social interference from non-Indian citizens of the United States. While the United States government concluded international treaties with Indian nations promising to protect Indian people and territories from encroachments by the various states and individual U.S. citizens, it has more often than not been in the U.S. government's interest to abrogate those parts of various treaties. The United States of America obtained most of its wealth and virtually all of its territory from Indian nations. Lands and resources fell under U.S. control through treaties of cession, war with various Indian nations, purchase of territory from another state claiming Indian lands, abrogation of U.S. promises to protect Indian nations or through outright deception and confiscation.

If treaty and other agreements between Indian nations and the United States are sustained and advanced as law to be enforced by all parties, the territories of Indian nations will not be violated. If, however, the United States government itself becomes a party to efforts designed to confiscate and otherwise transfer Indian lands from Indian control to non-Indian control, Indian nations have only their own limited resources to defend themselves -- invoking provisions of treaties and pursuing legal remedies. Combined with this latter condition of relative weakness is the weakness of Indian nations to defend themselves because of the complex web of jurisdictions claimed inside Indian territory.

States, counties, the United States government itself and Indian nations claim varying degrees of governmental power inside tribal territories. This condition of multiple jurisdictions, real or imagined, exposes Indian reservations to land transactions which are secretly completed. A transfer of land could be completed under state jurisdiction and not be revealed to any of the other jurisdictions until accidental discovery. The cultural and biological diversity of all Indian nations is threatened by this growing tide of legal and "illegal" land transactions.

In the last third of the twentieth century, Indian nations came under an organized threat aimed at displacing Indians from reserved lands. The Anti-Indian/Wise Use Movement seeks the unrestrained exploitation of Indian lands and resources. Commercial and private property interests without historical experience, without cultural

connections to Indian territories seek to impose their selfish agendas. Their efforts threaten to cause greater cultural and biological imbalances in Indian Country similar to cultural and biological imbalances already created in heavily populated areas in areas outside reservations.

REPLACING THOSE THEY FOUND

In the late 1960s, it had become clear that the U.S. government's 19th century policy succeeded in creating a "checkerboard land ownership" pattern on every "allotted reservation." Not only did the land ownership pattern put non-Indian and Indian landowners living next to each other, but it also complicated an increasingly difficult jurisdictional mess for tribal, federal and state governments. Though Indian nations originally reserved full jurisdictional authority to their own governments inside reservation boundaries, the United States government and the various states began to undermine that jurisdiction by imposing federal or state laws on reservations where non-Indians owned property. This complicated and confused civil and criminal law and justice responsibilities on Indian reservations.

By the 1980's more than 500,000 non-Indians claimed land on Indian reservations. More than half of many tribes' populations were forced to live outside reservations. The greater number of displaced Indians moved to locations near the reservation. They no longer can fully enjoy the benefits of territories reserved to them as distinct peoples under treaties and agreements with the United States of America. Non-Indian landowners competed with tribal peoples for limited resources and land inside reservation boundaries. The majority of the displaced Indians now live in areas and communities near their reservation, while still many thousands of Indians were forced under a 1950's U.S. policy of relocation to move to major cities like Los Angeles, Denver, Seattle, Chicago, New York and Baltimore.

Non-Indian landowners on Indian reservations include people seeking inexpensive summer retreats, retirement homes, and commercial businesses. At first they received help and encouragement from the United States government. They later received help, encouragement and money from right-wing elements. Influence ranging from Sun Myun Moon's Unification Church in the Wise Use Movement to followers of neo-Nazi groups and white supremacists connected with the Anti-Indian Movement dovetailed in the middle 1980s with the on-reservation property owners' movement. Though the on-reservation property owners' movement began

in the late 1960s as a legitimate political dispute with tribal governments it eventually linked with off reservation "property-rights" interests. Non-Indian reservation property owners and off-reservation land and resource groups became the Anti-Indian Movement. By 1988 the Anti-Indian Movement became a founding participant in the "multi-use movement" that developed into the "Wise Use Movement."

THE ANTI-INDIAN MOVEMENT BEGAN INSIDE INDIAN COUNTRY

Under the guise of "mainstream non-profit research and education organizations" and the deceptively attractive "equal rights for everyone" slogan, the Anti-Indian Movement signaled the beginning of a growing effort to "privatize property" in reaction to growing Indian tribal government powers and the environmental movement. With its right-wing extremist technical help, the Anti-Indian Movement receives support and money from unsuspecting "reservation non-Indians" and off-reservation non-Indians. With their own agenda, the Anti-Indian Movement's reactionaries and extremists employ tactics and slogans calculated to exploit Indian and non-Indian fears of each other. Using the non-Indians' fear of Indians to build a power-base in mainstream politics, right-wing extremists took advantage of fear by encouraging bigotry.

While many transplanted non-Indians now live as residents on Indian reservations, large numbers are absentee landowners -- they don't live on the reservation. Despite their absentee landowner status, the "reservation non-Indian" in the late 1960s became a new and powerful challenge to the peace and stability of Indian nations. Indian people had often heard the refrain, "Why don't you go back to your reservation?" This was heard when Indian and non-Indian conflicts arose outside the reservation. It was a wrenching experience to have conflicts inside the reservation and hear that "Indians should become a part of the greater society and have equal rights with everyone."

Larger numbers of non-Indian landowners rejected tribal governmental authority inside the reservation; and they called upon the state to exercise its powers there. Non-Indian rejection of "alien tribal governments" built pressures leading to legal confrontations between tribal and state governments over a widening range of jurisdictional subjects. Increasing numbers of "reservation non-Indians" supplied state governments with the wedge needed to expand state powers into Indian reservations -- defacto annexation of tribal lands.

Tribes and states intensified their mutual antagonism and suspicion.

ORGANIZING THE MODERN ANTI-INDIAN MOVEMENT

Since the General Allotment Act in 1887, limitations on reservation resources forced more and more Indians to fish and hunt for their food in ceded areas near reservations. Indians asserted that treaties with the United States guaranteed continuing tribal access to some off-reservation resources. Not until tribes and states began to battle over control of natural resources outside reservation boundaries did there arise an organized Anti-Indian Movement in the 20th century. "Reservation non-Indians" became the core organizers of what became a highly structured Anti-Indian Movement. By 1991, the activists responsible for starting the Movement in 1976 headed four key organizations in the states of Washington, Montana, and Wisconsin. The United Property Owners of Washington (UPOW) and Protect Americans' Rights and Resources (PARR) in Wisconsin are the main "constituent organizations."

Over the decades since the 1960s, the U.S.-based Anti-Indian Movement grew. From a half dozen non-Indian property owner groups in two states in 1968, it became more than fifty organizations in 1993. The first organized anti-Indian network formed in 1976 under the umbrella of the Interstate Congress for Equal Rights and Responsibilities (ICERR). The ICERR linked on-reservation non-Indian landowner opposition to tribal governments with off-reservation non-Indian sport and commercial fishermen opposed to tribal treaty protected fishing rights. The mixture of on-reservation and off-reservation conflicts produced a sometimes confused, often distorted, attack on tribal governments, the federal government -- especially the judiciary -- and often bitter attacks on individual Indian people. ICERR formed the Anti-Indian Movement's populist and frequently racist ideology that attracted legitimately distressed non-Indians as well as bigoted activists.

During the ten years after first forming, the Movement shifted from incipient forms of racism and populism to a more virulent form of reactionary-racism with subtle contours and technical refinements. Right-wing extremists began in 1983 to assume a strong influence in the Anti-Indian Movement through the Washington State based Steelhead & Salmon Protection Action in Washington Now (S/SPAWN) organization.

In the years that followed, right-wing and militantly bigoted activists gravitated to the

Wisconsin-based Protect Americans' Rights and Resources (PARR). Still later, right-wing personalities assumed positions within the Citizen's Equal Rights Alliance (CERA) and United Property Owners of Washington (UPOW) organizations.

The Movement evolved into its present structure from two property owners' associations and a single umbrella organization (ICERR) in 1976. Today, the Movement boasts two "national organizations," five "coordinating local organizations" and a consistent network of twenty-three "local organizations" or "local contacts" and a claimed constituency of 450,000 people. Though the Movement frequently targets the Quinault Indian Nation, Suquamish Tribe and Lummi Indian Nation (in the state of Washington), Blackfoot, Salish & Kootenai and the Crow in Montana receive strong emphasis too. Politically active Indian tribes in Alaska, Arizona, Idaho, Iowa, Michigan, Minnesota, Montana, Nebraska, New Mexico, New York, North Dakota, South Dakota, Utah, Washington and Wisconsin have felt the effects of the network.

In fifteen years the organizational and tactical focus of the Movement switched from the state of Washington to Wisconsin and then to Montana, and back to Washington again. Despite maintaining contacts in several states, the Movement conducted major activities in only the three tactical states. Though the organizational focus shifted from one state to another, the ideological influence, tactics and strategy flowed from Washington State based personalities and organizations. Three groups (Quinault Property Owners Association (QPOA - Quinault Reservation), Association of Property Owners and Residents in Port Madison Area (APORPMA - Suquamish Reservation), and the Interstate Congress for Equal Rights and Responsibilities (ICERR) are politically linked to each of the Movement's organizational efforts. While the organizational strategy of the Anti-Indian Movement was to create a new organization for each political or legal challenge to Indian rights, all of the organizations have essentially the same supporting organizations. In other words, though the number of "national or coordinating organizations increased in number, the number of organizers and activists remained virtually the same - all had the same members.

Four individuals have been involved in the organization of every coordinating or national organization in the Anti-Indian Movement since 1968: George Garland (QPOA), Pierce and May Davis (APORPMA) and Betty Morris (ICERR, and QPOA). All come from the state of Washington. Garland and Morris are mainly concerned with the

Quinault Indian Reservation. The Davises are mainly concerned with the Suquamish Indian Reservation. After 1983, these main anti-Indian activists were joined by more sophisticated organizers from the right-wing elements of American politics. State Senator Jack Metcalf, fundraiser Alan Gotlieb, political organizer Barbara Lindsay, lawyer David L. Yamashita and National Wildlife Federation activists Carol and Tom Lewis (all from Washington) joined the Movement. These personalities have close connections with the Wise Use Movement. Some, like Alan Gotlieb (a key funder for the Free Enterprise Institute that serves as a major opponent to the environmental movement and a major player the Wise Use Movement) and Senator Jack Metcalf have close connections with the Unification Church and with the Liberty lobby. After organizing the Movement for twenty-three years, its leaders can claim several successes which now contribute to the growing capabilities of the Wise Use Movement:

- Adoption by a slim majority in the state of Washington Initiative 456 intended to create the public impression that Washington's voters opposed Indian rights and the continuation of Indian treaties - 1984.
- U.S. Supreme Court decided a County government could exercise zoning powers inside a reservation where non-Indians make up a substantial portion of the reservation population - 1989.
- Through its organization CERA, the Anti-Indian Movement became a direct and active participant in the Wise Use Movement in 1988.
- The total number of consistent anti-Indian activists country-wide is between 80 and 90 persons in sixteen states by 1991.
- The number of persons participating in anti-Indian activities (including meetings, protests, conferences and letter-writing is an estimated 10,850 persons country-wide by 1991.
- The number of persons who contribute funds or letters of support to anti-Indian groups is an estimated 34,150 by 1991.
- A total of 50 local anti-Indian organizations or contacts, five coordinating organizations and two national organizations have been created by the Movement mainly in the

states of Washington, Montana, Minnesota, and Wisconsin. (not including organizations with other agendas which closely identify with the Movement) by 1991.

Though the Anti-Indian Movement is held together with a lot of smoke and mirrors there is enough substance to it to seriously threaten the peace and stability of Indian tribes in the United States. Due to its new associations in the "Wise Use Movement" the Anti-Indian Movement increased its reach and broadened its potential constituency.

IN THE PSYCHE OF THE UNITED STATES

The Anti-Indian Movement has its roots deep in the collective psyche of the United States. The bigotry of right-wing and Far Right political extremes is also deeply rooted in America's politics - especially in connection with Indians. The implied or explicit belief in "white superiority" and "native backwardness and inferiority" permeates American history. In the 1880's, U.S. President Rutherford B. Hayes, Supreme Court Justice Waite and Civil War icon General John Sherman advocated the Doctrine of Manifest Destiny. Senator Dawes of Massachusetts was both an adherent to the Manifest Destiny doctrine and the main sponsor of the General Allotment Act of 1887. It was quite normal in the U.S. Congress to espouse what now would be considered "white supremacist" ideas. In 1899 Senator Albert T. Beveridge rose before the U.S. Senate and announced:

God has not been preparing the English-speaking and Teutonic peoples for a thousand years for nothing but vain and idle self-admiration. No! He has made us the master organizers of the world to establish system where chaos reigns He has made us adepts in government that we may administer government among savages and senile peoples.

Theodore Roosevelt, John Cabot Lodge and John Hay, each in turn, endorsed with a strong sense of certainty the view that the Anglo-Saxon was destined to rule the world. Such views expressed in the 19th century and in the early 20th century continue to ring true in the minds of many non-Indian property owners. The superiority of the "white race" is the foundation on which Anti-Indian Movement organizers and right-wing helpers rest their efforts to dismember Indian tribes.

There victims on all sides of the growing Indian/non-Indian controversy over property ownership inside and near Indian reservations. Only a small number of people can be said to intentionally provoke conflicts and violence between Indians and non-Indians. Due to these conflicts, however, victims of Indian and non-Indian conflicts fear one another - the cycle of fear feeds on itself. The small number of people who either gain politically or economically from Indian and non-Indian conflict use bigotry to promote division and fear. Both contribute to the destabilization of tribal communities and undermine tribal values.

When democratic values are crippled, freedom and liberty become the next victims. Authoritarianism, and terrorized societies replace free societies. The Anti-Indian Movement threatens to produce just such results in Indian Country. It also threatens to intensify rather than relieve conflicts born from historical mistakes, which can be resolved peacefully through mutual government to government negotiations.

UNDERSTANDING WHAT HAPPENED:

From the point of view of many Indian leaders and many non-ideological participants in the Anti-Indian Movement there is agreement on what are some of the mistakes that should be remedied.

- The forced division of tribally reserved territories under the 1887 General Allotment Act and the failure of the U.S. government to fully repudiate this disgraceful act creates the popular impression that acts of land confiscation and relocation of tribal populations is morally acceptable and justified.
- The United States government violated treaty and other agreements when it unilaterally manipulated the sale of tribally reserved lands to non-Indians without the consent of tribal governments. This mistake was subsequently compounded when states governments and the United States government unlawfully expanded their civil and criminal jurisdiction (following non-Indian reservation residents) into Indian reservations without the consent of tribal governments. Finally, the mistake caused injury to both tribal members and non-Indian land-owners when Indians were displaced, and impoverished; and non-Indians were not advised that as a practical matter they had consented to place

themselves under the jurisdiction of an Indian nation's government.

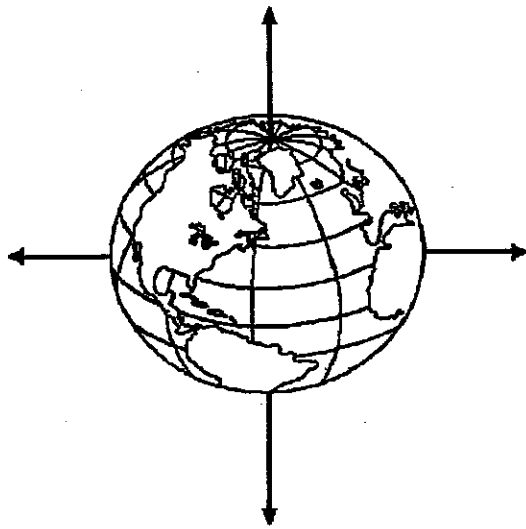
- State governments have mistaken Indian nations as a threat to their sovereignty. States governments and their subordinate governments agreed as a price for statehood that they would not attempt to extend their powers into Indian Country. To do so in fact undercuts the state's legitimacy, thus weakening the state, and encourages citizens to sabotage the rule of law.
- As a result of distraction or a mistaken belief in "historical inevitability," the United States and the various states failed to recognize that relations with Indian tribes have always been political in character. And to ensure the healthy cooperation between Indian tribes and the United States, relations must be dynamically adjusted over time through treaties and agreements and not through neglect or brute force. The basic premise of mutual respect and sovereign equality between the United States and Indian nations must be repeatedly incorporated in each agreement.
- The failure of governments (tribal, state and federal) to insist on the free and open negotiation of disputes, (always taking into consideration the effect intergovernmental agreements have on tribal members or non-Indians) has contributed to a feeling of "being wronged" among many non-ideological citizens in the United States. These persons may suffer economic or social hardships as a result of these failures. As a result, persons who may live on or near Indian reservations, have become prime candidates for incitement to harassment or violence against Indian people by militant bigots and Far Right activists who seek to provoke conflict as a way of advancing their ideas of "white supremacy." Furthermore, failure to encourage open negotiations fosters wider public participation and encouragement of the Wise Use Movement - the ultimate trap which catches the United States in its own historical inconsistencies.

IN SEARCH OF A SOLUTION TO THE GROWING DISCORD:

- Citizens of the United States should abandon the idea that Indian nations are going to disappear "in the face of inevitable

progress." Indian nations are neighbors of the United States and should be treated with the same respect that the United States of America asks for itself.

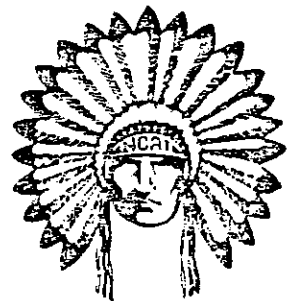
- The diversity of Indian nations must be understood as a reflection of the diversity of all of America's lands. Cultural and Biological diversity are essential to human existence.
- To resolve the problem of non-Indians who do not wish to live under the authority of tribal governments, the problem must be recognized as having been created by the U.S. government - thus placing the burden of resolution on that government. Non-Indians ought to be given a choice whether they wish to now live under tribal authority. If they do not object, then nothing more need be done except remove (by negotiation) any extensions of state, county or U.S. authority inside the boundaries of a reservation that conflict with tribal authority. If a non-Indian rejects tribal authority, the United States government becomes obligated to purchase non-Indian property and improvements at a fair market value, and provide assistance in relocation.
- With those non-Indian persons continuing to remain on the reservation, the tribal government ought to assist them by inviting them to send representatives to an advisory council which can provide continuing advice to tribal authorities. Such a council would serve as a sounding-board for non-Indian views on tribal government actions which may affect their interests.
- To reduce conflicts between tribal and state (plus subsidiary) governments, tribal and state governments ought to negotiate a government to government accord which defines a framework for dispute resolution. County and municipal governments should be defined within this framework.
- Prior to the negotiation of joint natural resource management regimes between tribal and state governments (in ceded areas), every effort ought to be made to ensure careful consideration of "user group" interests. The State is obligated to consider these interests among those persons who are not members of the negotiating tribe. These negotiations can be substantially improved by including elected state and tribal officials on the negotiation teams - officials who take seriously the responsibility for ensuring consideration of "user group" interests.
- Where tribal, state, and U.S. federal conflicts obtain, a tripartite intergovernmental negotiating framework ought to be formed - taking into consideration remedies suggested above.
- Tribal governments should institute hate-crime laws permitting the prosecution of those who commit malicious harassment, intimidation, or violence aimed at tribal property, resources or aimed at individual tribal members by racial extremists. The Tribal government ought to sponsor and support the formation and continued operation of a "Human Rights Commission" which includes tribal and non-tribal membership. The Commission ought to document incidents of bigoted harassment, intimidation, property damage, and violence aimed at tribal members and non-tribal members within the territorial jurisdiction of the Tribe. The Commission should be responsible for conducting public meetings to ensure public awareness of human rights norms. The Commission ought to have the capacity to provide assistance to victims of hate-crime, or refer victims to an appropriate tribal agency.



Tribal/Global Relations

Policy & Action Plan for the 80's

**Nation Congress of American Indians
37th Annual Convention
October 28, 1980**



INTERNATIONAL AGENDA 1980

TRIBAL/GLOBAL RELATIONS POLICY & ACTION PLAN FOR THE 80's

OCTOBER 28, 1980

Introduction:

In November 1944 representatives from fifty Tribal Governments organized and founded the National Congress of American Indians (N.C.A.I.). The purpose of NCAI spelled out in the founding constitution is to:

1. Preserve Indian cultural values;
2. Seek an equitable adjustment of Indian Affairs
3. Secure and preserve Indian rights under Treaties and Agreements with the United States,
4. Promote the common welfare of the American Indian; and
5. Promote a better understanding of Indians.

During the thirty-seven years since its formation, NCAI has pursued these basic purposes. Record of this pursuit is to be found in its policy statements and recommendations, more than 1000 resolutions, testimony before the U.S. Congress, conference reports and memoranda to member Tribal governments. By direct tribal Government actions and actions taken by NCAI in support of the member Tribal Governments tribes within the boundaries of the United States have sought the full implementation of treaties, executive orders and agreements with the United States Government. Such issues as termination, protection of tribal water resources, preservation of tribal self government, the provision of health, education and welfare and self-determination have been, among many specific issues, prominent on NCAI's annual agendas and in special conferences between Tribal Governments. While each individual Tribal Government has maintained its own distinct set of priorities tribal leaders have time-and-time again discovered a common need to pursue joint tribal actions on broad issues that affect the internal security and progress of each of the individual tribes. The goals upon which member Tribal Governments have consistently agreed include the following:

1. The full exercise of Tribal Government legal and political jurisdiction within the geographical boundaries of each tribal territory.
2. The full expression of tribal control over natural resources including, but not limited to water, minerals, timber, fish and wildlife.
3. The full expression of tribal control over health, welfare and social services to ensure that every member of a tribe has full access to health and welfare services.
4. The fulfillment of the United States Government's obligation to preserve and protect the rights and property of Indian Tribes in accordance with its historic trust responsibility.
5. The prevention of U.S. government and State government encroachments on tribal rights and property.
6. The reacquisition of tribal boundaries and tribal lands.
7. Promote the continued political existence of Indian Tribes as distinct cultural and political communities.

To achieve the common goals of member NCAI Tribal Governments the following specific objectives shall be mandated for initiatives within the international community:

1. The development of an NCAI prepared document which identifies international laws, covenants and conventions which support tribal rights and property claims. This document shall be distributed, upon completion (before March of 1981) to each of the member Tribal Governments.
2. Organize and conduct a special conference of member Tribal Governments by June 1981 for the purpose of developing an inter-tribal position paper which lists the political goals of participating Tribal Governments, the legal and political conflicts the tribes have with the United States and the remedies Tribal delegates believe will insure achievement of their goals. This position paper will be transmitted to United Nations Secretary General Kurt Waldheim, selected foreign ministries of various governments, the United Nations Human Rights Commission and the World Council of Indigenous peoples with the expressed urging that the recipient encourage the United States Government to make arrangements with the various tribes to fulfill the remedies sought by the tribes.
3. Organize and establish a six member delegation made up of NCAI member Tribal Government officials authorized to represent member tribes and NCAI at the Third General Assembly of the World Council of Indigenous Peoples in Canberra, Australia from April 26th to May 3rd, 1981.

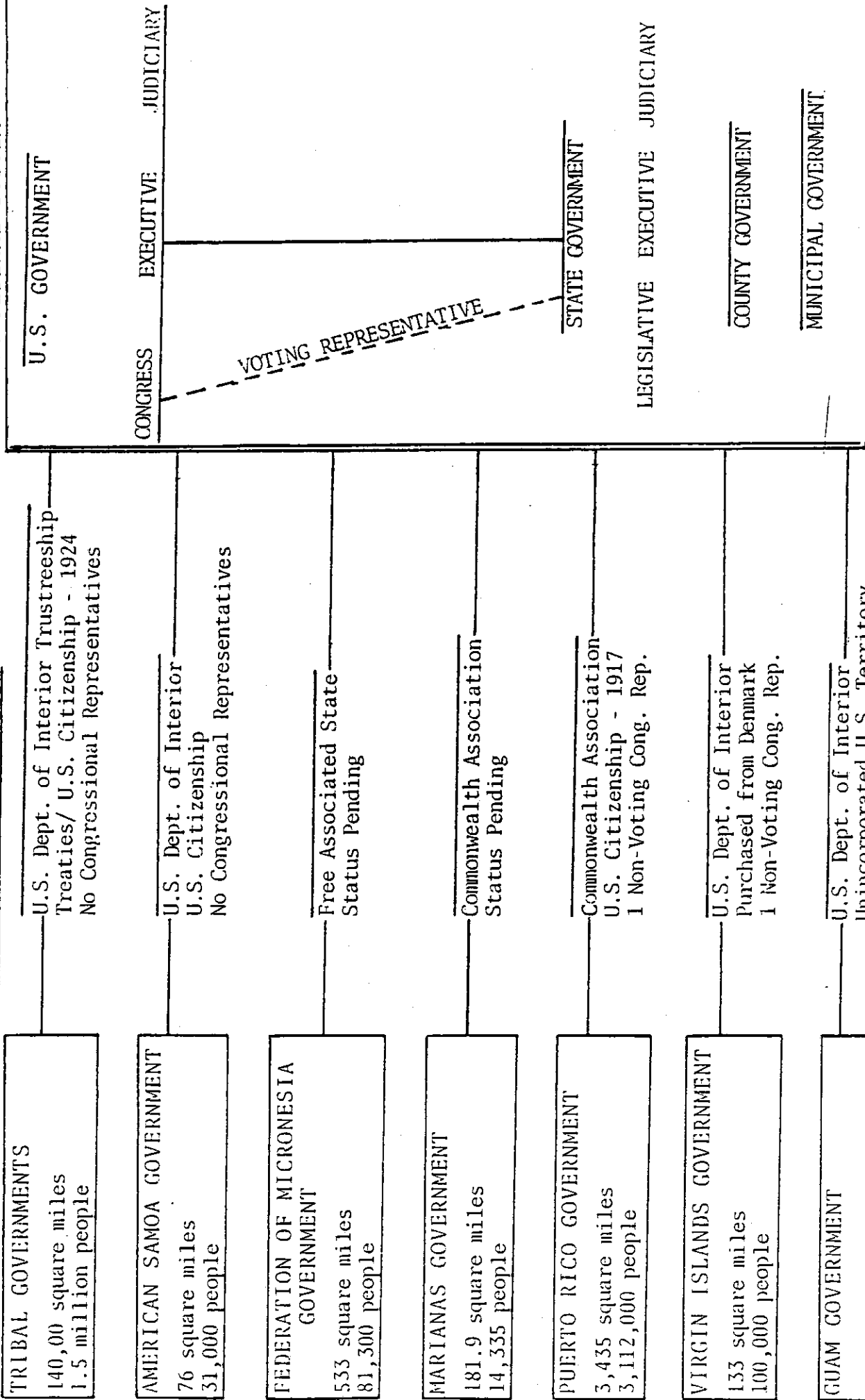
The six member delegation is authorized to represent official NCAI and member tribal Government positions at WCIP or other International meetings.

4. Establish within NCAI a special office of Tribal International Relations for the purpose of arranging and implementing communications between member Tribal Governments and the WCIP and other international organizations.
5. Establish a special intertribal commission to undertake an inquiry into the present and future alternatives for political relations between the United States and Indian Tribes. The commission will recommend alternatives to be considered by the various tribes for new legal, political and economic relations with the United States. This commission will begin its work in January 1981 and submit its report to the member tribal governments no later than January 1982. Upon a final decision of the various Tribal governments new negotiations will be sought with the United States President and Secretary of State to formulate an agreement for future relations between the United States and Tribal Governments.
6. Promote and facilitate the development of internationally binding laws which ensure recognition of tribal peoples' permanent sovereignty over their own territories by 1990.
7. Organize and promote supportive action within the United Nations and other international organizations to stop national government politics of genocide and ethnocide against tribal peoples (particularly in South American Countries, Central American Countries and in other countries like Canada, United States and Australia where policies of assimilation and intimidation are dislocating tribal populations and disrupting tribal cultures).
8. Seek international financial support to directly aid and assist individual tribes as they seek to improve the economic conditions within the boundaries of reservations.
9. Promote the development of inter-tribal mutual assistance agreements to maximize inter-tribal support and cooperation in the development of Tribal Government, tribal economies, tribal social and health systems and tribal natural resource development. Such cooperation and mutual aid efforts should include agreements between tribes in Canada and tribes within the United States.

U.S./Territorial Political Relationships

PEOPLES & TERRITORIES UNDER U.S. PROTECTION

U.S. FEDERAL SYSTEM



TRIBAL GOVERNMENTS
140,000 square miles
1.5 million people

U.S. Dept. of Interior Trusteeship - 1924
U.S. Citizenship - 1924
No Congressional Representatives

AMERICAN SAMOA GOVERNMENT
76 square miles
31,000 people

U.S. Dept. of Interior
U.S. Citizenship
No Congressional Representatives

FEDERATION OF MICRONESIA GOVERNMENT
533 square miles
81,300 people

Free Associated State
Status Pending

MARIANAS GOVERNMENT
181.9 square miles
14,335 people

Commonwealth Association
Status Pending

PUERTO RICO GOVERNMENT
3,435 square miles
3,112,000 people

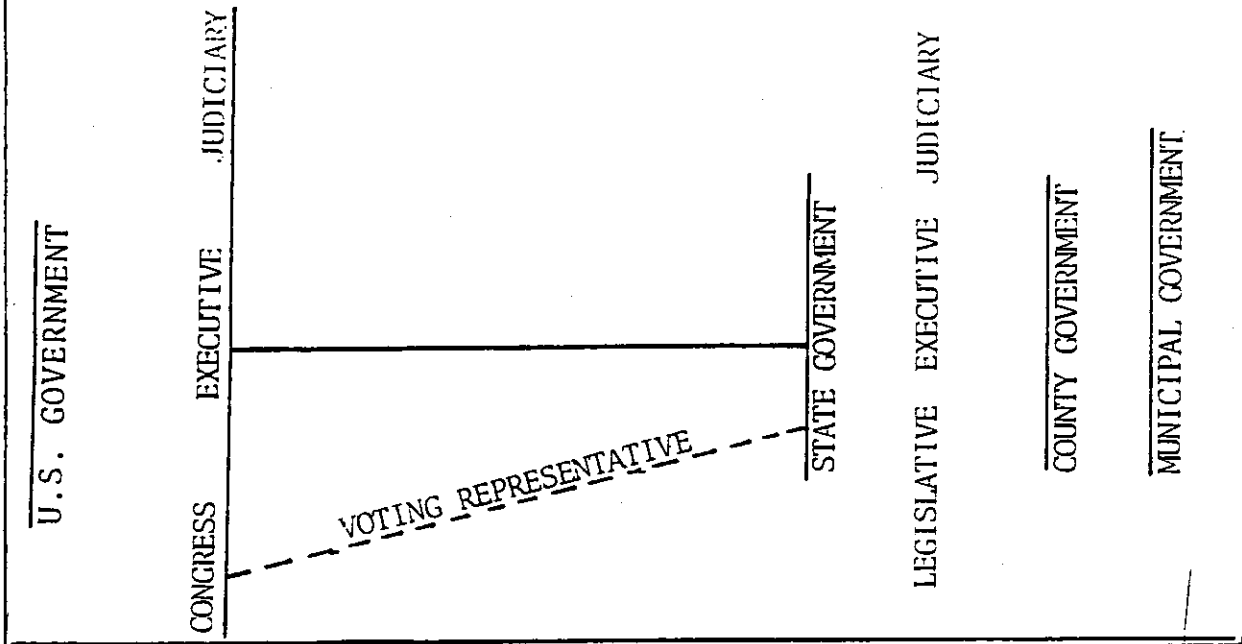
Commonwealth Association
U.S. Citizenship - 1917
1 Non-Voting Cong. Rep.

VIRGIN ISLANDS GOVERNMENT
133 square miles
100,000 people

U.S. Dept. of Interior
Purchased from Denmark
1 Non-Voting Cong. Rep.

GUAM GOVERNMENT
209 square miles
100,000 people

U.S. Dept. of Interior
Unincorporated U.S. Territory
Ceded to U.S. From Spain/Treaty of Paris 1898
U.S. Citizenship
1 Non-Voting Congressional Representative



To achieve the Purpose, Goals, and Objectives specific tasks have been determined as essential. The following represents a more detailed assessment of planned approaches and methods required to meet the present objectives of the Action Plan:

NCAI Task Description

Title of Issue: Development of NCAI Document on Tribal International Status

Statement of Objective: #1 Development of an NCAI document which identifies international laws, covenants and conventions which support tribal claims by March 1981.

Plan of Action: Indian Tribes within the boundaries of the United States have an international identity which has been suppressed as a result of treaty association with the United States. As peoples with territories under the protection of the United States Indian Tribes have been prevented from fully expressing their cultural and political aspirations as distinctly identifiable political communities. That Indian Tribes are associated with the United States by treaties and agreements and they retain their inherent sovereignty cannot be doubted. Though Indian tribes have a relationship to the United States similar to the relationship of other associated territories like the Virgin Islands, Guam and Puerto Rico (See diagram 1 on the next page) Indian tribes have been denied this recognition by the United States.

The member tribes of NCAI agree to form a special staff taskforce made up of lawyers, technicians and support staff to prepare a detailed document describing the applicability of international laws, covenants and conventions (such as the International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, Declaration on the Granting of Independence to Colonial Countries and Peoples, Universal Declaration on Human Rights and the United Nations Charter and the Declaration on the Emerging International Economic Order) to the achievement of tribal rights and goals. This special taskforce of loaned tribal staff will be placed under the direction of the NCAI President and Executive Committee. The cost for staff and materials will be carried by the contributing tribal governments.

Time Table: The Special Staff Task Force will be established no later than December 15, 1980. It will commence working in January and present a final report to the NCAI President by March 15, 1981. Transmission of the document to tribal governments will be completed by April 10, 1981.

Title of Issue: NCAI Special Conference on Tribal Political Goals

Statement of Objective: Organize and conduct a Special NCAI Conference on Tribal Political Goals for the Purpose of developing an inter-tribal position paper which describes the

legal and political conflicts the tribes have with the United States, the remedies advocated and the implications of their resolution. This special conference will be conducted in an appropriate location in June 1981.

Plan of Action: In a major effort to build consensus among tribal governments regarding the range of conflicts between themselves and the United States this conference will be designed as a thorough worksession similar to the special conference concerned with S 2010 and the revision of Public Law 280. The point of developing an inter-tribal position paper on tribal political goals is to present tribal government concerns and interests before the international community. It is anticipated that the United States will take tribal concerns more seriously if members of the international community expresses interest and concern about the rights of Indian Tribes in the United States.

The NCAI Executive Director will begin preparations for this special conference in November 1980 by preparing a conference narrative and outline for distribution to all member tribal governments. Contained in this narrative will be an expression of the purpose, goal and objectives of the conference. The Executive Director will supplement his staff by requesting and securing loaned tribal staff from member tribal governments to organize the conference. The Executive Director will supervise the development and preparation of a "draft" position paper for review, discussion and modification by participating tribal government delegates. When the conference is completed the Executive Director will prepare the final Position Paper and distribute it to each member tribal government, U.N. Secretary Kurt Waldheim, the UN Human Rights Commission, World Council of Indigenous Peoples, and selected foreign ministries of various governments. This will be completed under the direction and supervision of the President.

Time Table: This task will begin in November of 1980 and completed by July 1981.

Title of Issue: NCAI Delegation the World Council of Indigenous Peoples

Statement of Objective: #3 Establishment of a formal NCAI Delegation to represent NCAI and its member tribal governments in the World Council of Indigenous Peoples.

Plan of Action: At the Executive Council Meeting of NCAI in January 1981 select and appoint six tribal government officials to serve as the NCAI Delegates to the World Council of Indigenous Peoples. In November of 1980 the Executive Director will send a message to each member tribal government advising them of the pending designation of an NCAI Delegation and further advising the tribal governments about the WCIP, its goals and objectives. Candidates for the posts will be invited to submit resolutions of support from their governments. Once the Delegation is formed it shall work under the supervision of the NCAI Executive Committee. It shall deliver timely reports to NCAI. The Delegation shall represent NCAI at the Third General Assembly of the WCIP in Canberra, Australia and where possible other meetings of the WCIP and other international meetings. The cost for this delegation will be shared among the tribes.

Time Table: Beginning in November 1980 the Executive Director will transmit

the appropriate messages to member tribal governments. The delegation will be formally established before then end of January 1981.

Title of Issue: NCAI Special Office of Tribal International Relations

Statement of Objective: #4 Establish within NCAI a Special Office of Tribal International relations for the purpose of arranging and implementing communications between member tribal governments, NCAI and the WCIP and other international organizations.

Plan of Action: Identify funds in the amount of \$50,000 to support the costs of an NCAI staff person who will function as the international relations liaison. One secretarial person should be provided within this office. Funds will be secured from a foundation (Ford Foundation, Mott Foundation or their equivalent) no later than March 1981. In the interim the Executive Director will assign special responsibilities to staff presently employed. The Office will be formally established in March of 1981.

Time Table: November 1980 to March 1981

Title of Issue: NCAI Inter-Tribal Commission on Tribal Political Status

Statement of Objective: #5 Establish an Inter-Tribal Commission on Tribal Political Status to examine alternative relationships between Indian tribes and the United States.

Plan of Action: Indian Tribes do not have a specific political definition of their relationship to the United States. The relationship has been described by lawyers as a Trust Relationship. This relationship does not adequately define whether Indian Tribes are or should be a part of the United States Federation. At present Indian Tribes appear to be associated with the United States but not a part of the U.S. political structure. Tribal governments must determine what their present relationship is with the United States and what it may be in the future. At the NCAI Executive Council Meeting in January 1981 an Inter-Tribal Commission on Tribal Political Status will be formally designated and its specific mandate given. The Commission will be charged with the responsibility of delivering its final report within a specific time limit. It will be authorized to seek aid and assistance from member tribal governments. Five specific tribes will assume responsibility for financial and technical assistance to the Commission.

Time Table: January 1981 - a time limit set by the Executive Council

Title of Issue: Promotion of International Laws protecting Tribal Peoples

Statement of Objective: #6 Promote and facilitate the development of internationally binding laws which ensure recognition of tribal peoples' permanent sovereignty over their own territories.

Plan of Action: The Executive Director and President will direct the NCAI Delegation and the International Liaison in the new office of Tribal International Relations to work with the WCIP Secretariat to determine in what ways NCAI may support this action.

Time Table: Immediately

Title of Issue: NCAI action to support UN Actions concerning Tribal security

Statement of Objective: #7 Organize and promote supportive action within the the United Nations and other international organizations to stop national government policies of genocide and ethnocide (the destruction of tribal communities).

Plan of Action: Develop broader understanding among member tribal governments about the extent of destruction being done by national governments and wider efforts to communicate how such policies are affecting member tribes. Work through the WCIP Secretariat,

Time Table: Begin immediately and continue for the next 10 years

Title of Issue: International financial assistance to member Tribal Governments

Statement of Objective: #8 Seek international financial support to directly aid and assist individual tribes as they seek to improve the economic conditions within the boundaries of reservations

Plan of Action: The Executive Director , President and members of the NCAI WCIP Delegation will seek to meet with representatives of the World Council of Churches in New York City and or Geneva, Switzerland, the World Bank and similar international organizations and agencies to identify financial resources which can be directed to individual member tribal governments. Such aid and assistance will be sought in amounts sufficient to meet tribal economic and social needs.

Time Table: Begin immediately and continue for the next 10 years

Title of Issue: Inter-tribal agreements and cooperation

Statement of Objective: #9 Promote the development of inter-tribal mutual assistance agreements to maximize inter-tribal support and cooperation in the development of Tribal government, tribal economies, tribal social and health systems and tribal natural resources.

Plan of Action: The NCAI Executive Committee will formulate a general strategy to promote intertribal support and cooperation. Tribal resources, if shared in a systematic fashion will increase the political and economic effectiveness of all member tribal governments. Dependence on one another will become a

The Executive Director will publish an NCAI document in 1981 which demonstrates how inter-tribal cooperation and support can and will increase the political and economic strength of each member tribal government. Wherever possible NCAI will meet with member tribal governments to encourage the formation of agreements with other tribal governments which share a common need and interest. NCAI will publish a document on existing agreements and treaties between member tribal governments in order to demonstrate the variety and nature of present agreements.

Time Table: NCAI will publish its first document on the need for inter-tribal cooperation and support by the Spring of 1981. Publication of the second document will be completed by the Spring of 1982.

Self-Government Process Evaluation Project

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Principal Investigator: Rudolph C. Rýser

Executive Summary:

Thirty three Indian governments have engaged in negotiations and concluded at least one and sometimes two Compacts of Self-Government with the United States between 1990 and 1995. The principles guiding the original negotiation of these compacts originally defined by Indian leaders in 1986 and 1987 emphasized the establishment of a government-to-government framework with the United States on a tribe-by-tribe basis. Emphasis was placed on the importance of these agreements being between each Indian government and the United States government as a whole instead of Indian governments dealing with agencies. The goals for self-government were based in these original principles, but there was a separation between principles and goals.

Two studies have been conducted to serve as annual self-governance assessments. The first study in 1993 emphasized Indian government compliance with compacts and the effectiveness of accounting and budgetary systems. The second study (1994, 1995) emphasized "costs and benefit," depending on a series of questionnaires to get opinions from Indian governments and officials of the Bureau of Indian Affairs and the Office of Self-Governance. This study was generally approving of the creative and effective activities of Indian governments and critical of the United States government's compliance with Congressional and Compact terms and requirements.

The current study, the Self-Governance Process Evaluation, is a study measuring the increase or decrease of self-governing powers in Indian governments, the effectiveness of parties to Compact negotiations and recommendations to Indian governments for approaches to the exercise of governmental powers and approaches to negotiating future compacts with the United States.

Based on a review of documents (historical and contemporary), the following preliminary findings are offered for subject governments' consideration:

- The United States government generally is not seriously participating in the development and conduct of the self-government initiative.
- Compacts have not resulted in each Indian government arranging a government-to-government framework with the United States, and Indian governments are engaged in negotiating Compacts on an agency-by-agency basis resulting in a pattern of relations similar to PL-638 contracting.
- The United States government has pledged under the Helsinki Accord of 1975 to conduct government-to-government relations and increase the social, economic and political development of Indian nations, but it has failed to take the initiative to implement these commitments by seriously engaging Indian governments in self-governance compacts.
- Baseline Measures Reports from subject Indian governments and the study conducted by the Department of the Interior (August, 1995) confirms that Indian governments have made major progress toward social, and economic development as a direct result of the self-governance initiative.
- Indian governments are emphasizing social and economic development at the expense of political development, this possibility suggests the future weakening of governments and their becoming dependent on federal agencies.

The Final Report will test these findings and confirm or deny them. It will also address new findings uncovered by direct research and offer recommendations for approaches to future Indian government actions and negotiations with the United States.

Coherence of Negotiation Principles with Tribal Goals

Negotiation Principles	** Self-Government Goals **						
	1	2	3	4	5	6	
1. Gov-To-Gov Mechanism	X						1
2. Lesser Power Sovereignty			X	X			2
3. Trust: Elevate/Protection	X		X	X		X	4
4. Trust: Modern Application	X		X	X		X	4
5. Direct Negotiations	X						1
6. Indiv Trib/US Treaty Rel.	X	X					2
7. Non-interference internal		X				X	2
8. Political Relationship	X					X	2
9. U.S. assistance		X			X	X	3
10. Gov-to-Gov Process	X				X		2
<i>Level of Coherence:</i>	7	3	3	3	2	5	23

As earlier studies indicate, Indian governments tended to emphasize Goals 2,3,4,5. Such an emphasis is in part consistent with the original intent of the self-governance process, but the two pillars of the process (as represented by Goals 1 and 6) received less attention (Reinfeld, 1965)

Preliminary Findings:

- Though the United States government first stated a policy of self-determination in 1970, it has not expressed its own interests in relation to the self-governance process. The U.S. government entered into negotiations with Indian governments and never presented its own interests as a matter of negotiation. Since the United States government expressed no goals of its own, officials of the U.S. government apparently assumed that there was fundamental agreement with Indian government goals. The failure of the United States government to address its interests and goals in the context of negotiating compacts may prevent the United States from fully complying with Compacts of Self-Governance and Funding Agreements. A failure to comply with compacts is highly likely since unstated interests and goals may become the basis for not complying with intergovernmental agreements with Indian nations.
- Of the thirty-three Indian Governments, many have negotiated a second Compact, though the second is with the Indian Health Service. It appears that the negotiation of such additional compacts adds to tribal and federal expenses unnecessarily while undercutting tribal government negotiations with the US. An underlying concept for the self-governance process has been that each Indian nation must have relations with the whole of the United States government and not merely an agency. One Compact per nation appears to be all that is necessary amended by a series of protocols or funding agreements. If nations are obliged to negotiate a Compact with an agency they are bound to experience agency overload and an immense bureaucracy. This is one thing Indian nations were attempting to avoid.
- Even though Indian nations have had the right since 1976 to appeal to the Commission on Security and Cooperation in Europe to ensure U.S. compliance with the Helsinki Final Act, no Indian nation has either contacted the U.S. Commission or the Organization on Security and Cooperation in Europe based in Europe regarding the self-governance process.
- Baseline Measures Reports from subject Indian governments and the study conducted by the Department of the Interior (Study of the Tribal Self-Governance Demonstration Project-1994-August 1995) confirm major progress by

Self-Government Process Evaluation: Preliminary Findings

4. Resolutions, laws, binding motions and directives adopted and issued by all Compacting Indian governments for the periods of October 1987 to August 1990, and from September 1990 to March 1995.

Requests are being made of the Self-Governance Coordinators for each of the thirty three Indian governments and of the Self-Governance Director for the U.S. Department of the Interior to supply the materials listed above. Request will be made of SENSE, Inc. Washington, D.C. for documents and records relevant to this study for the periods indicated due to that agency's coordinating role between Indian nations during the early phases of the self-governance initiative. Each document relevant to the study received from Indian governments, the United States government and independent sources will be reviewed and evaluated as a "decision instrument" and be assigned two numeric values and a descriptive value. One numeric value will be assigned to reflect whether a decision is an exercise of governmental power or a relinquishment of governmental power. The second numeric value will be assigned to reflect whether the decision constitutes a resumption of governmental power or a maintenance of governmental power in the United States. While specific requests for documents are made to the governments and independent sources, the study is subject to whether a source wishes to limit availability of documentation or respond fully to the request. Depending on availability, up to five case studies will receive particular emphasis within the overall study.

Principles of Negotiations and Goals of Self-Government:

The *Tribal Self-Governance Demonstration Project* became a part of the Congressional Appropriations Act for 1988 and was passed by the Congress on December 22, 1987. Anticipating the eventual establishment of the initiative as negotiated with Congressman Yates's Sub-committee, Lummi Chairman Larry Kinley formulated the principles for negotiating a self-government agreement. In his December 2, 1987 testimony before the Senate Select Committee on Indian Affairs, the Lummi Chairman listed for the Committee ten basic principles that would become the guide-posts for eventual negotiation of agreements on self-government with the United States. These principles, or intentions, reflected the views of American Indian leaders who had been working to develop a new relationship with the United States for the previous two years.

Negotiation Principles:

1. **There are natural tensions between sovereigns:** Tensions between nations and between nations and states over sovereignty and jurisdiction are a natural consequence of geography. To reduce these tensions, or direct the tensions toward peaceful resolution, mechanisms are established between governments. Government-to-government relations, formalized to ensure appropriate resolution of disputes and mutual cooperation are the customary means for neighbors to deal with one another.
2. **Greater-powers protecting Lesser-powers does not preclude Lesser-powers from exercising full powers of sovereignty.**
3. **Trust Responsibility and the duty of a Greater Power:** The U.S. Trust Responsibility toward Indian Nations must be interpreted as a duty to protect and assist an Indian Nation until it achieves the full powers of self-governance on a political plain equal to that of the United States of America.
4. **Federation of Micronesia: A modern application of Trust.** Some contend that Indian nations should forever remain in a trust status dominated by U.S. bureaucracies or be assimilated and disappear. *** Seeking to govern themselves, the Micronesians entered into direct government-to-government negotiations with representatives of the U.S. government with ambassadorial status to develop a Compact of Free Association. What was once a trust territory is now four separate and distinct national units (*three of which are now members of the United Nations as recognized states [RCR]*).

Self-Government Process Evaluation: Preliminary Findings

The United States placed Indian Rights under "Basket III" creating an international commitment to undertake relations with Indian nations within a government-to-government framework of mutual respect and cooperation. While documents attest to United States government commitments made to advance Indian self-government within a government-to-government framework, no officials dealing directly with Indian nations readily cite compliance with the Helsinki Accords as the reason for such a policy. President Ronald Reagan affirmed in 1983 the commitment of his administration to undertake a policy of promoting Indian self-government within a government-to-government framework, but he failed to note that his policy conformed with the 1979 commitments made under the Helsinki Final Act.

Previous Studies:

The process of defining a government-to-government framework, negotiating Compacts, and further elaborating arrangements between Indian governments and other parts of the U.S. government was not the subject of the *Annual Assessment* authorized by the Department of the Interior's Office of Self-Governance.

No overall study has been undertaken to determine whether or to what degree Indian governments are achieving the goal of self-government, and whether or to what degree the process between Indian governments and the U.S. government is building an effective government-to-government framework that assures a mutually acceptable balance in the exercise of sovereign powers. A first phase evaluation of the process and the goals of Indian governments in connection with shifting powers from the Bureau of Indian Affairs to Indian governments will give answers to these questions.

Oklahoma Study

After a review of the documents and literature, it is apparent that only one study has been undertaken, Northeastern State University's May 1993 *Annual Assessment*, to consider the "impact of self-governance" on Indian nations. The Study concluded: "generally that Self-Governance had a positive impact at the Tribal level and should continue."

Study of the Tribal Self-Governance Demonstration Project, Dr. Ken Reinfeld. 1995

The Department of the Interior was required under section 305 of Title III of Public Law 100-472 to prepare a report of the costs and benefits of the Self-Governance Demonstration Project. Though apparently completed in the Summer of 1994, the report entitled *Study of the Tribal Self-Governance Demonstration Project* was not presented in its draft form until August 24, 1995.

Remarkably, the 131 page study conducted by Dr. Ken Reinfeld of the Secretary of the Interior's Office of Policy Analysis was a draft analysis of individual response questionnaires completed by Indian governments concerned with the achievement of tribal goals. While there were questionnaires sent to the Bureau of Indian Affairs and the Office of Self-Governance, the only thing that seems clear about U.S. government responses is that Senior U.S. officials failed to define U.S. interests and goals resulting in confusion among U.S. officials and staff concerning the self-governance process. No evidence was presented in Dr. Reinfeld's study indicating that Senior U.S. officials either understood U.S. intentions in connection with the self-governance process or whether U.S. officials had any long term policy goals for the government of the United States.

The purpose of the study was to "...[D]etermine what has been learned from the research and demonstration project by identifying its relative costs and benefits and offering suggestions for refinement and improvement as the tribal self-governance program is being established pursuant to title IV." (Reinfeld, 1995 Letter to Reviewer, Deer, DOI, Aug. 24, 1995)

The study generally confirms vigorous and creative developments on Indian reservations and in Indian communities as a direct result of the Self-Governance Demonstration Project. It demonstrates that Indian governments generally consider the flexibility of decision-making as constructive and supportive of tribal cultural, economic and political development.

Self-Government Process Evaluation: Preliminary Findings

The planning process used by self-governance tribes allowed them to envision desired results and determine what needs to be done to achieve the desired results. ...the major benefit of the tribal self-governance demonstration project was the significant increase in the involvement and participation of tribal members in tribal government activities, including the setting of tribal priorities and policy directions. (Reinfeld, 1995:21)

When relations between Indian governments and the United States government are discussed, there is generally an unfavorable opinion. This is reflected in the failure of self-governance compacts to define a government-to-government framework effectively, since in the opinion of Dr. Reinfeld these agreements have resulted in "government-to-agency" agreements:

As the tribal self-governance demonstration projects of the DOI and Indian Health Service (IHS) proceeded (sic), relationships between the United States and participating Indian tribes have been formalized on a government-to-agency basis. Both of these federal agencies have entered into separate compacts and funding agreements with their own requirements and provisions. Unless a concerted effort is undertaken, each participating federal agency is likely to develop its own policies, systems, procures, and requirements. While this arrangement may be more convenient for the particular federal agencies, it is more burdensome for tribal governments. (Reinfeld, 1995:14)

The suggestion that a "government-to-agency" framework instead of a government-to-government framework has resulted from compacts constitutes a serious indictment of the U.S. government and its failure to seriously monitor its own compliance with Compacts signed with Indian nations. It also suggests that the United States government is not taking the Compact of Self-Governance as a serious matter. Further evidence that the U.S. government is not seriously dealing with its agreements with Indian governments receives attention by the study:

...baseline measurements were not used by BIA. A major weakness of the project involved the lack of mutually determined baseline measurements being developed. (Reinfeld, 1995:78)

In addition to the failure of the United States Bureau of Indian Affairs to reduce its personnel, functions and services to match to funding transfers to Indian governments increases the sense that the United States government has not treated the self-governance initiative seriously. Between general praise for the accomplishments of Indian governments and failures by the United States government the study suggests a fundamental re-evaluation of approaches and strategies by Indian governments is essential.

The Current Study:

Many Indian governments have been involved in nearly eight years of planning, research, negotiations and social, economic and political change. Two studies confirm that Indian governments can handle funds efficiently and with appropriate controls, and they confirm that Indian governments can be creative when the burden of federal agency controls are removed. The Self-Government Process Evaluation is an eight month study to focus on decision making instruments (resolutions, communications, treaties, constitutions and compacts) and the process of reassuming self-government within a framework of government-to-government relations with the United States government. Are Indian governments reassuming governmental powers? Is the United States government reducing its control over subject Indian governments. Are Indian governments negotiating with the United States as political equals and is a government-to-government framework being defined for each Indian government? Are Indian nations holding the United States accountable for its commitments? Are Indian nations making decisions consistent with growing powers of self-government?

Self-Government Process Evaluation: Preliminary Findings

Raw documents requested from all the governmental parties directly connected to the self-government initiative further inform the analysis. The information will be codified in data sets and all documents will be catalogued using a bar coding system. From the documentary consolidation and codification, investigators will analyze data results, conduct cross-referenced comparisons of coded results, and evaluate frequency scales to draw conclusions and formulate recommendations in a Final Report.

Significance

This study addresses whether Indian nations are achieving new levels of political development—offering new measures for determining the political development of Indian nations, and whether intergovernmental agreements with the United States provide a working framework for ensuring a long term and constructive government-to-government relationship.

The *Self-Governance Process Evaluation Project* examines changes in Indian government decision-making and changes in the exercise of governmental powers which specifically addresses the question: To what degree are Indian governments reassuming the capacity to exercise self-government as a direct consequence of each government entering into a *Compact of Self-Governance* with the government of the United States of America. This study also addresses the subsidiary, but no less important question: Do the current intergovernmental compacts serve as an effective intergovernmental framework to ensure the resumption of governmental powers by Indian governments, or should their be further steps to evolve a stronger framework? This study relies on a process of systematically measuring the relative level of self-government as reflected in the decision-making instruments of the subject governments.

The current study does not assess "cost-benefit," and it does not examine whether Indian governments have new administrative systems or effective financial management systems. These have been the subjects of previous studies. This study attempts to measure the change in the level of self-government of subject Indian governments and whether the government-to-government framework contributes to achieving self-government goals. To the extent that reassumed powers are those powers formerly assumed by the United States then the Indian governments have the aim of reducing U.S. governmental control over each Indian nation. The result of this process is presumed to be greater self-government. Providing a measurement of whether self-governing powers have indeed increased as a result of the negotiation of Self-Governance Compacts will enable Indian governments to determine whether they are actually achieving their goal of self-government. Indian governments will gain insights from this study into the effectiveness of their decisions and they will gain insights into the negotiation process with the United States and whether this process should be changed to achieve established goals.

Methodology

Thirty-three Indian governments (including Alaskan native corporations and villages) concluded Compacts with the United States government and protocol "Funding Agreements" in relation to the Department of the Interior's Bureau of Indian Affairs between the Summer of 1991 and Winter of 1995. The United States government's Office of the President in the White House, Secretary of the Interior and Assistant Secretary of the Interior for Indian Affairs were the executive participants in the formulation of compacts and protocols. Documentary information is being collected from all of these entities and agents acting on their behalf under the following categories:

1. Key communications and minutes of meetings in connection with negotiations and "framework setting" activities for the period of October, 1987- June, 1995.
2. Compacts formally concluded between 1991 and Winter 1994 and protocol "funding agreements" concerning the Bureau of Indian Affairs, Treaties and other agreements.
3. Constitutions of all Compact parties.

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In accord with Principle VII of the Helsinki Final Act, the United States has pledged itself to applying and upholding *inter alia* the International Covenants on Human Rights in its dealings with individual Indians and natives as persons. This has particular significances (sic) for those tribal people who were relocated away from Indian territories by the United States government and now reside in non-Indian urban and rural localities.

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. Principle VIII applies to United States government dealings with "recognized tribes," "unrecognized tribes" and "terminated tribes." (NCAI, 1983:3-4)

Of particular relevance to the self-governance process is the application of Principle VIII which advocates the same concept as Article 76 of the United Nations Charter which addresses the right of peoples to political self-determination:

...to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned....(United Nations Charter)

Principle VIII also recalls the language of the *Declaration on the Granting of Independence to Colonial Countries and Peoples* with the affirmation that peoples "freely determine their political status":

The 'political status' which each people has the right freely to determine by virtue of the equal rights and self-determination of peoples comprises both international status and domestic political status. Consequently the application of the principle of equal rights and self-determination of peoples in the political field has two aspects, which are of equal importance. (UN General Assembly resolution 1514 (XV), 14 December 1960)

The importance of the U.S. report to the Commission on Security and Cooperation in Europe (the Organization on Security and Cooperation in Europe [OSCE] as of 1995) is that it was acting in compliance with an international agreement and in response to criticisms directed at the United States government's treatment of Indians. (The U.S. Commission on Security and Cooperation in Europe was created in 1976 as an independent government agency with 12 members from Congress, representing both houses, and 2 representatives of the executive branch.) While reports about the United States government's response to criticisms was generally ignored domestically, a great deal of attention was given to the report internationally. The Assistant Secretary for Indian Affairs (then Forrest Gerrard) was reported in United States Department of State Special Report No. 73 to have "reached the need to develop a mechanism to improve involvement and participation by tribal governments in the Federal Government decision-making process as it related to the *government-to-government* relationship and trust responsibility" ("Implementation of Helsinki Accord", US Department of State, December 1, 1979-May 31, 1980:4). This report was submitted by the US Administration as proof that the U.S. government was complying with the Helsinki Accord.

On August 1, 1975, the United States government, Canada and 33 European states signed the Helsinki Final Act to establish a framework for the 35 participating states to deal with security and human rights issues in four parts, divided into three "baskets,":

- Basket I: the problems of security,
- Basket II: economic relations,
- Basket III: contacts among peoples,
basic human rights, and standards of international conduct

Self-Government Process Evaluation: Preliminary Findings

5. **The U.S. domestic legal system is an inappropriate forum of justice in Indian Affairs.** *The appropriate arena for these questions is in direct negotiations within the framework of government-to-government relations, and not the alien U.S. Courts.*
6. **The Court system views all tribes as the same and applies its decisions uniformly when, in fact each tribe is unique in its treaty relationship to the United States.** *Indian governments must be dealt with individually in relations with the United States government.*
7. **U.S. intervention into the internal affairs of Indian nations degrades the principle of trust responsibility and deliberately seeks disintegration of the political, social and economic fabric of tribal societies.**
8. **The Federal government speaks with many voices on Indian Affairs placing legitimate legal rights in the political arena.**
9. **Tribal self-government with United States support is an essential, basic goal of tribal leadership.**
10. **Tribes and the United States must initiate a meaningful government-to-government process to achieve individual tribal self-government.**
(Lummi, 1987)

Self-Government Process Goals:

Buy 1989, the principles originally announced by the Lummi Chairman in 1987 were amplified by a statement of goals:

1. Formalize relations between the United States and Indian Tribes on a government-to-government basis;
2. Allow Indian Tribes to determine internal priorities, redesign programs and reallocate financial resources to more effectively and efficiently meet the needs of their Tribal communities;
3. Promote greater social, economic and political self-sufficiency among Indian Tribes;
4. Establish better accountability through expanded Tribal Council decision-making authority;
5. Institute administrative cost-efficiencies between Tribal governments and the United States through reduced paperwork burdens and streamlined decision-making process; and,
6. Change the role of the Federal agencies serving Indian Tribes by shifting their responsibilities from day-to-day management of Tribal affairs to that of protectors and advocates of Tribal interests.

The principles stated by the Lummi Chairman set out the broad guidelines and purpose of the negotiation of self-government compacts with the United States. Consideration of goals without taking into account the principles on which the goals are based creates artificial assumptions that can be misleading. The intentions behind goals determines whether these goals can actually be achieved. An initial comparison of principles with goals suggests whether there is any coherence between original intentions and subsequent goals. In the table below, Indian nation principles cohere most strongly with the Goal 1 of formalizing relations between the United States and Indian tribes on a government-to-government basis, and with Goal 6 of changing the role of Federal agencies serving Indian tribes.

Self-Government Process Evaluation: Preliminary Findings

Indian governments toward the achievement of goals 2,3, and 5 though these reports tend to emphasize program and budget elements at the expense of questions of political development.

- Baseline Measures Reports from subject Indian governments confirm little overall measurable progress toward achieving goal 6. Indeed, preliminary evidence suggests the Bureau of Indian Affairs is resisting reductions in functions, and costs corresponding to the levels of pass-through funding, and the United States government paying little serious attention to the commitments contained in Compacts.
- While there is some evidence suggesting progress in goal 4 in the first part "better accountability" there is limited evidence of "expanded Tribal Council decision-making authority" which would indicate resumption of greater governmental powers.
- Goals 1,4 and 6 most directly address the original principles of negotiations, but primary emphasis has been on the affirmation of Goals 2,3 and 5 in the Baseline Measures Reports and Studies.
- Compacts have not resulted in each Indian government arranging a government-to-government framework with the United States, and Indian governments are engaged in negotiating Compacts on an agency-by-agency basis resulting in a pattern of relations similar to PL-638 contracting.

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