

## **Evolving New International Laws from the Fourth World**

Rudolph C. Ryser  
Center for World Indigenous Studies

After seventeen years of discussions, meetings and negotiations, the COVENANT ON THE RIGHTS OF INDIGENOUS NATIONS was initiated in Geneva, Switzerland on 28 July 1994 by representatives of indigenous nations. By virtue of this agreement, the new International Covenant is now and will remain open for ratification, for at least the next twelve months, by the world's more than 5000 indigenous nations. If the Covenant is ratified by thirty (30) indigenous nations, it will become new international law. Ratification of the new law will mean that indigenous nations will have accepted their full responsibility for the conduct of relations between themselves and their conduct in relations with states. Provisions of the new Covenant include measures concerning genocide against indigenous nations, the maintenance of cultural and biological diversity, protection of the lands and territories, protection of the intellectual property, and procedures for resolving disputes through negotiation of treaties. The COVENANT ON THE RIGHTS OF INDIGENOUS NATIONS is the first comprehensive international law to address the rights and long-term social, economic and political interests of indigenous nations. Twenty-five years after indigenous nations began to reassume their responsibilities in the international arena this concrete initiative now calls upon individual indigenous nations to directly decide what role they will play in international affairs. By virtue of this action world's Fourth World nations will have begun to evolve new rules and new standards of conduct in the relations between nations, and between nations and states. If ratified by indigenous nations in crumbling states (i.e., Sudan, Burundi, Ecuador, Burma, etc.), this new international legislation could help avoid the carnage that has followed the collapse of states like Rwanda, Somalia and Yugoslavia.

### **Will the Law between Indigenous Nations have the same meaning as Law between States?**

The prevailing opinion of thought leaders in the international affairs realm is that the State system provides the only framework within which international custom and law can be formalized. Unilateral, bi-lateral and multilateral state actions, so the argument goes, dictate what constitutes the norms and standards by which the international rule of law can and will be defined and enforced. While it may be true that for a very short time after World War I and for a short time after World War II such an argument was sustained by visible evidence of state dominance (particularly the winners of war) and state rule-making, there is growing evidence that weaknesses in the state system have opened new channels for other political interests to become active participants in international rule-making: Multi-national corporations and indigenous nations.

During the 1970s and 1980s initially strong, then halting and then strong again movements by multi-national corporations became evident showing these businesses to be interested and increasingly active in the field of international rule-making. Agreements between multi-national corporations now structure and largely determine values of state-produced currencies, define terms by which trade arrangements between continents will be conducted, and even determine whether corporations will activate and direct their own security and para-military forces to protect corporate interests against states and against indigenous nations. These international arrangements between multi-national corporations constitute a growing body of international custom and law that directly bears on the lives and sources of livelihood of virtually all the world's peoples. While this is an extremely important topic, it is not the focus of this internship. The reality of multi-national corporate activity in the field of international rule-making is a significant demonstration of a weakening state system, and a confirmation that those who need and demand order and stability in the international realm can and do turn to themselves.

Since the early 1970s, a movement of indigenous nations which instinctively recognized the strengths and weaknesses of the state system began to emerge - Fourth World Nations, or what continues to be described as indigenous peoples, ethnic minorities or indigenous nations. The United Nations officially recognized this phenomenon when the Commission on Human Rights authorized and directed the conduct of a ten-year study beginning in 1973 on the situation of indigenous peoples. The study was undertaken by Special Rapporteur, Mr. José R. Martínez Cobo (Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, (E/CN.4/Sub.2/1983/21/Add.1-12)) and produced twelve volumes of commentary, analysis and documentation about states' government policies and actions as regards indigenous peoples. The actions of the United Nations coincided with aroused non-governmental organization (International Commission of Jurists, World Council of Churches, etc.) interest in the increasingly visible struggles between states' governments and indigenous peoples around the world.

By the mid-1970s, indigenous peoples had formed their own non-governmental organizations. The International Indian Treaty Council, World Council of Indigenous Peoples and eventually the Inuit Circumpolar Conference and the Unrepresented Nations and Peoples' Organization formed the vanguard of organizations with representational participation directly from indigenous nations. Through these bodies began the emergence of a consensus between indigenous nation delegations on the form and content of new international rules of conduct aimed at guiding state relations with these nations. Repeated contacts between delegations began building trust and recognition of a new international principle: Through cooperative measures and agreements, indigenous nations may arrange mutual political, social, economic and strategic support.

The implication of multi-lateral consensus building through these new international organizations, and the formation of mutual assistance pacts is that indigenous nations began to see the importance of formulating new international customs and laws to meet their needs. Such agreements have all the earmarks of international rule-making that have broad implications for the affairs of states and multi-nation corporations. Ratification of the COVENANT ON THE RIGHTS OF INDIGENOUS NATIONS will confirm the renewed role of indigenous nations as participants in the international sphere--no longer subordinated to the narrow interests of states.

### **Origins of the Indigenous Nations' Covenant**

The first international effort to rationalize the rights and interests of indigenous nations took place in Geneva in 1977. It was during a non-governmental conference, sponsored in part by the International Indian Treaty Council, that Fourth World nations' representatives first developed the broad outlines for international principles framing jurisdictional, cultural, social, political and economic rights of indigenous nations. The COVENANT ON THE RIGHTS OF INDIGENOUS NATIONS is firmly rooted in the first principles described by the 1977 conference. The World Council of Indigenous Peoples Declaration on the Rights of Indigenous Peoples (1977), Indigenous Peoples Statement of Principles (1987), and the Draft Declaration on the Rights of Indigenous Peoples, as revised by the members of the United Nations Working Group on Indigenous Populations (E/Cn.4/Sub.2/AC.4/1993/CRP.4) were integrated into a unified whole for the Covenant of 1994. Additional references integrating Protocols I and II of the Geneva Conventions of 1949 (concerning the protection of non-combatants in violent conflicts) were also included.

In important ways, the Indigenous Nations' Covenant of 1994 originated around the council fires of nations in South and Central America, Asia and South Asia, Melanesia, Australia and the Pacific Islands, in North America, Africa and in Europe. The building of consensus began when regional and world-wide meetings of indigenous nations' delegations (over twenty years) were convened by the International Indian Treaty Council, the Inuit Circumpolar Conference, the World Council of Indigenous Peoples, the Unrepresented Nations and Peoples Organization, the Pacific Region Council of Indigenous Nations, the South American Council of Indigenous Peoples, the Central American Regional Council and the Nordic Sammi Council. These meetings began in the mid-1970s and continue to the present. Meeting in technical seminars, workshops and working group sessions under the auspices of non-governmental organizations like the International Commission of Jurists, World Council of Churches and within the framework of the United Nations Organization indigenous representatives continue to formulate language and concepts that would eventually be contained in the Covenant of 1994.

Finally, during seven years of negotiations, talks and meetings between indigenous nation delegates and states' government delegates during the sessions of the United Nations Working Group on Indigenous Populations and the United Nations Sub-commission on Prevention of Discrimination and Protection of Minorities concepts, principles and new understandings have been developed that are now contained in the Covenant of 1994. The process has been extensive and thorough. Much is said about the evolution of ideas among Fourth World nations by the Article I, **Declaration of Purpose** for the Covenant:

"Nations signatory to this Covenant, exercising their inherent sovereign powers, declare their mutual respect and these covenants to promote peaceful cooperation to preserve, protect and guarantee the rights and responsibilities of nations and the inherent rights of individuals, and to promote freedom, justice and international peace."

The first modern steps of Fourth World nations into the realm of international rule-making concerning the conduct of relations between nations and between nations and states is no small accomplishment. While many individuals can be identified as contributing to the formulation of this new international law, no single person can be given credit more than Grand Chief George Manuel (1929-1989), Shuswap and founding president of the World Council of Indigenous Peoples. Chief Manuel would be smiling now if he could see what nations can do for themselves, and for the generations of all humanity yet to come.