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# Toward Sustainable Self-Determination: Rethinking the Contemporary Indigenous-Rights Discourse

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Jeff Corntassel\*

More than eighty years since Chief Deskaheh petitioned the League of Nations for Haudenosaunee self-determination, it is becoming clearer that the existing rights discourse can take indigenous peoples only so far. States and global/regional forums have framed self-determination rights that deemphasize the responsibilities and relationships that indigenous peoples have with their families and the natural world (homelands, plant life, animal life, etc.) that are critical for the health and well-being of future generations. What is needed is a more holistic and dynamic approach to regenerating indigenous nations, and I propose the concept of *sustainable self-determination* as a benchmark for future indigenous political mobilization. Utilizing case studies of indigenous community regeneration such as the Native Federation of Madre de Dios (FENAMAD) in Peru and the White Earth Land Recovery Project (WELRP) on Turtle Island as well as analyzing the existing research on rights, political mobilization, and ecosystems, this article identifies alternatives to the existing rights discourse that can facilitate a meaningful and sustainable self-determination process for indigenous peoples around the world. Overall, findings from this research offer theoretical and applied understandings for regenerating indigenous nationhood and restoring sustainable relationships on indigenous homelands. **KEYWORDS:** indigenous, sustainable self-determination, rights, responsibilities, livelihoods

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It is still true that the first part of self-determination is the self. In our minds and in our souls, we need to reject the colonists' control and authority, their definition of who we are and what our rights are, their definition of what is worthwhile and how one should live, their hypocritical and pacifying moralities. We need to rebel against what they want us to become, start remembering the qualities of our ancestors and act on those remembrances. This is the kind of spiritual revolution that will ensure our survival.

—*Taiiaki Alfred, 2005*

How is self-determination being framed in the contemporary indigenous-rights discourse? And to what degree are indigenous peoples asserting visions of self-determination on their own terms in order to “start remembering the qualities of our ancestors and act on those remembrances”? The 1999 Nisga'a Final Agreement, which is part of the British Columbia Treaty Process (BCTC) and represents federal and provincial governmental efforts to permanently resolve indigenous land claims in Canada, provides some important insights into the current realities of indigenous self-determination movements in Canada and around the world. According to the comprehensive analysis of the BCTC made by Kanien'kehaka (Mohawk) scholar Taiiaki Alfred, whose words provide the epigraph to this article,<sup>1</sup> the \$190 million paid to the Nisga'a tribal council, coupled with surrender of their tax exemption status under the Indian Act and the dire prospects for future economic growth in the Nass Valley, makes it “difficult to see how the Nisga'a people will find the money to survive as a nation.”<sup>2</sup>

As Alfred points out, “Most likely, Nisga'a people will find themselves having to sell off land, mineral, fish and timber rights to fund their government and social programs.”<sup>3</sup> Political scientist Jim Tully provides a similar assessment:

As far as I am aware, this is the first time in the history of Great Turtle Island that an indigenous people, or at least 61 percent of its eligible voters, has voluntarily surrendered their rights as indigenous peoples, not to mention surrendering over 90 percent of their territory, and accepted their status as a distinctive minority with group rights within Canada. This appears to be the first success of strategies of extinguishment (release) and incorporation by agreement.<sup>4</sup>

Unfortunately, the land-settlement strategies employed by Canada extinguish original indigenous title to their territories and force community members to accept monetary payouts for their unrecovered land. In this case, the Nisga'a final agreement left 92 percent of

their original homelands to Canada and put the community at risk by leading them into an unsustainable future under the banner of “self-government.” As with the Nisga’a agreement, states tend to narrowly frame self-determination by focusing on state political/legal recognition of indigenous peoples as self-governing entities while diverting energies away from more substantive discussions regarding the reclamation of indigenous territories, livelihoods, natural resources, and the regeneration of community languages and culturally based practices.

As the above example demonstrates, the rights discourse can take indigenous peoples only so far. Over the past thirty years, indigenous self-determination claims have been framed by states and global organizations in four distinct ways that jeopardize the futures of indigenous communities. First, the rights-based discourse has resulted in the compartmentalization of indigenous powers of self-determination by separating questions of homelands and natural resources from those of political/legal recognition of a limited indigenous autonomy within the existing framework of the host state(s).<sup>5</sup> This was evident from the above-referenced Nisga’a Final Agreement, which provided a political/legal basis for limited autonomy but neglected to address interrelated issues of regenerating sustainable livelihoods, food security, and renewal of community relationships with the natural world.

Second, in several cases, the rights discourse has led states to deny the identities or very existence of indigenous peoples residing within their borders (or to reframe them as minority populations or other designations that carry less weight or accountability under international law).<sup>6</sup> For example, Botswana refuses to acknowledge peoples residing within its borders as indigenous (that is, San, Nama/Khoe), instead referring to them in its constitution as a “race,” “community,” or “tribe.” Botswana staunchly opposed ratification of the nonbinding United Nations Declaration on the Rights of Indigenous Peoples (hereafter referred to as the declaration), claiming that the declaration “raised issues with serious economic, political, and constitutional ramifications, which in Botswana’s view, could only contribute to ethnic conflicts within nations of which African had had more than a fair share.”<sup>7</sup>

Third, the framing of rights as political/legal entitlements has deemphasized the cultural responsibilities and relationships that indigenous peoples have with their families and the natural world (homelands, plant life, animal life, etc.) that are critical for their well-being and the well-being of future generations. In contrast with a dominant Western perspective on self-determination and sustainability, indigenous peoples tend to “concern themselves with

(and have based their whole world-view on) the idea of learning how to give back to Creation, rather than taking away.”<sup>8</sup>

Finally, the rights discourse has limited the applicability of decolonization and restoration frameworks for indigenous peoples by establishing ad hoc restrictions. This was clear with the ratification of UN General Assembly resolution 1514 (1960), which set limits on decolonization through the implementation of a so-called Salt Water Thesis, stipulating that only territories separated by water or that were geographically separate from the colonizing power could invoke self-determination.<sup>9</sup> There have been some promising initiatives undertaken recently for setting new global standards for restorative justice, such as UN General Assembly resolution 60/147 (2006) to implement “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.”<sup>10</sup> However, the applicability of resolution 60/147 becomes limited when attempting to restore territories and natural resources to indigenous peoples as a result of ongoing colonial encroachment by their host states.

In order to move beyond the limitations of the existing rights discourse, I propose that indigenous powers and views of self-determination be rethought and repositioned in order to meet contemporary challenges to indigenous nationhood. Strategies that invoke existing human rights norms and that solely seek political and legal recognition of indigenous self-determination will not lead to a self-determination process that is sustainable for the survival of future generations of indigenous peoples. Additionally, indigenous mobilization strategies of *surveillance* and *shame* have not been effective for generating substantive changes in existing human-rights norms and customary international law.<sup>11</sup> In order for indigenous self-determination to be meaningful, it should be economically, environmentally, and culturally viable and inextricably linked to indigenous relationships to the natural world. These relationships are discussed specifically in Special Rapporteur Erica-Irene Daes’s comprehensive United Nations report entitled *Indigenous Peoples’ Permanent Sovereignty over Natural Resources*.

In this report, Daes asserts that “the right of permanent self-determination over natural resources was recognized because it was understood early on that without it, the right of self-determination would be meaningless.”<sup>12</sup> In other words, self-determination has to be *sustainable* in practice or it merely becomes another venerated paper right. Unfortunately, what is considered sustainable practice by states comes at a high price for indigenous communities, often leading to the further degradation of their homelands and natural resources.<sup>13</sup> It is time for indigenous peoples to reassert sustainability

on their own terms. Therefore, I propose the concept of *sustainable self-determination* as a benchmark for the restoration of indigenous livelihoods and territories and for future indigenous political mobilization.

In the first section of this article I examine some limitations of the existing rights discourse and how these limitations have been expressed by states and global institutions since Cayuga Chief Deskaheh's visit to the League of Nations in 1923–1924. The second section elaborates on the concept of sustainable self-determination, a concept that can become a credible benchmark for future indigenous political mobilization. The final section of the article links theory to praxis by focusing on specific strategies that move the discourse from rights to responsibilities. Findings from this research can yield better theoretical and applied understandings regarding the effectiveness of indigenous transnational activist networks in promoting a holistic model of self-determination that is sustainable for future generations.

### **Illusions of Inclusion in the Contemporary Indigenous-Rights Discourse**

Deskaheh (1872–1925), Cayuga chief and Speaker of the Six Nations Council, set the tone for the contemporary global indigenous-rights movement and also exposed limitations in the rights discourse that persist to this day.<sup>14</sup> Deskaheh worked tirelessly during the eighteen months he lived in Geneva promoting Haudenosaunee self-determination. Deskaheh's strategies included seeking League of Nations recognition of Six Nations as a state as well as attempting to take Canada before the World Court.<sup>15</sup> While he did not gain formal recognition at the League of Nations for his efforts, Deskaheh's historic efforts inspired future indigenous activists.

In 1921, Deskaheh traveled to England in order to protest Canadian treaty violations and encroachment onto Iroquois homelands. Asserting that “they would not deal with a Canadian domestic problem,” British authorities refused to even consider Deskaheh's request for assistance.<sup>16</sup> In September 1923, Deskaheh shifted tactics and left for Geneva, Switzerland, carrying a Haudenosaunee Confederacy passport. Deskaheh's Haudenosaunee passport was recognized by the Swiss government, and, once in Geneva, he sought to stave off Canadian attempts to “bring our lands under administration of Canadian laws and policy.”<sup>17</sup> On August 7, 1923, Deskaheh submitted a petition to the League of Nations via the government of the Netherlands in order to challenge Canadian encroachment onto Iroquois territory:

We have exhausted every other recourse for gaining protection of our sovereignty by peaceful means before making this appeal to secure protection through the League of Nations. If this effort on our part shall fail we shall be compelled to resist by defensive action upon our part this British invasion of our Home-land for we are determined to live the free people that we were born.<sup>18</sup>

Responding to Deskaheh's request, the governments of the United Kingdom and Canada went to great efforts to prevent a debate on his petition.<sup>19</sup> In order to stop Deskaheh's intervention at the League of Nations, the Canadian government formally protested "the Netherlands' Government's action in bringing a controversy between the Canadian government and individuals owing it allegiance, which is entirely of domestic concern."<sup>20</sup> Consequently, Deskaheh was never able to bring his petition before the League of Nations Assembly.

In 1924, while Deskaheh was still in Geneva, the Canadian government retaliated by dissolving the Six Nations Council and imposing an elected system under the rules of the Canadian Indian Act.<sup>21</sup> The Canadian authorities also broke into the records of the Six Nations Council and "took from there a number of wampum belts, revered as sacred by the Iroquois, refusing, on demand, to return them."<sup>22</sup> After being exiled from his homeland, Deskaheh passed away on June 27, 1925, in Rochester, New York. Despite his being unsuccessful in his effort to secure support from the League of Nations, Deskaheh's words and strategies are just as farsighted today.

Based on an analysis of Deskaheh's strategic interventions in Geneva, it is apparent that five major tactics were used to obstruct Deskaheh's pursuit of self-determination. They included the following:

1. The United Kingdom used major-power intervention and procedural appeals to block the Haudenosaunee claim from ever reaching the League of Nations General Assembly
2. Canada claimed that this was not a global issue but "entirely of domestic concern"<sup>23</sup>
3. Canada asserted that this was not a matter of group/collective rights but a matter between "the Canadian Government and *individuals* owing it allegiance"<sup>24</sup>
4. Canada claimed that Haudenosaunee claims were not legitimate but were merely "calculated to embarrass this Government"<sup>25</sup>
5. Finally, Canada contended that Six Nations were not "an organized and self-governing people so as to form a political unit apart from Canada" but that they were integrated into the Canadian state as citizens<sup>26</sup>

More than eighty years after Deskaheh's intervention, there is a broad recognition of indigenous rights in name only, accompanied by little movement in state discursive positions regarding the enactment of fundamental human rights within indigenous nations. Unfortunately, some of the above-mentioned tactics of exclusion, domestication, and assimilation are still part of standard state practices toward indigenous peoples today. While indigenous peoples are now sharing the same conference room with UN member states in the Permanent Forum on Indigenous Issues (PFII), this does not necessarily signal that indigenous/state relations have been significantly restructured or that indigenous voices are truly being heard. In this case, there is a danger of co-optation and an *illusion of inclusion* regarding indigenous participation within global and regional forums.<sup>27</sup>

This was especially evident in November 2006, when the UN General Assembly member states voted to delay ratification of the Declaration on the Rights of Indigenous Peoples. The legally non-binding UN declaration, which was approved by the Human Rights Council in June 2006 after twenty-two years of consultation and development with indigenous peoples and state governments, was initially blocked from ratification by a Namibian-led coalition of thirty African countries plus Western countries such as Australia, Canada, and New Zealand. Citing concerns over how to define indigenous, conflicts with existing state constitutions, and official government policies over land claims and natural resources, eighty-two countries then voted to delay action on the declaration until after widespread "consultations" had been held.

One year later, after some relatively minor modifications, the UN General Assembly voted to ratify the declaration on September 13, 2007. The final General Assembly vote found 143 countries in favor of the declaration, with four voting against it: Australia, Canada, New Zealand, and the United States.<sup>28</sup> Amendments to the declaration included one section in the preamble that recognized "that the situation of indigenous peoples varies from region to region and from country to country." Another added section advocated the protection of "the territorial integrity or political unity of sovereign and independent States" (article 46).<sup>29</sup>

While this vote represents a step forward for the global indigenous-rights discourse, it is important to understand continued state resistance to indigenous self-determination and the failure to provide legally binding human-rights standards for indigenous peoples.

Some African countries initially opposed the Declaration on the Rights of Indigenous Peoples based on their understanding of UN General Assembly resolution 1514 (1960), which was entitled the

“Declaration on the Granting of Independence to Colonial Countries and Peoples.” Resolution 1514 set limits on decolonization through the implementation of the Salt Water Thesis mentioned above.<sup>30</sup> In 1964 the Organization of African Unity (known today as the African Union) passed a resolution concerning “Border Disputes Among African States” that reaffirmed their commitment to the Salt Water Thesis by pledging “to respect the frontiers existing on their achievement of national independence.”<sup>31</sup>

Ironically, this denial of “internal” decolonization only served to legitimate the arbitrary state boundaries drawn by colonial powers beginning in the sixteenth century up through the Berlin Africa Conference of 1884–1885.<sup>32</sup> While indigenous peoples do not generally seek secession from host state(s), countries responding to indigenous self-determination claims often cite fears of a “domino effect” in which countless separatist movements would emerge within their borders and fragment the state while promoting instability in the region.<sup>33</sup>

Invoking similar themes of fears of secession and the preservation of state borders, African states as well as Western countries (Australia, Canada, New Zealand, the United States) have been active in opposing the ratification of the declaration. For example, in January 2007, the African Union (AU) passed a resolution deferring a vote on the declaration until key questions were addressed regarding how to define indigenous peoples, the scope of indigenous self-determination and land and resource ownership, and the maintenance of state territorial unity.<sup>34</sup>

Countries such as Namibia and Botswana went as far as to claim that ratification of the declaration would heighten ethnic conflicts in their countries. In fact, when one looks more closely at the Namibian and Botswanan constitutions, there are no references to indigenous peoples at all; instead, designations of “culture,” “race,” and “tribe” are used.<sup>35</sup> However, according to one study, the rights outlined by the declaration regarding indigenous peoples’ maintenance “of their traditional political, cultural, social and economic institutions” is already guaranteed by more than 80 percent of African constitutions, in the context of restoring traditional cultural values lost during colonial times.<sup>36</sup>

In addition to promoting “national and territorial unity” at the expense of indigenous rights to self-determination, African states are also challenging the very identities of indigenous peoples. On May 17, 2007, African states provided the UN General Assembly president with thirty proposed amendments to the declaration, and one of these amendments focused on defining indigenous peoples within regional and state contexts:

Recognizing that the situation of indigenous peoples varies from region to region, country to country and from community to community, every country or region shall have the prerogative to define who constitutes indigenous people in their respective countries or regions taking into account its national or regional peculiarities.<sup>37</sup>

In order to counter frequent state denials of indigenous identities, “two of the most active global organizations promoting indigenous rights, the United Nations Working Group on Indigenous Populations (WGIP) and the International Labour Organization (ILO), have advocated an unlimited right to self-identification.”<sup>38</sup> Yet some of the changes proposed by the African states found their way into the amended declaration, indicating that conflicts over indigenous self-identification and identity remain:

Recognizing also that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration.<sup>39</sup>

Allowing for national and regional particularities appears reasonable on the surface, but is often a façade for denying indigenous self-determination. Even when particular country constitutions, whether in Kenya or Colombia, outline clear guidelines for the protection of indigenous knowledge, intellectual property, and community lands, and protection from the exploitation of natural resources within indigenous territories, these rights are compartmentalized to the point of detaching the issue of promoting sustainable livelihoods from questions of protection of indigenous knowledge. Additionally, despite the multilevel strategies indigenous peoples employ to change existing human rights norms, in many instances energy is being diverted away from community regeneration efforts and channeled into the global indigenous-rights discourse without any noticeable impact locally.

According to a recent survey of indigenous organizations conducted by the UN Office of the High Commissioner on Human Rights, 68 percent of the respondents indicated that, at the global level, the Indigenous Decade resulted in positive changes, including “better access to international activities, and exchange of experience and contacts with other Indigenous organizations and representatives.”<sup>40</sup> However, it was telling that only 36 percent saw positive changes at the community level, while 44 percent of the indigenous respondents said that there had been “no improvements locally.”<sup>41</sup> As these survey results suggest, meaningful strategies for

self-determination and community-regeneration have not been attained through active participation in state and global forums.

The contemporary activism of (US) Western Shoshone leaders Carrie and Mary Dann illustrates how paper rights do not always correspond with community realities.<sup>42</sup> For example, in what ways can a ratified, nonbinding Declaration on the Rights of Indigenous Peoples impact indigenous nations' struggles toward sustainable self-determination? In 1993, the Dann sisters filed a petition for redress with the Inter-American Commission on Human Rights (OAS). As was the case with Deskaheh, the Dann sisters had exhausted all other physical and political options in order to protect their ancestral homelands. Responding to their petition, the US government argued that the treaty rights of the Western Shoshone to their territory had been extinguished in 1872 due to gradual encroachment by non-natives.<sup>43</sup> In 2003, the Inter-American Commission disagreed with the US assessment and concluded that the government had violated the Dann's ancestral homeland rights as well as due process and equality under the law.<sup>44</sup> Consequently, the OAS recommended that all US law and policy regarding indigenous peoples (especially property rights) be reviewed. Despite the symbolic victory, the case could not be referred to the Inter-American Court because the United States had not ratified the American Convention or accepted the jurisdiction of the court.

Carrie Dann has continued to seek the return of Western Shoshone ancestral lands. In August 2005, Shoshone elders filed a petition with the UN Committee on the Elimination of Racial Discrimination (CERD) calling for immediate action against the United States for fraudulently claiming ownership of 90 percent of Shoshone homelands. On March 10, 2006, the committee responded to the petition by urging the United States to "freeze,' 'desist' and 'stop' actions being taken or threatened to be taken against the Western Shoshone Peoples of the Western Shoshone Nation."<sup>45</sup> The CERD called for immediate US action to "respect and protect the human rights of the Western Shoshone peoples" and "freeze all efforts to privatize Western Shoshone ancestral lands for transfer to multinational extractive industries and energy developers."<sup>46</sup>

Finally, the committee gave the United States a July 15, 2006 deadline "to provide it with information on the action it had taken."<sup>47</sup> While the United States continues to defy the rulings of global forums, Carrie Dann asks a key question: "Where else do we go?"<sup>48</sup> In a 2006 interview, Dann said, "I can't believe that this is happening supposedly in America where everybody talks about democracy, and how good democracy is. As far as the indigenous people go, we have not seen that democracy."<sup>49</sup> After fighting for their homelands for

more than thirty years, the struggle of Carrie Dann and other Shoshone elders continues through the Western Shoshone Defense Project. It is clear from their struggles and other examples of indigenous struggles throughout the world, the rights discourse has not led to the realization of sustainable self-determination for indigenous nations at the local level. As Dann suggests, the time to rethink existing strategies grounded in the global indigenous rights discourse is now.

Unfortunately, in the contemporary rights discourse, “Indigeneity is legitimized and negotiated only as a set of state-derived individual rights aggregated into a community social context—a very different concept than that of collective rights pre-existing and independent of the state.”<sup>50</sup> Framing of indigenous rights by states and global institutions persists as indigenous peoples confront the *illusion of inclusion* in global forums such as the UN Permanent Forum on Indigenous Issues. In his comprehensive examination of state positions regarding the Declaration on the Rights of Indigenous Peoples, legal scholar Patrick Thornberry found that several countries, led by the United States, Australia, and New Zealand, consistently voiced five main objections to the passage of the UN declaration during the past twenty-two years of deliberations:

1. Indigenous groups are not peoples entitled to self-determination
2. The content of self-determination is too vague for inscription in the declaration
3. Self-determination means secession
4. Autonomy is enough—a right of self-determination is superfluous
5. Self-determination of indigenous peoples divides the state<sup>51</sup>

When one compares the above state objections to the declaration to the objections voiced during Deskaheh’s time in Geneva, it is clear that while the indigenous-rights terrain has changed, fundamental challenges to indigenous self-determination claims persist. Yet while the global indigenous-rights movement has directed most of its energies toward responding to these objections in an effort to ratify the declaration, a more subtle danger exists. The pursuit of a political/legal rights-based discourse leads indigenous peoples to frame their goals/issues in a state-centered (rather than a community-centered) way. According to Dene political theorist Glen Coulthard, “the politics of recognition in its contemporary form promises to reproduce the very configurations of colonial power that Indigenous peoples’ demands for recognition have historically sought to transcend.”<sup>52</sup> When they mimic the state-centric rights discourse, indigenous nations run the risk of seeking political and/or economic

solutions to contemporary challenges that require sustainable, spiritual foundations. Rather than asserting community-based *powers* of sustainable self-determination, the quest for state recognition of political/legal rights has only further entrenched some indigenous peoples within the colonial status quo:

The dominance of the legal approach to self-determination has, over time, helped produce a class of Aboriginal “citizens” whose rights and identities have become defined solely in relation to the colonial state and its apparatus. Similarly, strategies that have sought self-determination via mainstream economic development have facilitated the creation of a new elite of Aboriginal capitalist whose thirst for profit has come to outweigh their ancestral obligations to the land and to others.<sup>53</sup>

In order to overcome the limitations of the rights discourse, new strategies are needed to shift indigenous political mobilization efforts from rights to responsibilities. Additionally, indigenous self-determination needs to be rearticulated on indigenous terms as part of a sustainable, community-based process rather than as narrowly constructed political/legal entitlements.

### **Toward Sustainable Self-Determination**

Previous research on the self-determination of peoples tends to focus on political/legal recognition of this right, while giving little consideration to the environment, community health/well-being, natural resources, sustainability, and the transmission of cultural practices to future generations as critical, interlocking features of an indigenous *self-determination process*.<sup>54</sup> As indigenous legal scholar S. James Anaya asserts, “Any conception of self-determination that does not take into account the multiple patterns of human association and interdependency is at best incomplete or more likely distorted.”<sup>55</sup> Even when culture or land are mentioned as an essential part of indigenous self-determination, these linkages are often expressed within a narrow rights framework that diminishes the full scope of these ongoing relationships to the natural world and/or fails to describe sustainability as a critical benchmark for an indigenous self-determination process.<sup>56</sup>

While Anaya differentiates between *remedial* and *substantive* forms of self-determination, he does not account for *sustainable self-determination* as a critical benchmark in the ongoing self-determination process. When differentiating substantive forms of self-determination

from remedial ones, Anaya concedes that remedial forms of self-determination, such as decolonization, tend to be limited by practices of state sovereignty, which “influence the degree to which remedies may be subject to international scrutiny.”<sup>57</sup> Given the existing barriers to indigenous decolonization through the enforcement of the Salt Water Thesis and other global norms designed to protect existing state borders, indigenous peoples have also found substantive forms of self-determination, which are described as “a standard of governmental legitimacy within the modern human rights frame,” to be limited.<sup>58</sup> It remains to be seen whether General Assembly resolution 60/147 (2006) in rights to remedies and reparations will be widely applied to indigenous peoples and their decolonization efforts. While there are existing political/legal foundations for substantive and remedial forms of self-determination, the attainment of these standards or global norms are meaningless in a discussion of ongoing self-determination without considering a third factor—the sustainability of self-determination in praxis.

It follows that a process of indigenous self-determination is more than a political/legal struggle—at its core are spiritual and relational responsibilities that are continuously renewed. Unfortunately, as Alfred and Corntassel point out, “there are new faces of empire that are attempting to strip indigenous peoples of their very spirit as nations and of all that is held sacred, threatening their sources of connection to their distinct existences and the sources of their spiritual power: relationships to each other, communities, homelands, ceremonial life, languages, histories. . . . These connections are crucial to living a meaningful life for any human being.”<sup>59</sup> While previous studies have treated indigenous political autonomy, governance, the environment, and community health as separate concepts, in actuality they are intrinsically linked. For example, health has much deeper meaning than just the absence of disease or injury, as Arquette, et al., point out in their study of Mohawks of Akwesasne:

Health, then, has many definitions for the Mohawk people of Akwesasne. Health is spiritual. Health is rooted in the heart of the culture. Health is based on peaceful, sustainable relationships with other peoples including family, community, Nation, the natural world, and spiritual beings.<sup>60</sup>

After considering Arquette and associates’ conceptualization of community health/well-being, it becomes apparent that indigenous struggles to “make meaningful choices in matters touching upon all

spheres of life on a continuous basis” warrants further exploration in terms of “what is sustainability?” and “what is being transmitted to future generations?”<sup>61</sup> Deskaheh’s articulation of self-determination gets at the heart of indigenous struggles today: “We are determined to live the free people that we were born.”<sup>62</sup> Furthermore, the process of living as the “free people that we were born” entails having the freedom to practice indigenous livelihoods, maintain food security, and apply natural laws on indigenous homelands in a sustainable manner.<sup>63</sup> Critical to this process is the long-term sustainability of indigenous livelihoods, which includes the transmission of these cultural practices to future generations. Tully elaborates: “The right of self-determination is, on any plausible account of its contested criteria, the right of a people to govern themselves by their own laws and exercise jurisdiction over their territories.”<sup>64</sup> Embedded in this broader conceptualization of self-determination is a set of interlocking and reciprocal responsibilities to one’s community, family, clans/societies (an aspect of some but not all indigenous nations), homelands, and the natural world.

While the Brundtland Commission defined sustainability in 1987 as “meeting the needs of the present without compromising the ability of future generations to meet their own needs,” this definition does not go far enough as a benchmark for indigenous political, cultural, economic, and environmental restorative justice (in theory and in practice).<sup>65</sup> For indigenous peoples, sustainability is intrinsically linked to the transmission of traditional knowledge and cultural practices to future generations.<sup>66</sup> Without the ability of community members to continuously renew their relationships with the natural world (i.e., gathering medicines, hunting and fishing, basket-making, etc.), indigenous languages, traditional teachings, family structures, and livelihoods of that community are all jeopardized.

Indigenous connections between well-being and food security/livelihoods are critical to the realization and practice of a *sustainable self-determination*. When such relationships are severed, “the knowledge, worldviews, values and practices about these relationships and about other aspects of their food and agro-ecological systems, commonly erode over time as well.”<sup>67</sup> In other words, disruptions to indigenous livelihoods, governance, and natural-world relationships can jeopardize the overall health, well-being, identity, and continuity of indigenous communities.

Just as contemporary research on self-determination tends to exclude sustainability and environmental factors from the process, research on integrated ecosystem assessment tends to exclude culture

as a key criterion for sustainability. However, according to one comprehensive ecosystem assessment framework, “cultural services” are important benefits that people obtain from ecosystems through “spiritual enrichment, cognitive development, reflection, recreation and aesthetic experiences.”<sup>68</sup> Examples of cultural services include cultural diversity, knowledge systems, educational values, social relations, sense of place, and cultural heritage values.<sup>69</sup> Just as with the three other components that comprise a viable environmental ecosystem, such as “supporting services” (production of atmospheric oxygen, soil formation, etc.), “provisioning services” (food, fiber, natural medicines, fresh water, etc.), and “regulating services” (air-quality maintenance, climate regulation, regulation of human disease, and so on), cultural services are an integral part of an indigenous ecosystem.<sup>70</sup>

Sustainable self-determination as a process is premised on the notion that evolving indigenous livelihoods, food security, community governance, relationships to homelands and the natural world, and ceremonial life can be practiced today locally and regionally, thus enabling the transmission of these traditions and practices to future generations. Operating at multiple levels, sustainable self-determination seeks to regenerate the implementation of indigenous natural laws on indigenous homelands and expand the scope of an indigenous self-determination process.

First, it refutes global and state political/legal recognition and colonial strategies founded on economic dependency as the main avenues to meaningful self-determination. Second, this approach rejects the compartmentalization of standard political/legal definitions of self-determination by taking social, economic, cultural, and political factors of shared governance and relational accountability into consideration for a broader view of self-determination that can be sustained over future generations. Third, rather than engage solely in the global indigenous-rights discourse, sustainable self-determination operates at the community level as a process to perpetuate indigenous livelihoods locally via the regeneration of family, clan, and individual roles and responsibilities to their homelands. Finally, indigenous peoples begin to significantly influence the global political economy by rebuilding and restrengthening “their *local* and *regional* indigenous economies, which are by definition inherently sustainable.”<sup>71</sup> By starting with the regeneration of individual and family responsibilities in the self-determination process, indigenous communities hold the potential to reestablish larger regional trading networks with each other in order to promote formidable alliances and sustainable futures.

What, then, does sustainable self-determination look like in practice? While applications vary according to indigenous and state contexts, one example is the Native Federation of Madre de Dios (FENAMAD), which is a coalition of twenty-seven indigenous groups who have created a three-thousand-square-mile territory in Peru for indigenous nations to live as free people, as they were born.<sup>72</sup> The three main indigenous nations of FENAMAD sustain their communities mainly through fishing from one of the three main waterways in the region. In order to protect their livelihoods, these nations have set up sentry posts along the Las Piedra and Hahumanu Rivers to monitor river traffic and report illegal loggers to Peruvian authorities. Additionally, community members have fought to protect their homelands from encroachment. Over the past three years, two indigenous peoples and two loggers have died due to direct confrontations.<sup>73</sup>

Another example of sustainable self-determination in principle and practice is the White Earth Land Recovery Project (WELRP), which was created in 1989 to restore the Gaawaabaabanikaag land base, increase ecological relationships to the land, facilitate language fluency, and strengthen cultural practices for the Anishnaabe peoples on Turtle Island. One of the major components of the WELRP is Mino Mijim (“good food program”), which provides traditional foods such as wild rice, bison meat, and hominy corn to diabetic elderly Anishnaabes.<sup>74</sup> Additionally, while the White Earth Anishnaabe community holds only 9 percent of their original homelands, they seek to reclaim more of their territory so that a sustainable land base exists for future generations.<sup>75</sup> In an effort to fight the genetic modification of their traditional foods, such as corn and wild rice, WELRP has sought to regenerate traditional agricultural systems on the White Earth Reservation. As a testament to its local and global success, in 2003 WELRP received the International Slow Food Award for its work to protect wild rice from genetic modification and for its efforts to restore community-based food security.<sup>76</sup>

In addition to FENAMAD and WELRP, indigenous movements in Juchitan, Chiapas, and other parts of Mexico, as well as CONIAE in Ecuador, also demonstrate commitments to practices of sustainable self-determination. The above examples mark a stark contrast to state-sanctioned forms of legally oriented indigenous self-determination that are inherently unsustainable, such as indigenous nations’ economies and livelihoods that are conditioned by state budgets/neoliberal reforms rather than community governance grounded in natural laws and relationships to homelands and natural resources. The UN declaration offers additional insights into the implementation of

sustainable self-determination in article 20, including restitution for deprivation of such a right:

1. Indigenous peoples have the right to maintain and develop their political, economic, and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities
3. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress<sup>77</sup>

While the declaration promotes a broader vision of indigenous self-determination, it ultimately does not go far enough in advocating global benchmarks for a sustainable self-determination process. Despite potential limitations, however, “a ratified Declaration could be a useful strategic platform for deeper Indigenous challenges to the state-centric system.”<sup>78</sup> After demonstrating the necessity for a sustainable self-determination discourse, what are some specific strategies for reshaping the indigenous political discourse from rights to responsibilities?

### **Moving from Rights to Responsibilities**

While in this article I am not advocating a complete abandonment of a rights-based discourse, as it can be a useful tool for facilitating political maneuverability and opening new indigenous spaces within the statecentric system, I am urging that communities act to assert their powers and responsibilities as nations in order to promote an indigenous-centered discourse on sustainable self-determination. In order to reposition indigenous peoples philosophically and politically in a movement for community, family, and individual regeneration, it is critical to begin with indigenous community-based responsibilities in order to open new pathways for sustainable self-determination. For substantive decolonization and community regeneration to take place on a wider scale, the identification and implementation of nonstate, community-based solutions should take precedence. For substantive changes to occur in the state system, indigenous responsibility-based movements must supplant rights-based movements.

In the words of the late Lakota scholar Vine Deloria, Jr., “The basic problem is that American society is a rights society, not a responsibility society.”<sup>79</sup> Oren Lyons, the faithkeeper of the Onondaga nation, goes on to describe some of our responsibilities as

indigenous peoples: “You choose your own leaders. You put ‘em up, and you take ‘em down. But you, the people, are responsible. You’re responsible for your life; you’re responsible for everything.”<sup>80</sup> Ultimately, as Lyons and Deloria point out, it is one’s individual and shared responsibilities to the natural world that form the basis for indigenous governance and relationships to family, community, and homelands. These are the foundational natural laws and powers of indigenous communities since time immemorial.

As Ani-yun-wiya,<sup>81</sup> our responsibilities to natural laws and communities govern us. Drawing on our indigenous languages can help identify our shared Ani-yun-wiya responsibilities and viable community self-determination strategies. Invoking our indigenous languages also exposes some of the incompatibilities between settler and indigenous values. In this regard, the Ani-yun-wiya concept of Gadugi provides some direction toward a new conceptualization of responsibilities, which are relational or family-driven:

Built in community comradery; whatever issues/concerns arising in collective living have to be addressed in a unity way; No one is left alone to climb out of a life endeavor; it is a collective community base.<sup>82</sup>

According to Tsalagi elder Benny Smith, Gadugi should be part of a continuous process rather than being compartmentalized in everyday life. Commitment to the principles of Gadugi also demonstrates the interrelationships between spirituality and politics in indigenous communities. As with other indigenous nations on Turtle Island, Ani-yun-wiya viewed political actions of reciprocity and representation as going hand in hand with spiritual integrity.<sup>83</sup> Indigenous political actions emanate from our spiritual commitments; political or economic actions were not complete unless they were grounded in natural laws. According to Lyons, “Spirituality is the highest form of politics, and our spirituality is directly involved in government.”<sup>84</sup>

Rather than seeking recognition of our “human rights” from colonial institutions, our focus can be redirected towards local, indigenous-centered, responsibility-based movements. A responsibility-based movement enacts powers (versus rights) of sustainable self-determination and emphasizes diplomatic and trade relationships with other indigenous nations. To a large degree, the challenge is to make indigenous communities the central focus and take state recognition/involvement away from our everyday struggles as much as possible. Tsalagi scholar Andrea Smith addresses the question of how states should be excluded or de-emphasized from the futures of indigenous peoples:

If we acknowledge the state as a perpetrator of violence against women (particularly indigenous women and women of color) and as a perpetrator of genocide against indigenous peoples, we are challenged to imagine alternative forms of governance that do not presume the continuing existence of the U.S. in particular and the nation-state in general.<sup>85</sup>

Our challenge in promoting responsibility-based movements is to de-center the state from discussions of indigenous political, social, economic, and cultural mobilization. What do responsibility-based movements look like? One example is a “deprofessionalization” movement initiated by three indigenous scholars in Peru. Each of these three men believed that being professors at a university was the best way to help their communities, and each of them came to the slow and painful realization that the development projects they were promoting were utter failures and “profoundly alien to the native peasantry.”<sup>86</sup> So in 1987 these three left their secure jobs and founded PRATEC, a nongovernmental organization—in other words, “they deprofessionalized themselves.”<sup>87</sup> They now assist Andean indigenous peoples in reappropriating their lands by forming *ayllus*, which is a local community of related persons (similar to the Tsalagi concept of *Gadugi*). Within these reconstituted *ayllus*, “they cultivate the land in their own manner, evidence of the vibrancy of native practices and culture.”<sup>88</sup> PRATEC members work only through such direct action and avoid participation in formal politics, which they see as a “world committed to development and modernization.”<sup>89</sup> Their deprofessionalization movement continues to gather new members in Peru as they see “the need to decolonize their minds in order to clearly see and participate in the Andean world.”<sup>90</sup>

In another contemporary example of a responsibility-based action, Kanaka Maoli (Native Hawaiian) activists challenged the patenting of three varieties of taro (Palehua, Paakala, and Pauakea) by the University of Hawai‘i (UH) in January 2006. Kalo (taro) is a sacred plant and is considered an elder brother to the Kanaka Maoli people. After much pressure from students and taro farmers, the University of Hawai‘i relinquished their patents for the three varieties of kalo on June 20, 2006. At a news conference, the UH interim chancellor, Denise Konan, handed copies of the three patents to a kalo farmer, Chris Kobayashi; the director of the Center for Hawaiian Studies, Jon Osorio; and Kanaka Maoli activist, Walter Ritte. “In unison, the three tore them in half.”<sup>91</sup>

A responsibility-based movement ultimately requires action in order to enact community-based powers of sustainable self-determination, which usually conflicts with the political/legal rights laid out by the state. According to Robert Odawi Porter:

The most significant benefit of tribal disobedience is that it allows for the generation and affirmation of uniquely Indigenous interpretations of inherent and treaty-recognized rights. A hallmark attribute of the right of self-determination possessed by any people is their ability to interpret the scope of their own authority. This attribute may seem benign but it is essential to engaging in meaningful self-determination.<sup>92</sup>

\* \* \*

I began with a quotation from Taiaiake Alfred urging indigenous peoples to “start remembering the qualities of our ancestors and act on those remembrances.” A responsibility-based process entails sparking a spiritual revolution rather than seeking state-based solutions that are disconnected from indigenous community relationships and the natural world. The pursuit of self-determination should be repositioned away from a narrowly constructed, state-driven rights discourse toward a responsibility-based movement centered on a sustainable self-determination process. As I have argued in my analysis of the global indigenous-rights discourse, states as well as global and regional forums are currently framing the right of self-determination for indigenous peoples through the compartmentalization of political/legal rights from questions of sustainability, the denial of indigenous identities, engagement in the politics of recognition, and illusions of inclusion. Sustainable self-determination offers a new global benchmark for the praxis of indigenous livelihoods, food security, community governance, and relationships to the natural world and ceremonial life that enables the transmission of these cultural practices to future generations.

Utilizing a more holistic, flexible, and dynamic model for the implementation of sustainable self-determination also allows for the creation of observable benchmarks for restoring indigenous cultural and ecological ecosystems. This model overcomes some of the Western epistemological biases often present in scientific assessments of ecosystems and/or political/legal assessments of indigenous rights, which ultimately discounts cultural values and the needs of local communities. The inclusion of ecological, medicinal, food, and other cultural factors in this model assists indigenous communities in setting their own standards for restoring sustainable relationships.

Given the ongoing colonial legacies that impact indigenous futures, one also needs strategies to decolonize and restore indigenous relationships that have been long severed. To address questions of restorative justice, the UN General Assembly adopted a resolution in 2006 to implement “Basic Principles and Guidelines on

the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law” (UN GA Res. 60/147). According to GA resolution 60/147, reparation is only effective if it involves remediation in the following five areas: restitution, compensation, rehabilitation, satisfaction, and guarantees of nonrepetition. Drawing on a benchmark of sustainable self-determination, indigenous peoples can frame these remedial strategies according to their own immediate and long-term community needs when mobilizing to restore sustainable relationships on their homelands.

What, then, are some additional future strategies that indigenous peoples can engage in to promote a responsibility-based discourse and movement? One way to promote indigenous unity and regeneration is to encourage renewed treaty making between indigenous families and communities. Such a revitalized treaty process would follow the protocols of pipe ceremonies, not the paper diplomacy of states/global forums. Since states have not honored indigenous treaties for the most part, it is time for indigenous peoples to lead by example and demonstrate once again their communities’ approaches to principles of respect and diplomacy. Treaties of peace and friendship entail making sacred compacts that should be renewed ceremonially on an annual basis with all participating indigenous peoples. New inter-indigenous treaties might include those that affirming alliances, promoting protection for crossing borders, and trade arrangements, further illustrating the wide spectrum of indigenous powers of Gadugi.

Additionally, future indigenous mobilization efforts should be directed toward engagement and activism in indigenous forums—not United Nations or regional institutional structures. Tsalagi legal scholar Valerie Phillips describes how we can reestablish alternative local economies that are premised on indigenous values:

Existing indigenous sustainable economies in the South, combined with newly-resurging ones in North America, can together engender a more serious attitude within settler populations about indigenous peoples in general and sustainable development in particular as indigenous peoples progressively remove themselves from being under the economic thumb of the nation-state and finally thrive on their own terms.<sup>93</sup>

Capitalist/neoliberal projects and rights-based discourses can distract us from the real priorities to our homelands, families, clans, and communities. According to Deloria, “Having religious places and revolving your religion around that means you are always in

contact with the earth—responsible for it and to it.”<sup>94</sup> This is what it means to have a responsibility-based ethos and commitment to renewing our ongoing relationships. From this perspective, citizenship within indigenous nations should not be regarded as an entitlement but as a *responsibility* to be renewed annually, either through involvement in ceremony or some other cultural, educational, or leadership “contribution” to one’s own community that demonstrates respect for the principle of Gadugi.

We also have to remember that change happens in small increments: “one warrior at a time”—“The movement toward decolonization and regeneration will emanate from transformations achieved by direct-guided experience in small, personal, groups and one-on-one mentoring towards a new path.”<sup>95</sup>

As ancient nations, we have proven to be persistent because of our shared commitment to responsibility—we are nations that pre-date the rights-based state and will outlast it. Ani-yun-wiya power arises from Gadugi and *responsibilities* to our territories, families, and communities.

### Notes

1. Taiiaki Alfred, *Wasáse: Indigenous Pathways of Action and Freedom* (Ontario: Broadview Press, 2005), p. 32.

2. “Deconstructing the British Columbia Treaty Process,” *Balayi: Culture, Law, Colonialism* 3 (2001): 37–65.

3. *Ibid.*, p. 57.

4. James Tully, “The Struggles of Indigenous Peoples for and of Freedom,” in Duncan Ivison, Paul Patton, and Will Sanders, eds., *Political Theory and the Rights of Indigenous Peoples* (Cambridge: Cambridge University Press, 2000), pp. 36–59.

5. The term *host state* is the most grammatically precise and widely used phrase describing those countries containing indigenous peoples within their borders. However, this term should not be construed to imply a sense of undue state cordiality, especially given the severe treatment that several indigenous populations have received at the hands of their host states.

6. Jeff Corntassel, “Who Is Indigenous? ‘Peoplehood’ and Ethnonationalist Approaches to Rearticulating Indigenous Identity,” *Nationalism and Ethnic Politics* 9 (2003): 75–100.

7. “UN Declaration Likely to Heighten Ethnic Conflicts,” *Botswana Press Agency*, December 1, 2006; available at [http://www.gov.bw/cgi-bin/news.cgi?id=20061201&ci=UN\\_declaration\\_likely\\_to\\_heighten\\_ethnic\\_conflicts](http://www.gov.bw/cgi-bin/news.cgi?id=20061201&ci=UN_declaration_likely_to_heighten_ethnic_conflicts)

8. Deborah McGregor, “Traditional Ecological Knowledge and Sustainable Development: Towards Coexistence,” in Mario Blaser, Harvey A. Feit, and Glenn McRae, eds., *In the Way of Development: Indigenous Peoples, Life Projects, and Globalization* (London: Zed Books, 2004); available at [http://www.idrc.ca/en/ev-64525-201-1-DO\\_TOPIC.html](http://www.idrc.ca/en/ev-64525-201-1-DO_TOPIC.html)

9. David Knight, "People Together, Yet Apart: Rethinking Territory, Sovereignty, and Identities," in George Demko and William Wood, eds., *Reordering the World: Geopolitical Perspectives on the 21st Century* (Oxford: Westview Press, 1994), pp. 71–86. As early as 1949, states began drafting a *Special Report of the United Nations Commission for Indonesia* in order to establish a clear distinction between "internal" and "external" self-determination. According to this logic, one could differentiate between "historical subjugation of an alien population living in a different part of the globe and the historical subjugation of an alien population living on a piece of land abutting that of its oppressors": Lee C. Buchheit, *Secession: The Legitimacy of Self-Determination* (New Haven: Yale University Press, 1978), p. 18.

10. Available at <http://www1.umn.edu/humanrts/instreet/res60-147.html>

11. Surveillance involves holding state institutions accountable for their actions through constant monitoring and reporting via indigenous communities, human rights organizations, and so forth. Shame entails motivating states to honor their existing human rights obligations by publicizing poor state practices. For more on these strategies, see Jeff Cornassel, "Partnership in Action? Indigenous Political Mobilization and Co-optation During the First UN Indigenous Decade, 1995–2004," *Human Rights Quarterly* 29 (2007): 137–166.

12. Erica-Irene A. Daes, *Indigenous Peoples' Permanent Sovereignty Over Natural Resources: Final Report of the Special Rapporteur, Erica-Irene A. Daes*, Commission on Human Rights (E/CN.4/Sub.2/2004/30, July 13, 2004), p. 7.

13. For more on the state militarization of indigenous homelands and natural resources, see Bernard Nietschmann, "The Fourth World: Nations Versus States," in Demko and Wood, note 9, pp. 225–242. For a current examination of how state production of biofuels impacts indigenous peoples worldwide, see Victoria Tauli-Corpuz and Parshuram Tamang, *Oil Palms and Other Commercial Tree Plantations, Monocropping: Impacts on Indigenous Peoples' Land Tenure and Resource Management Systems and Livelihoods* (E/C.19/2007/CRP.6, May 7, 2007); available at [http://www.un.org/esa/socdev/unpfii/documents/6session\\_crp6.doc](http://www.un.org/esa/socdev/unpfii/documents/6session_crp6.doc)

14. Deskaheh means "more than eleven." Chief Deskaheh was also known as Levi General.

15. For more on the dialogue between Deskaheh and attorney George Kecker regarding strategies to bring the Six Nations' case before the World Court, see Lawrence Hauptman, "The Idealist and the Realist: Chief Deskaheh, Attorney George Kecker, and the Six Nations' Struggle to Get to the World Court, 1921–1925," paper presented at the International Indigenous Citizenship Conference, Center for Indigenous Law, Governance, and Citizenship, Syracuse University College of Law, New York, April 28, 2007.

16. Akwesasne Notes, *Basic Call to Consciousness* (Summertown, Tenn.: Native Voices, 1978), p. 19.

17. Chief Deskaheh, *Petition to the League of Nations from the Six Nations of the Grand River*, communicated by the government of the Netherlands, C.500.1923.VII, Aug. 7, 1923, at p. 3.

18. *Ibid.*

19. While the governments of the United Kingdom and Canada went to great efforts to prevent a debate on Deskaheh's petition, several states—Estonia, the Netherlands, Ireland, Panama, Japan, and Persia—expressed

support for it. Māori leader T. W. Ratana also unsuccessfully petitioned the League of Nations and Britain in 1924 regarding land confiscations and recognition of the Treaty of Waitangi. His petitions were strongly opposed by the British government and New Zealand: Douglas Sanders, "The Legacy of Deskaheh: Indigenous Peoples as International Actors," in Cynthia Price Cohen, ed., *The Human Rights of Indigenous Peoples* (New York: Transnational Publishers, 1998), pp. 73–74.

20. Undersecretary of state for external affairs, "Letter to the Secretary-General, League of Nations," May 25, 1923.

21. Sanders, note 19, 73–74.

22. Akwesasne Notes, note 16, pp. 21–22.

23. "Letter to the Secretary-General," note 20.

24. *Ibid.* (emphasis mine).

25. *Ibid.*

26. *Ibid.*

27. Corntassel, note 11, p. 161.

28. "General Assembly Adopts Declaration on the Rights of Indigenous Peoples," Sept. 13, 2007; available at <http://www.un.org/News/Press/docs//2007/ga10612.doc.htm>

29. The deleted sections of the declaration were just as telling, relating to freely determining relationships with states and impositions by legislative, administrative, or other measures on indigenous nations (article 8), military activities on indigenous lands (article 30), and deletion of indigenous ownership of "mineral, water or other resources" (article 32). For a full text of the declaration highlighting the amendments, see [http://www.un.org/esa/socdev/unpfi/documents/Declaration\\_IPs\\_31August.pdf](http://www.un.org/esa/socdev/unpfi/documents/Declaration_IPs_31August.pdf)

30. Knight, note 9, p. 79.

31. Ian Brownlie. *Basic Documents on African Affairs* (Oxford, Eng.: Clarendon Press, 1971), pp. 360–361.

32. Onyeonoro S. Kamanu, "Secession and the Right of Self-Determination: An OAU Dilemma," *Journal of Modern African Studies* 12 (1974): 355–376.

33. The 1970 UN "Friendly Relations" declaration, which is essentially a handbook for statecraft, describes a standard state perspective on self-determination: "Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government represent the whole people belonging to the territory without distinct as to race, creed or color": Thomas R. Van Dervort, *International Law and Organization* (Thousand Oaks, Calif.: Sage, 1998), p. 610.

34. Decision on the UN Declaration on the Rights of Indigenous Peoples (Jan. 30, 2007); available at <http://www.ohchr.org/english/issues/indigenous/docs/wgdd2006/dec-141.doc>

35. Interestingly, Cameroon, Mauritius, South Africa, and Zambia, members of the Human Rights Council, voted in June 2006 to approve the text of the declaration. In November 2006, after intense lobbying from the United States, Canada, and other African states, the same four countries reversed their previous decision and voted to delay ratification of the declaration.

36. Indigenous Peoples of Africa Co-ordinating Committee, "Response Note to the Draft Aide Memoire of the African Group on the UN Declaration on the Rights of Indigenous Peoples," Mar. 21, 2007, p. 6; available at <http://www.ipacc.org.za/uploads/docs/AideMemoireResponse.pdf>

37. These proposals were never formally introduced at the UN General Assembly, and the UN General Assembly president described them as "so way off" they should be ignored: "Matthew Russell Lee, "At UN, Indigenous Rights Are Threatened with Amendments, by Global Warming, and Agency Hot Air." *Inner City Press*, May 22, 2007; available at <http://www.innecitypress.com/indigenous052207.html>. For a full text of the African proposals, see <http://www.converge.org.nz/pma/AGDraft0507.pdf>

38. The UN Permanent Forum on Indigenous Issues has not adopted an official definition of indigenous peoples, but working definitions, such as the one developed by the UN Working Group on Indigenous Peoples in 1986, offer some generally accepted guidelines for self-identifying indigenous peoples and nations:

- Self-identification as indigenous peoples at the individual level and accepted by the community as their member
- Historical continuity with precolonial and/or pre-settler societies
- Strong link to territories and surrounding natural resources
- Distinct social, economic, or political systems
- Distinct language, culture, and beliefs
- Form nondominant groups of society
- Resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities—United Nations Permanent Forum on Indigenous Issues, 2006

While there is a great deal of discussion over the complexities of defining more than 350 million indigenous peoples around the world, ultimately the question, "Who is indigenous?" is best answered by indigenous communities themselves. For more on this definitional discourse, see Cortassel, note 6, pp. 75–100.

39. See the amended declaration at [http://www.un.org/esa/socdev/unpfii/documents/Declaration\\_IPs\\_31August.pdf](http://www.un.org/esa/socdev/unpfii/documents/Declaration_IPs_31August.pdf)

40. Marty Logan, "Indigenous Peoples: Paper Trail Grows at UN Indigenous Forum," *IPS-Inter Press Service News Agency*, May 8, 2004; available at <http://www.ipsnews.net/interna.asp?idnews=23661>, cited in Cortassel, note 11, p. 160.

41. *Ibid.*

42. Mary Dann passed away on April 22, 2005, after an accident on an all-terrain vehicle while she was repairing fences on the family's Crescent Valley ranch in Nevada.

43. Jo M. Pasqualucci, "The Evolution of International Indigenous Rights in the Inter-American Human Rights System," *Human Rights Law Review* 6 (2006): 281–322.

44. *Ibid.*

45. "Western Shoshone Victorious at the United Nations," Mar. 10, 2006; available at [http://www.law.arizona.edu/Depts/IPLP/advocacy\\_clinical/western\\_shoshone/documents/WSDPPressRelease.pdf](http://www.law.arizona.edu/Depts/IPLP/advocacy_clinical/western_shoshone/documents/WSDPPressRelease.pdf)

46. *Ibid.*

47. *Ibid.*

48. Haider Rizvi, "Native Group Takes Land Dispute to UN," *Inter Press Service News Agency*, Jan. 26, 2006; available at <http://www.ipsnews.net/headlines.asp>

49. Ghida Fakhry, "Native Americans Fight Corporations," *Al Jazeera International* (Nov. 23, 2006); available at <http://www.wsdp.org/whatsnew.htm#carrie112306>

50. Alfred, note 1, p. 112.

51. Patrick Thornberry, "Self-Determination and Indigenous Peoples: Objections and Responses," in Pekka Aikio and Martin Scheinin, eds., *Operationalizing the Right of Indigenous Peoples to Self-Determination* (Turku: Institute for Human Rights, 2000), pp. 47–57.

52. Glen S. Coulthard, "Subjects of Empire: Indigenous Peoples and the 'Politics of Recognition' in Canada," *Contemporary Political Theory* 3 (2007): 1–29.

53. *Ibid.*, p. 22.

54. Even where cultural and economic factors are acknowledged as part of an overall indigenous right to self-determination, they are overly general or not adequately developed. See, for example, Allen Buchanan, *Secession: The Morality of Political Divorce from Fort Sumter to Lithuania and Quebec* (Boulder, Colo.: Westview Press, 1991); Benedict Kingsbury, "Reconstructing Self-Determination: A Relational Approach," in Aikio and Scheinin, note 51, pp. 19–37; Paul Keal, *European Conquest and the Rights of Indigenous Peoples* (Cambridge: Cambridge University Press, 2003); Ronald Niezen, *The Origins of Indigenism: Human Rights and the Politics of Identity* (Los Angeles: University of California Press, 2003).

55. S. James Anaya, *Indigenous Peoples in International Law*, 2d ed. (Oxford: Oxford University Press, 2004), p. 103.

56. See, for example, Ted Moses, "The Right of Self-Determination and Its Significance to the Survival of Indigenous Peoples," in Aikio and Scheinin, note 51, pp. 155–178; Erica-Irene A. Daes, *Indigenous Peoples' Permanent Sovereignty over Natural Resources: Final Report of the Special Rapporteur, Erica-Irene A. Daes*, Commission on Human Rights 7 (E/CN.4/Sub.2/2004/30, July 13, 2004); Roger Maaka and Augie Fleras, *The Politics of Indigeneity: Challenging the State in Canada and Aotearoa New Zealand* (Dunedin: University of Otago Press, 2005).

57. Anaya, note 55, p. 109.

58. *Ibid.*, p. 104.

59. Taiaiake Alfred and Jeff Corntassel, "Being Indigenous: Resurgences Against Contemporary Colonialism," *Government & Opposition* 40, no. 4 (2005): 597–614.

60. Mary Arquette, Maxine Cole, Katsi Cook, Brenda LaFrance, Margaret Peters, James Ransom, Elvera Sargent, Vivian Smoke, and Arlene Stairs, "Holistic Risk-Based Environmental Decision Making: A Native Perspective," 110 *Environmental Health Perspectives* (2002): 259–264.

61. S. James Anaya. "Self-Determination as a Collective Human Right Under Contemporary International Law," in Aikio and Scheinin, note 51, pp. 3–18.

62. Deskaheh, note 17.

63. In this example, "food security is a situation that exists when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life. . . . For Indigenous peoples, this defi-

dition also includes respect for their own cultures and their own systems of managing natural resources and rural areas”: Ellen Woodley, “Cultural Indicators of Indigenous Peoples’ Food and Agro-ecological systems,” paper at the Second Global Consultation on the Right to Food and Food Sovereignty for Indigenous Peoples, Puerto Cabezas, Nicaragua (2006; available at [http://www.fao.org/sard/common/ecg/2653/en/CulturalIndicators\\_exsum16oct.pdf](http://www.fao.org/sard/common/ecg/2653/en/CulturalIndicators_exsum16oct.pdf))

In this article, natural law takes on a much different meaning from Western legal traditions founded in Stoic and later Roman philosophies, which are premised on the notion that there are normative principles emanating from the “rational” nature of human beings, discoverable by “reason” and existing independently of their codification or enforcement. While there is no single definition of indigenous natural law, as it varies in practice from community to community, it entails collective and individual experiential knowledge “reflecting a spiritual connection with the land established by the Creator, gives human beings special responsibilities within the areas they occupy as indigenous peoples, linking them in a ‘natural’ way to their territories”: Taiaiake Alfred, *Peace, Power, Righteousness* (Oxford: Oxford University Press, 1999), p. 61.

64. Tully, note 4, p. 57.

65. The original definition read: “sustainable development, which implies meeting the needs of the present without compromising the ability of future generations to meet their own needs”—from the World Commission on Environment and Development’s *Report of the World Commission on Environment and Development*, A/RES/42/187; posted by UN Department of Economic and Social Affairs (DESA), Dec. 11, 1987; available at: <http://www.un.org/documents/ga/res/42/ares42-187.htm>

66. Woodley, note 63, p. 5; Ann Garibaldi and Nancy Turner, “Cultural Keystone Species: Implications for Ecological Conservation and Restoration.” *Ecology and Society* 9 (2004): 1–18; Mary Arquette, Maxine Cole, and the Akwesasne Task Force on the Environment, “Restoring Our Relationships with the Future,” in Blaser, Feit, and McRae, note 8.

67. Woodley, note 63, p. 3.

68. Millennium Ecosystem Assessment, *Ecosystems and Human Well-Being: A Framework for Assessment* (Washington, D.C.: Island Press, 2003), p. 58.

69. *Ibid.*, pp. 58–59.

70. *Ibid.*, pp. 57–60.

71. Valerie J. Phillips, “Parallel Worlds: A Sideways Approach to Promoting Indigenous-Non-Indigenous Trade and Sustainable Development,” *Michigan State Journal of International Law* 14 (2005): 521–540.

72. C. J. Schexnayder, “The Mahogany Wars of Peru’s Rain Forests,” *San Francisco Chronicle*, Apr. 22, 2007; available at: <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2007/04/22/ING7VPBAH71.DTL>

73. *Ibid.*

74. Winona LaDuke, *Recovering the Sacred: The Power of Naming and Claiming* (Cambridge, Mass.: South End Press, 2005), p. 205. For more details on community initiatives, visit the WELRP website, <http://www.nativeharvest.com>

75. Thus far, the project has reclaimed 1,700 acres of their traditional homelands. See LaDuke, note 74, pp. 206–207.

76. *Ibid.*

77. United Nations Declaration on the Rights of Indigenous Peoples,

2006; available at [http://www.un.org/esa/socdev/unpfii/documents/ResA\\_RES\\_61\\_178.doc](http://www.un.org/esa/socdev/unpfii/documents/ResA_RES_61_178.doc)

78. Corntassel, note 11, p. 162.

79. Christopher McLeod and Malinda Maynor, "Vine Deloria Jr. Extended Interview," *In the Light of Reverence*, Independent Television Service in association with Native American Public Telecommunications (2001).

80. Barry Lopez, "The Leadership Imperative: An Interview with Oren Lyons," *Orion* (Jan./Feb. 2007); available at <http://www.orionmagazine.org/index.php/articles/article/94/>

81. Traditional term used to describe Tsalagi (Cherokee nation), which means real or principal people.

82. Telephone conversation, Sept. 12, 2006, with Benny Smith of the Cherokee nation, elder and director of counseling services at Haskell Indian Nations University, Kansas.

83. Laura Parisi and Jeff Corntassel, "In Pursuit of Self-Determination: Indigenous Women's Challenges to Traditional Diplomatic Spaces," *Canadian Foreign Policy* 13 (2007): 84.

84. Oren Lyons, "Spirituality, Equality, and Natural Law." In Leroy Little Bear, Menno Boldt, and J. Anthony Long, eds., *Pathways to Self-Determination: Canadian Indians and the Canadian State* 5 (Toronto: University of Toronto Press, 1984), p. 5.

85. Andrea Smith, *Conquest: Sexual Violence and American Indian Genocide* (Cambridge, Mass.: South End Press, 2005), p. 5.

86. Frédérique Apffel-Marglin, "From Fieldwork to Mutual Learning: Working with PRATEC," *Environmental Values* 11 (2002): 345–367. See also Apffel-Marglin and PRATEC, eds., *The Spirit of Regeneration: Andean Culture Confronting Western Notions of Development* (London: Zed Books, 1998).

87. Apffel-Marglin, note 86, p. 347.

88. *Ibid.*, p. 348.

89. *Ibid.*, p. 349.

90. *Ibid.*

91. Susan Essoyan, "Activists Tear up 3 UH Patents for Taro," *Honolulu Star Bulletin*, June 21, 2006; available at <http://starbulletin.com/2006/06/21/news/story03.html>

92. Robert Odawi Porter, "Tribal Disobedience." *Texas Journal of Civil Liberties and Civil Rights* 11 (2006): 170.

93. Phillips, note 71, p. 525.

94. McLeod and Maynor, note 79.

95. Alfred and Corntassel, note 59, p. 613.