

# State Craft, Nations and Sharing Governmental Power

by  
Rudolph C. Rýser  
Center for World Indigenous Studies

(Paper submitted coincident with the "Seminar on Self-Determination by Indigenous Peoples," Amsterdam, 10-11 February, 1994.)

Exercising governmental power within the framework of a state has evolved since the 1648 Peace of Westphalia into a generally accepted system predicated on the principles of legal universality and of individual rights. While the actual arrangements for implementing these principles in each state vary the principles remain defining features of the state. Despite the rationalist's certainty that human freedom, liberty and equality are best served by the universalist/individualist formulation, ample historical and contemporary evidence exists to suggest such certainty is not well founded--indeed such certainty may prevent realization of evolving principles that may better serve human societies.

In this essay I will discuss developing arrangements for indigenous nations to govern themselves and examine the new political realities flowing from the collapse of numerous internationally recognized states. These new conditions demand a new formulation for sharing governmental power. The universalist state clashes with persistent human requirements for cultural diversity, and increasingly it is apparent that the state is in violent conflict with biological diversity as well. The movement for self-determination of "indigenous peoples" reflects the long struggle between those who seek the permanent establishment of the state and the original nations on top of which the state was established. Leaders of the original nations call for respect of diverse cultural realities and international recognition of collective rights, while the leaders of states demand unswerving loyalty to singular state cultures and individual rights. Given the more than 6000 culturally distinct nations and the 192 recognized states, it would seem there is no contest. The sheer number of nations would seem to outweigh the states. Numbers help create illusions, however. The state systems, indeed each state, developed through the power of gun powder. This was true in 1648 and during the American and French revolutions of the late 18th century. To a large extent, it remains true that whomever controls the greatest fire power in weapons, controls the state. Too often, it is through gun powder that power in the state is held by a ruling class drawn from immigrant populations or by one nation ruling many other nations without their consent. As a result, nations find themselves engaged in violent conflicts with states, defensive wars, that number as many as 82 conflicts (1993) world-wide.

Despite this rather dark picture, there are some hopeful indicators suggesting the possibility of new and constructive alternatives. Through the efforts of scores of talented and far-sighted individuals, the United Nations has provided a forum for discussions of the situation of the world's original nations since 1982 through the United Nations Working Group on Indigenous Populations. This forum has given impetus to

many more meetings internationally and inside existing states between nations' and states' representatives. They have engaged in discussions about changing state constitutions, shared or autonomous control over educational systems, health systems, policing of national territories, and regulation of natural resources. Such discussions have occurred quietly, without much fanfare in both Europe and North America and to a lesser extent elsewhere in the world.

In Europe where there are 130 nations inside the boundaries of 35 states these discussions have been taking place within the framework of the European Community (EC). Two forces are converging in Europe to create a "Europe of Nations and Regions."<sup>1</sup> The nations and regions of Europe seeking local control and less centralized methods of solving local problems constitute one major force. The other force is the EC proponents of a Federal Europe who regard the states and their claim to sovereignty as an obstacle to achieving their goal. These not insignificant forces are joined in a common venture by the *principle of subsidiarity* where decision-making is placed at the "scale most appropriate to the problem."<sup>2</sup> The political movement in Europe extends to Germany, Belgium, Luxembourg, Spain, Italy, France, Denmark, the Netherlands, Portugal, United Kingdom, Ireland and Greece.<sup>3</sup> New and constructive arrangements in each of these states often place a nation or region in the position of primary decision-maker on increasingly wider issues including education, public works, natural resource management, banking and trade. If this trend continues, states in Europe will soon be regarded as "multi-national organizations" representing remnants of earlier stages of political development. Indeed, given the inability of states' governments to deal with such large international problems as "international crime syndicates," environmental disasters--natural (like hurricanes killing more than 100,000 people in the Chittagong region of Bangladesh) and human created (like the Chernobyl nuclear explosion that crossed states' borders), and "regional conflicts," as well as "local problems" of poverty and famine it is difficult to conceive of a long-term future role for the state. The nations and regions of Europe seem to point the way for one approach to meeting the needs of nations as well as those who see the need for large umbrella structures which extend over very large pieces of geography. The *principle of subsidiarity* may be an appropriate and workable solution to the conflict between nations and states, and, thus provide an important model for the exercise of governmental power by the world's original nations.

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<sup>1</sup> Griggs, Richard A. (1993) The Role of Fourth World Nations and Synchronous Geopolitical Factors in the Breakdown of the State. Doctoral dissertation for Ph.D. in Geography, University of California - Berkeley: 164 Dr. Richard A. Griggs coined this phrase in his doctoral dissertation. In his discussion of Europe's developing regionalism he notes in his footnote 6: "This term 'Europe of Regions' was developed by the Breton nationalist Yann Fouere in his pioneering work, L'Europe aux Cents Drapeaux Paris: Presses D'Europe, 1968. The Europe of Regions is somewhat limiting since it nominally excludes nations (Fouere did not intend this). To remind the reader that many of these regions, and the most powerful advocates of this vision, are Fourth World nations I occasionally substitute my own expression a 'Europe of Nations and Regions.'"

<sup>2</sup> Ibid., 163.

<sup>3</sup> Ibid., Appendix C. 297-299.

In the United States of America, another process is underway where America's original nations have begun to engage the state to build a framework for government to government relations. Beginning in 1964, Indian nations started seeking direct control over their social, economic and political affairs. Much of this developing movement started with tribal councils promulgating their own laws for land use within the boundaries of reservations. Since there were relatively few non-tribal members living inside the boundaries of reservations directly affected by these new laws, there was initially little challenge. When these laws began to affect non-tribal members, resistance began to grow. Tribal governments claimed their "inherent right to govern" inside the reservation boundaries and sought to demonstrate U.S. agreement to these claims by pointing to a treaty with the United States.

While many Indian nations had during the 19th century concluded more than 400 treaties with the United States (concerning peace-making arrangements and cession of hostilities, land cessions, and ingress/egress through Indian territories among other things) no arrangements had been established to join Indian governments and the U.S. government. Despite occupying neighboring territories and the U.S. government claiming dominion over all the lands from the Atlantic to the Pacific oceans, no political power-sharing arrangements took form. The U.S. and Indian tribes saw themselves as politically separate entities. On the basis of this experience, Indian nation leaders like Joe Gary (Spokane/Cour d'Alene Tribes), Earl Old Person (Blackfeet), Mel Tonasket (Colville Confederated Tribes) and Joe DeLaCruz (Quinault) each in their turn called on the United States to recognize the right of Indian nations to exercise the right of self-determination. Each called on the United States to recognized the right of each Indian nation to govern itself.

President Lyndon B. Johnson was the first U.S. president to endorse the principle of self-determination being extended to Indian nations.<sup>4</sup> On March 6, 1968, President Johnson established by Executive Order the National Council on Indian Opportunity (NCIO)--a new U.S. governmental body established to facilitate Indian participation in U.S. government decision-making concerning Indian Policy. The new organ of government with all of its members appointed by the President of the United States. The Executive Order provided that the NCIO would have the Vice President of the U.S., Secretaries of the Departments of the Interior, Agriculture, Commerce, Health, Education and Welfare, Housing and Urban Development and the Director of the Office of Economic Opportunity. The Council was also to include six members chosen by the President of the United States from Indian nations. The Council did not become active until the election of the next administration when membership was increased to include the Attorney General and two more representatives of Indian Nations. In January of 1970, the Indian members of the Council announced their view of this new body: that it would pursue an ambitious agenda of new programs

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<sup>4</sup> Before he left office in 1968, President Johnson issued a not so widely noticed statement urging recognition of the right of self-determination for Indian tribes and denouncing the U.S. government's policy of "terminating" Indian Reservations (liquidating land and natural resources and removing tribal members from the reservation and U.S. protection).

and new policy for Indian Country.<sup>5</sup> Indian leaders hailed the National Council on Indian Opportunity as a new and vital connection to the President and power to implement favorable U.S. policy toward Indian peoples. Many Indian people throughout Indian Country regarded NCIO as just another imposition of bureaucracy to further strangle Indian aspirations. While NCIO did eventually contribute several important studies on Indian Affairs and stimulated the development and issuance of a new U.S. policy on Indian Self-Determination, the agency actually had very little influence in the halls of the White House. The Council's organization contributed importantly to this lack of influence:

The structure of the organization included four parts: the Vice President and his own personal staff; the Indian members; representatives of federal agencies; and the Council staff. Each organizational unit tended to function as a separate part, with the Council staff acting as a sort of liaison between the other three parts. During the Johnson years of NCIO the Indian members of the Council were selected and appointed on the basis of experience and their representation of Indian interests. During the Nixon years the Indian members were selected and appointed on the basis of their loyalty to the Nixon administration's goals and objectives.<sup>6</sup>

Though the NCIO started out with good intentions and with considerable vigor, within a few years it became an "insidious political instrument"<sup>7</sup> filled with internal dissension and derided by Indian leaders throughout Indian Country. The Council's Executive Director was a strong partisan of the Nixon Administration who viewed the NCIO as an instrument to advance the political interests of the Administration and not as an instrument of policy development on Indian Affairs. Despite the ultimate failure of the National Council on Indian Opportunity, its early and quick start produced an important policy change that had long-term importance. The Council is widely credited with being the source and impetus for the Indian Self-Determination Policy issued by the White House. It was on July 8, 1970 that the "right of self-determination" was officially pronounced as U.S. government policy applying to Indian tribes by President Richard M. Nixon. Despite its rocky origins, the new policy began a new era in U.S./Indian nation relations, and so to began the search for a mechanism or mechanisms to facilitate Indian participation in the formulation of new policy and programs for Indian Country.

On October 24, 1974, in San Diego, California the National Congress of American Indians met in its 31st Annual Session and promulgated the *American Indian Declaration of Sovereignty* which became a signal sent by Indian nations to the United States government that they were prepared to reassume governing powers in accord with their *right of self-determination*. The Congress of the United States added its

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<sup>5</sup> Trimble, Charles E. "Considerations for Improved Federal-Indian Relations through Consultation," A Paper prepared for the National Congress of American Indians, Washington, D.C. May 1993: 11.

<sup>6</sup> Report of Federal Administration and Structure of Indian Affairs Task Force, American Indian Policy Review Commission. Senate and the House of Representatives of the United States of America. Washington, D.C.: Government Printing Office, September 1976, p. 75.

<sup>7</sup> Trimble, 1993:13

endorsement to the movement toward Indian self-determination by enacting the Indian Self-Determination and Education Assistance Act of 1975 (PL 93-638). Another joint Indian nation/U.S agency was established to review, consider and recommend new administrative and legislative initiatives to improve U.S. government policy toward Indian nations. The U.S. Congress established the American Indian Policy Review Commission in 1975 with a membership of 3 Senators 3 Congressmen and 5 Indian representatives acting as individual advocates for the more than three hundred Indian tribes and communities. After two years of conducting research, public hearings and consultations with U.S. and Indian publics, the Commission issued more than 200 recommendations for changes in U.S. laws, regulations, policies and practices concerning civil and criminal jurisdiction on Indian reservations, economic and natural resource management, procedures for U.S. recognition of more than 100 Indian tribes not administratively recognized by U.S. government agencies, Indian religious freedom, health policy changes, education and organization of U.S. government agencies responsible for dealing with Indian Affairs. The Commission produced the most sweeping recommendations for changes in Indian Affairs policy ever produced by the United States government. Despite its important recommendations, the Commission was unable to directly respond to one of its key mandates: Consider and make recommendations for alternative elective bodies for Indian people to participate in the federal policy formation process. The Commission took the recommendation of the task force assigned responsibility for this question:

It is our opinion that because the legal or political status of tribes today, as discussed herein, is not settled, the tribal governments are reluctant to release what authority they now have or to permit it to be further undermined; that a voluntary intertribal affiliations method is growing; and there is doubt of the sincerity of the federal government to provide an indefinite status without termination. Tribes could assume that benefits would accrue if PL 93-580 studies result in Congress improving its record and allowing stronger application of self-determination and self-government . . .

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The Commission concluded along with Indian leaders that more local control by Indian tribes was more desirable than establishing an elective body which represented each of the Indian nations in relations with the United States government. Despite this view, attempts were repeated in the U.S. government and in relation with individual state governors and Attorneys General from 1977 onward to form intergovernmental policy-making bodies. Where general policy advice was being sought, U.S. government officials and Indian government officials shared responsibility on an equal plane. However, when regulatory power vested in a governmental entity must be exercised, Indian government representation is little more than perfunctory. The Pacific Ocean Salmon Fishery Commission has representatives from the federal government, and state governments proportional to their responsibility. Indian nations have one representative though their responsibility runs the full coastline from the Canadian to the Mexican borders

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<sup>8</sup> Report on Federal Administration and Structure of Indian Affairs Task Force, American Indian Policy Review Commission. Senate and the House of Representatives of the United States of America. Washington.,D.C.: Government Printing Office, September 1976, p. 84.

along with the United States. The National Indian Gaming Commission, established by the United States government to regulate gambling enterprises on Indian reservations, has three members. All three members, appointed by the President, are non-Indians. After some pressure from the Chairman of the U.S. Senate Committee on Indian Affairs on President Clinton consideration is now being given to appointing an attorney who is an Indian as Chairman of the Commission.<sup>9</sup>

As the illustrations above indicate, though there have been virtually no formal agreements or other constructive arrangements at the federal level of state government for permitting Indian nations to participate in the regulation of broad issues of public policy, there have been some attempts at establishing advisory bodies. Advisory positions in the federal government have been used to give guidance to U.S. officials who actually have the power to effect public policy.

Indeed, this pattern of involving Indian nations in the exercise of governmental power within the U.S. federal system has been repeated at the state level where governors or other officials of state government invite tribal officials to sit on *advisory boards*, to suggest policy to persons holding the power of state government.

While the advisory role Indian officials have played in the U.S. government and various state governments has given Indian officials extensive knowledge of the functioning of those governments, virtually any participant or observer would readily agree that no governmental power sharing is actually occurring. Officials in the U.S. government clearly reserve the right to ignore Indian official advice, and one must admit this is the rule rather than the exception. The same is generally true with domestic state governments. Recognizing this reality, Indian leaders began in the late 1970s to formulate a new approach to working with the U.S. government and neighboring domestic state governments: Negotiating a framework for the conduct of government to government relations.

Indian leaders began to recognize fully in the early 1980s that the United States government would not, and could not without a change in its Constitution, engage in power sharing arrangements with Indian nations. The only workable arrangement for conducting U. S. and Indian nation relations would be as the American Indian Policy Review Commission concluded: improve the self-determination and self-government capabilities of Indian nations. Toward this end, Indian nations (particularly in the northwest part of the United States) proposed that the United States government enter into discussions to form a *Tri-Party Inter-governmental Mechanism* organized on the principle of mutually recognized sovereign powers and government to government relations.<sup>10</sup> Indian government, domestic state government and federal

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<sup>9</sup> Anquoe, Buntly. "Harold Monteau expected to chair National Indian Gaming Commission," *Indian Country Today*. Volume 13, Issue 43: April 20, 1994: 1,2.

<sup>10</sup> *Tribes and States in Conflict: A Tribal Proposal*, Inter-Tribal Study Group on Tribal State Relations. Quinault Indian Nation 1980.

government representatives were proposed as co-equal members responsible for resolving inter-governmental disputes. The *Tri-partite Intergovernmental Mechanism* was urged in recognition that Indian nations were not a part of the U.S. federal system<sup>11</sup> Only a few U.S. Senators<sup>12</sup> expressed any interest in the tribal proposal. Indeed, the proposal received no other serious attention from U.S. officials.

Despite the failure of U.S. government response, President Ronald Reagan did announce a new U.S./Indian Policy in 1983 declaring the United States government's commitment to conduct relations with Indian nations on a *government to government basis* and to promote *tribal self-government*.<sup>13</sup> By 1987, through the initiative of the Quinault, Lummi, Jamestown S'Klallam and Hoopa nations, the so-called Reagan *government-to-government* policy was being translated into new bi-lateral treaties between Indian nations and the United States. On the way to negotiating and concluding bi-lateral Self-Governance Compacts in 1990, Indian nations in the domestic state of Washington negotiated in 1989 a multi-lateral *Accord* with that state's governor to establish a government-to-government framework between tribal governments and the state government.<sup>14</sup> This flurry of treaty-making with the federal government and mutual agreement with a domestic state created new conditions for intergovernmental relations between Indian nations, domestic states and the federal government.<sup>15</sup> Though no formal inter-governmental mechanism has been formed, the legal framework for inter-governmental relations has been formed between some Indian nations, the federal government and neighboring domestic states.

Instead of sharing governmental powers, Indian nations, the federal government and domestic states have moved to exercise their separate and inherent governmental powers along side each other while attempting to discover areas of dispute that can be resolved by negotiations. In much the same way, though by way of a different process, Indian nations in the United States have begun to move along a path similar to the

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<sup>11</sup> Ibid., Tribal officials had concluded that "Indian nations are not, nor have they ever been, a part of the U.S. Federal system of governments." This conclusion was drawn from a simple inspection of the United States Constitution which provides for the establishment of a federal government and the "governments of the several states" but does not recognize Indian nations and their governments as having powers within the federation of states. This observation left Indian leaders to finally conclude that "Indian nations are outside the United States and outside its political system of governments."

<sup>12</sup> Senator Warren G. Magnuson of the State of Washington and Senator James Abourezk of South Dakota were sympathetic, but took no formal action to advance the tribal proposal.

<sup>13</sup> Statement by the President: Indian Policy. The White House, Washington, D.C. January 24, 1983. "Our new nation continued to make treaties and to deal with Indian tribes on a government-to-government basis. \* \* \* In 1970, President Nixon announced a national policy of self-determination for Indian tribes. At the heart of the new policy was a commitment by the federal government to foster and encourage tribal self-government. That commitment was signed into law in 1975 as the Indian Self-Determination and Education Assistance Act. The Principle of self-government set forth in this Act was a good starting point. \* \* \* However, since 1975, there has been more rhetoric than action. \* \* \* This Administration intends to reverse this trend by removing the obstacles to self-government. . . ."

<sup>14</sup> Centennial Accord between the State of Washington and Federally Recognized Tribes - June 1989.

<sup>15</sup> Rýser, Rudolph C. "Resuming Self-Government in Indian Country," *Hamline Law Review*. May 1994. In this essay I examine the U.S. government's dual policy on the principle self-determination (internal vs. external policy) and its implications for the Self-Governance Compacts concluded with the Quinault, Jamestown S'Klallam, Lummi and Hoopa nations.



nations and regions in Europe. Instead of sharing power, each is exercising governmental authority appropriate to its scale and proximity to the problem: Another form of expressing the *principle of subsidiarity*. Nations are maintaining their safe distance from control by a central authority while not threatening the breakup of the state. They exercise powers of government which if conflicting with the interests of the state can be resolved within a framework of mutuality. In widely publicized meeting between more than 300 tribal officials and President Bill Clinton the U.S. President issued an Executive Order directing "federal agencies to deal directly with tribal councils and to consult the councils before making any decisions regarding the tribes' natural resources." <sup>16</sup> If this trend continues in the United States America and in Europe, self-government exercised by the world's original nations may not be seen as so much of a threat by other states.

A new era is emerging where nations and states must seek early accommodation and cooperation to avoid a future of conflict that would plunge nations and states into a period of darkness. It is no accident that after the collapse of several of the worlds' more prominent states long persistent bedrock nations re-emerge to claim their responsibility as full members of the international community.

The lessons we must collectively learn from the experience of political events over the last three years include these: [1] The State system is not perfect, it is an experiment of human problem-solving that does not always lend itself well to solving problems for all of humanity. [2] Nations are natural human organisms which persist and must have an acknowledged place as active participants in international intercourse coexisting with states. [3] Where States exist and serve the needs of human society they should be nurtured and celebrated, but where States fail to serve the needs of human society, they should be allowed to disassemble in a planned process which permits the nations within to systematically reassume their governing responsibilities. [4] If a State is no longer viable politically and economically and it does not have distinct nations within, its structure should be replaced temporarily with international supervision followed by the formation of an internationally recognized variant of human organizational structures deemed appropriate to the extant human cultures and geography of an area such as a trust territory, freely associated state, commonwealth, or other configuration established for a protected population; such a non-self-governing status must have the potential of being changed to a self-governing status in the future. Finally, [5] Nations which do not wish to remain within an existing state, must have the logical option of changing their political status through peaceful negotiations; and nations which choose not to leave a state should be permitted to exercise self-governing powers appropriate to their scale and to their proximity to the problem requiring governmental decisions.

As of the present date, there are 192 States that comprise the members of the world's state system of governments. Of these states, 183 are members of the United Nations, fewer are members of the

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<sup>16</sup> Broder, John M. Clinton tells 300 tribal leaders: 'Welcome home.' *Los Angeles Times* April 30, 1994.



International Court of Justice, the World Bank, the International Monetary Fund, and the International Labour Organization. The "State" is a rational organizational construct created to solve specific social, economic and political problems, and it is made legitimate by virtue of recognition extended to it by other established states. All established States are said to be sovereign political personalities having the recognized capacity to protect their own borders, carry out political intercourse with other states and perform those necessary activities (economic, social and political in character) sufficient to maintain the loyalty of an established number of human beings. Not all of these States can be accurately described as politically and economically viable. Indeed, no fewer than thirty States are in a condition of perpetual disarray, collapse, or they are essentially defunct political and legal organisms. International institutions and neighboring states which deem the continuity of even defunct states as essential to their own stability are obliged to provide support politically, militarily and financially. Instead of strengthening the state system, this process tends to further weaken an increasingly fractured system.

More to the point of my dissertation, however, is that the economic and sometimes political instability of some states and the efforts to prop up crumbling states is bringing other states into direct conflict with nations inside these states. United Nations joint forces are at this moment militarily fighting nations inside several collapsed states. So committed are statist to the continuity of the State System that they insist that a failed state must continue even though there is no will or capacity to ensure its normal operation. The nations which often make the soul of a state become the objects of derision and attack. States denounce and fear "nationalism," or the commitment one has to the persistence of a nation. Nationalism is regarded as a primitive; emotionalism that undermines efforts to achieve "higher forms of human civilization." In reality, properly respected, the nation stands as the foundation of human organization essential for human survival. Without the nation, the State could have never come into existence, The State could not long survive without national forbearance--and, so, recent events would seem to bear this view out.

There are between six thousand and nine thousand bedrock nations in the world. They are culturally diverse and that diversity reflects the ecological diversity of the Earth. Human nations, located in their particular places demonstrate the success of natural adaptation and human creative energy. They persist because nations satisfy human spiritual, social, economic, and political (cultural) needs. Nations are evolved human organisms, self-identified, including members who share a common culture, heritage, language and geographic place. Their existence is not dependent on size, and their identity is essentially determined by their culture. The culture of each nation is determined by the relationship between the people and the land. A nation is large enough to ensure the needs of its constituents, but small enough to ensure consistency with human scale.

The nation, the human organism from which all humans originate, is the parent of the state. It is from the heart of nations that the concept of the state arose. The rational state is another of the many experiments attempted to constructively advance the human condition. As the parent from which the state springs, each

nation is obligated to ensure that the state fulfills its purposes. But, when the experiment fails, there is no obligation to force the continued existence of a state. The nation, is more than adequate to serve as an independent international personality on its own. It is quite realistic that the world's political landscape contain both nations and states as independent political entities.

While states will continue to perform their function and nations will continue to function within the framework of individual states, some states cannot continue to exist. Many nations do not chose to become states or remain within state structures. Given these realistic conditions, we must seek to ensure the peaceful means for a world in which both states and nations coexist. We must work to establish concepts like the *principle of subsidiarity* as an alternative to violence between nations and states. We must establish new international institutions, new international tools for providing the transition from a world of states to a world of nations and states. We must provide the means for nations to resolve long-standing disputes between them--most will be concerned with unresolved land and natural resource questions. We must also provide the means for nations and states to resolve disputes between them after the collapse of a state as well as before the collapse. Finally, we must create new transitional structures between nations, and nations and states to replace crumbling state structures to minimize violent conflicts and maximize systematic peaceful change.

There is room for new international institutions along side the United Nations as clearly indicated by the existence of the Commission on Security and Cooperation in Europe which came into being as a result of the Helsinki Final Act. New institutions which permit the direct, coequal participation of nations and states are now essential for the construction of a new international political order. The breakup of states like Yugoslavia need not result in the terror that is now being experienced in Croatia, Bosnia and Serbia. Sustained, long-term conflicts like the war between the Burmese state and the Karen, Kachin and Shan nations are remnants of a failed British colonial policy and should be brought to a swift end by internationally sanctioned peace negotiations. The war between the Jumma Peoples and the government of Bangladesh should be ended through peaceful negotiations, mediated and sanctioned internationally. The expansion of states into national territories like the Peoples Republic of China's occupation of Tibet must be halted and brought to a negotiation table for peaceful disengagement. The war in Guatemala continues and the wars between the Indonesian government, the peoples of West Papua, East Timor and South Molucca continue unabated--all demanding internationally sanctioned intervention.

These are not civil wars, but conflicts between states and nations. They are conflicts which result from the failure of the state to perform its function. They are conflicts resulting from a failure of states to ensure the full sharing of political power by all nations within the framework of the state. The Geneva Conventions of 1949 provide the initial context within which new international institutions and mechanisms can be fashioned to directly address the conflicts between states and nations and between nations after the collapse of a state. Protocols I and II of the Geneva Conventions directly address conflicts between states and

between nations and states.<sup>17</sup> Initiatives by nations and constructive efforts by some states can serve as the impetus for new international mechanisms for peaceful conflict resolution based in part on the Geneva Conventions and particularly on Protocols I and II.

The new political era of nations and states into which we are now passing demands that the world's nations resume their duty as active participants in the formulation of international rules of conduct. What we now call indigenous nations, must become co-equal partners with states as international political personalities. They must assume their responsibilities as mature political personalities with a full commitment to the restoration of mutual coexistence between nations and states. Nations must fully commit themselves to the advancement of human rights and the democratization of international relations. Nations must also adopt existing international instruments for the promotion of peaceful relations between peoples, and they must work to establish new international instruments for the establishment of peaceful relations between nations and between nations and states.

States governments are obliged to recognize that they do sometimes fail to adequately serve the peoples for which they were established. States governments must embrace the changing world which includes many kinds of political personalities—not just states. The state system is useful for some purposes, but not all peoples in the world must live within a state structure. Where there are no mechanisms for nation and state cooperation, states must reach out to the nation and seek accommodation. States governments must rework their foreign policies to recognize that nations are a part of the international fabric—an essential element of the international arena. They must learn the courage to seek constructive new relations with nations to maximize cooperation and mutual benefit.

In a new age unfolding we are confronted by our greatest hopes and wishes. We hope for accommodation in Europe and accommodation becomes the practical, daily demand. We hope for peaceful settlements in the Middle East, and the State of Israel and the Palestinian nation engage in fourteen fateful days of negotiations for peaceful accommodation. In North America, the South Pacific Ocean and in Africa, new measures of courage are being realized as representatives of nations and representatives of states have begun to move toward peaceful accommodation, coexistence and cooperation. But, as these hopes are now being realized, we are also discovering the need for new courage and new creativity in diplomatic relations. Things are not as "perfectly orderly" as we would want. The tendency is to move swiftly to an "authoritarian order" instead of a condition of mutual equality and cooperation. Diversity is sloppy and uncomfortable at times, but the new political era of nations and states is necessarily a mirror of the cultural diversity of humanity. We are looking at reality when we see many thousands of nations and scores of states. We are seeing the success of human beings in their many nations. We are seeing the experiments of

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<sup>17</sup> Rýser, Rudolph C. "The Rules of War and Fourth World Nations," *Occasional Paper #5* Center for World Indigenous Studies. September 1985. In this essay I elaborate on the applicability of Protocols I and II to conflicts between nations and nations and states.

the human spirit when we see the scores of states. Reality demands that we stretch our minds to find ways to creatively accommodate the many differences we see among human beings. Reality demands that we accept the challenge of human success.

I propose that the world's states governments join with the governments of the world's nations to form a temporary Congress of Nations and States to develop new international protocols which provide for new approaches to dispute resolution between nations, and nations and states. New structures, perhaps based in the Geneva Protocols I and II, for resolving existing conflicts between nations and nations and states should also be developed. The Congress of Nations and States should build on the constructive discussions among many nations and many states that have been continuing at non-government conferences and within the United Nations under the direction of the Economic and Social Council for the last twenty years. Such a Congress must take into account successful approaches to cooperative engagement between nations as states like those developments emerging in Europe and the United States of America.

The opportunity exists now like never before in history for nations to fulfill their obligations as mature members of the international community to work toward a peaceful world. States, the children of nations, must turn now to realistically work with nations to build a democratized international community which ensures broad support by all of the peoples of the world.

This is not simple idealism. The means exist for representatives of nations and states to begin the process of constructively re-ordering the world. A new political order is before us. We need now only to understand ourselves and our purpose to establish a peaceful and creative political climate for human development. We must put aside our fears and exercise maturity and courage to take the next step in the new era of nations and states.

## Sources

..... (1989) Centennial Accord between the State of Washington and Federally Recognized Tribes - June 1989.

..... (1983) Statement by the President: Indian Policy. The White House, Washington, D.C. January 24, 1983.

**American Indian Policy Review Commission.** (1976) Report of Federal Administration and Structure of Indian Affairs Task Force, Senate and the House of Representatives of the United States of America. Washington, D.C.: Government Printing Office, September 1976.

**Anquoe, Bunty.** (1994) "Harold Monteau expected to chair National Indian Gaming Commission," *Indian Country Today*. Volume 13, Issue 43: April 20, 1994.

**Broder, John M.** Clinton tells 300 tribal leaders: 'Welcome home.' *Los Angeles Times* April 30, 1994.

**Griggs, Richard A. (1993)** The Role of Fourth World Nations and Synchronous Geopolitical Factors in the Breakdown of the State. Doctoral dissertation for Ph.D. in Geography, University of California - Berkeley.

**Inter-Tribal Study Group on Tribal State Relations (1980)** Tribes and States in Conflict: A Tribal Proposal, Quinault Indian Nation 1980 and excerpted in Solving Intergovernmental Conflicts, *Occasional Paper 19* Center for World Indigenous Studies 1992.

**Ryser, Rudolph C. (1994)** "Resuming Self-Government in Indian Country," *Hamline Law Review*. May 1994.

**Ryser, Rudolph C. (1985)** "The Rules of War and Fourth World Nations," *Occasional Paper #5* Center for World Indigenous Studies. September 1985.

**Trimble, Charles E. (1993)** "Considerations for Improved Federal-Indian Relations through Consultation," A Paper prepared for the National Congress of American Indians, Washington, D.C. May 1993.