The Special Issue for the Nations International Criminal Tribunal (NICT)

The NICT Charter and the Realization of the Rights to Self-Determination of Indigenous Nations and Fourth World Peoples

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ABSTRACT

Dr. Fukurai constructs an overview of this issue, its engagement with the Nations International Criminal Tribunal (NICT), and the perspectives that drive its articles. The necessity for an Indigenous-centered judicial body within the world system is not novel, and the NICT derives from centuries of Indigenous resistance against the Westphalian statist system. Yet the NICT took shape as a robust structure for accountability and justice based on the work of CWIS founder Dr. Ryser, who ensured that the NICT covered crimes previously excluded from human rights governance, including ethnocide, femicide, ecocide, and culturcide. The article begins with a discussion of the historical roots of the NICT in various resistance movements, as well as its legal precedents in the League of Nations and the Permanent Court of International Justice. The corpus of the NICT is expansive in defining genocide and proactively enforcing accountability mechanisms. Next, it outlines the six articles published and the various lenses through which the court is presented. Finally, it evaluates future directions for the NICT, examining its unique potential to advance both humanistic and ecological aims. These findings underscore the agency of Indigenous nations in sculpting alternative modes of anticolonial sovereignties.

Keywords: Indigenous sovereignty, Nations International Criminal Tribunal (NICT), Self-determination, Genocide, Yezidi people, International law, Restorative justice, Colonial violence, Indigenous legal traditions, Decolonial justice

Introduction

Europe's global colonial dominance emerged in the wake of the late fifteenth-century Age of Discovery, unleashing centuries of systematic exploitation across continents. In response, indigenous peoples have consistently called for the creation of an autonomous judicial body rooted in indigenous legal tradition, both to halt ongoing destruction and to demand reparations

for Europe's imperial plunder. The establishment of such a judicial institution has long been proposed as a means of holding colonial powers accountable for centuries of land dispossession, ecological devastation, and genocidal violence. Despite the sustained advocacy for its creation, no international judicial body has yet been established to prosecute and adjudicate states, corporations, and other predatory proxies as criminal entities.

Existing institutions of the International Criminal Court (ICC) and the International Court of Justice (ICJ) remain fundamentally inadequate for addressing both historical atrocities and ongoing violations perpetrated by state and corporate actors against indigenous nations and peoples. The ICC, for instance, is limited to prosecuting individuals in positions of power within governments or corporations for a narrow set of crimes under its jurisdiction[1], lacking authority to indict these entities themselves as criminal actors. Similarly, the ICJ recognizes only states as legitimate litigants, thereby excluding indigenous nations from bringing cases forward. Both the ICC and ICJ are also constrained by geopolitical realities, including the capacity of powerful states to obstruct investigations and prosecutions. This dynamic further marginalizes indigenous nations seeking justice and reparations, as these state-centric foundations of judicial institutions and international legal order systematically sideline indigenous legal tradition and conceptions of sovereignty, privileging Western judicial frameworks that often conflict with indigenous epistemologies and self-determination claims.

Since its founding in 1984, the Center for World Indigenous Studies (CWIS) has stood as a vanguard in the conceptualization and advancement of an autonomous judicial body rooted in indigenous legal traditions, a judicial body that would have the capacity to halt and prosecute state and corporate crimes against indigenous peoples worldwide.[2] Dr. Rudolph C. Rÿser, CWIS's founding director, long envisioned and advocated for the Nations International Criminal Tribunal (NICT) as an essential judicial institution, one capable of identifying, exposing, and adjudicating the longstanding and ongoing impunity enjoyed by states and their predatory proxies in the systematic violation of indigenous nations, peoples, and other sub-state communities across the globe. The NICT seeks to challenge entrenched structures of state violence and to offer a juridical counterweight to centuries of unaccountable state oppression and exploitation directed at indigenous nations and peoples.

The absence of a robust international judicial system to prosecute state crimes has also contributed to persistent indigenous resistance, opposition movements, and armed conflicts in response to genocidal state policies and corporate exploitation around the globe. Empirical research reveals that between the end of World War II and 2020, an overwhelming majority (89.9%) of approximately 2,500 documented armed

[1] ICC prosecutes four core international crimes, including war crimes, genocide, crimes against humanity, and crime of aggression. See Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 90.

[2] Its main website is available at https://www.cwis.org/.

conflicts globally involved confrontations between state actors and indigenous communities or their allies, including land and water protectors, environmental advocates, and armed resistance groups defending indigenous rights, territories, and ways of life against state predation and their proxies.[3] This pattern underscores the persistent structural violence within state systems that suppress indigenous self-determination, land rights, and environmental stewardship. Between 1946 and the early 1960s, the majority of these armed conflicts were concentrated in Africa and the Middle East, where anti-colonial liberation struggles unfolded against European imperial powers. From the 1960s through the early 1990s, the geography of conflict shifted toward Asia and the Americas, reflecting both Cold War geopolitical tensions and indigenous resistance, intensifying struggles over decolonization, indigenous self-determination, and resource extraction. Following the dissolution of the Soviet Union in 1991, armed conflict zones increasingly emerged in Central and West Asia, often driven by geopolitical interventions and renewed indigenous resistance to encroachments on traditional territories, resource sovereignty, and ethno-political autonomy.[4] These findings not only underscore the enduring legacies of colonialism, but also highlight the pivotal role of indigenous struggles in shaping the global landscape of conflict and resistance to state powers. The results of such empirical studies reinforce the urgent need to establish the NICT in order to create an international legal and political framework grounded in the genuine recognition of indigenous sovereignty, environmental justice, and anti-colonial futures. The formation of the NICT further emphasizes the imperative to protect and uphold indigenous knowledge systems, environmental stewardship, and biocultural diversity essential for planetary survival.

In response to these empirical realities, the CWIS's objective, under Dr. Rÿser's leadership, has long been to forge a robust and enduring international tribunal with the authority to hold individuals, militias, corporations, states, and their proxy entities accountable for grave violations disproportionately inflicted upon indigenous nations and peoples worldwide.[5] Dr. Rÿser insisted that the NICT's jurisdiction must extend beyond the limitations of conventional

[3] Hiroshi Fukurai, "Fourth World Nations vs. The States' 'Nation-Destroying' Projects from 1946 to 2020: Post-WWII Wars, Armed Conflicts, and Indigenous Military Resistance," *Fourth World Journal* 23: 33-48 (2023). The analytic data comes from the Uppsala University in Sweden and its Uppsala Conflict Data Program (UCDP), which is available at https://ucdp.uu.se/. See also Rudolph Rÿser, *Indigenous Nations and Modern States: The Political Emergence of Nations Challenging State Power* (NY: Routledge, 2012). Indigenous scholars and historians such as Roxanne Dunbar-Ortiz, Ward Churchill and others have extensively documented the long-standing traditions of indigenous resistance to state violence and colonial exploitation throughout North America. See Roxanne Dunbar-Ortiz (2012) *An Indigenous People's History of the United States* (Boston, Beacon Press, 2015); *Not 'A Nation of Immigrants'* (Boston, Beacon Press, 2021). See also Ward Churchill, *A Little Matter of Genocid3: Holocaust and Denial in the Americas 1492 to the Present* (SF: A City Lights Publishers, 1997); Ward Churchill and Barbara Alice Mann, *Wielding Words Like Weapons* (NY: PM Press, 2017). Gerald Horne's historical research further highlights the enduring, century-long resistance of indigenous and original peoples across Africa, the Middle East, the Caribbean, and the South Pacific to Euro-American imperial domination. See *Confronting Black Jacobins* (NY: Monthly Review Press, 2015); *The White Pacific: U.S. Imperialism and Black Slavery in the South Seas After the Civil War* (HI: University of Hawaii Press, 2007); *White Supremacy Confronted: U.S. Imperialism and Anti-Communism vs. the Liberation of South Africa, from Rhodes to Mandela* (NY: International Publishers Co., 2019).

[4] *Ibid.*

[5] Rudolph C. Rÿser, "The Nations International Criminal Tribunal: A Brief Introduction," *Fourth World Journal* 24: 146-148 (2024)

international legal frameworks to include deliberate acts conspicuously excluded from the 1948 U.N. Genocide Convention, such as ethnocide, femicide, culturicide, ecocide, and other criminal offenses absent from the ICC's mandate under the 1998 Rome Statute.[6] By centering these systemic crimes, the NICT seeks to confront the ontological violence inherent in colonial modernity, particularly the targeted destruction of indigenous nations' sovereignty, knowledge systems, and ecological stewardship. The NICT's jurisprudence not only exposes the mechanisms of state and corporate predation, but also affirms the profound interdependence between indigenous survival, biocultural diversity, and the ecological integrity upon which all life, including humanity, ultimately depends.

The introduction to this special issue is structured as follows: The first section explores the historical foundations of the formation and conceptualization of the NICT, situating it within a broader legacy of indigenous nations' efforts to establish a global tribunal to adjudicate crimes of the state, and those of their predatory proxy agencies, against indigenous nations and peoples. This includes the establishment of the Permanent Court of International Justice (PCIJ) in 1919, pursuant to the Covenant of League of Nations (LON), i.e., the first modern global governance body that offered an international forum for addressing indigenous grievance arising from state predation. Since the PCIJ was designed to adjudicate disputes between sovereign states, indigenous nations and other non-state actors, it lacked legal standing before the court. Nonetheless, Japan's Racial Equality Proposal at the 1919 Paris Peace Conference created the opening to introduce the principle of racial and national equality into international discourse. It helped catalyze broader conversations about the recognition of racial and ethnic diversity in international law and laid groundwork for future efforts to enshrine the rights of indigenous nations and various groups' sub-state communities within the evolving framework of international legal order.

While Japan's proposal was ultimately rejected, through the combined efforts of the U.S., the U.K. and the British dominions of Australia, New Zealand, Canada and South Africa, the proposal had a profound impact, inspiring indigenous nations and their nationalist-oriented political activists to view the League of Nations as an international platform from which to advance their struggles, seek redress, and petition against genocidal policies affecting their populations. Indigenous nations such as the Iroquois Confederacy, the Cherokee Nation, the Māori of Aotearoa in New Zealand, and other indigenous representatives around the world began to mobilize their resistance within this international arena to insist on their sovereignty and to fight imperial domination and colonial exploitation. Indigenous representatives filed petitions against genocidal policies and transformed Geneva into a staging ground for anti-imperial resistance, laying crucial groundwork for contemporary indigenous legal activism. The movement also inspired

[6] For specific descriptions of the crimes of genocide, see the NICT Charter included in this issue.

African Americans to suggest the creation of the "Black Belt Republic" in the U.S. South, to enshrine the aspiration of their own territory in the 1920s and 1930s.[7] The petition called "We Charge Genocide" was filed in 1951 by the Civil Rights Congress (CRC), led by prominent black activists, to expose genocidal violence against Africa's diasporic populations in North America, urging the new global platform of the U.N. to investigate U.S. crimes under the 1948 Genocide Convention and calling for sanctions under the U.N. Charter.[8]

The second section analyzes the NICT Charter's fundamental framework, which centers indigenous sovereignty and legal traditions through two revolutionary mechanisms. In the prosecution of crimes by states, corporations, and other proxy agencies, it enforces participatory justice by creating democratic jury panels composed of indigenous representatives, ensuring direct community oversight in adjudication. It also ensures prosecutorial accountability by creating the so-called Prosecution Review Commission (PRC), a novel institution first established in 1948 through U.S.-Japan collaboration in 1948, empowering the challenge of state prosecutors' refusal to pursue cases of both state and corporate ecological violence in indigenous territories. The PRC addresses systemic state complicity by invoking the "Right to Protect" (RTP), a sacred principle of international law, to prosecute crimes that state governments deliberately neglect. The section also explores the NICT Charter's adoption by Ezidikhan and the government of Armenia in the Middle East. The adoption of the NICT Charter and its legal progress are detailed in one of the articles in this special edition, which explores examples of how indigenous nations could utilize the NICT Charter to assert and protect indigenous rights to self-determination and sovereignty across the globe. This section showcases articles and provisional sections of the NICT which are referenced through a weblink in the full article.

The third section introduces six individual papers which explore the establishment of the NICT in order to prosecute crimes by state and corporate actors. The authors include indigenous activists, legal specialists in indigenous legal traditions, and political allies who have long worked towards establishing international criminal tribunals to adjudicate crimes committed against indigenous nations and peoples worldwide.

The first article, "An Introduction to the Nations International Criminal Tribunal" by Sam Stoker, identifies the shortcomings of the 2007 U.N. Declaration of the Rights of Indigenous Peoples (UNDRIP), arguing for the NICT's

[7] The African Blood Brotherhood (ABB)'s collaboration with the Community Party USA (CPUSA) laid the groundwork for the proposals of African autonomy, including the establishment of the "Black Belt Republic" in the U.S. South. See Hannah Foster, "Black Belt Republic (1928-1934)," *Black Past*, March 10, 2014.

[8] The full title of the 1951 U.N. Petition by WEB DuBois, Paul Robeson, and William L. Patterson was:" *We Charge Genocide: The Historic Petition to the United Nations for Relief from a Crime of the United States Government Against Negro People* (NY: Civil Rights Congress, 1951). The entire document is available at https://depts.washington.edu/moves/images/cp/WeChargeGenocide.pdf.

potential to incorporate indigenous legal practices of plaintiff juries with indigenous participation and alternative dispute resolution methods, which can serve as important enforceable tools for preserving reciprocal indigenous views of the land over state and corporate predation. The second article, "Ezidikhan Customary Laws: A Blueprint for Indigenous Justice," by Patrick Harrigan, offers an important historical account of the creation of the NICT Charter through collaboration between the Ezidikhan government and the CWIS, under the leadership of its director Dr. Ryser. The indigenous nation of Ezidikhan, comprising over one million Yezidis across northern Iraq, Armenia, Georgia, Syria, Turkey, and other parts of the Middle East, endured a campaign of genocidal violence in 2014. This atrocity, perpetuated by ISIS and other predatory actors, underscores the urgent need for legal accountability and the prosecution of such extreme crimes.

The author of the third article, "The Slow Genocide of Indigenous Nations and Peoples: Hiding in Plain Sight," is Andy Reid, a prominent legal scholar on global indigenous rights and struggles. He explores ongoing and persistent genocidal impacts of settler colonialism on indigenous peoples, explaining the urgent need for the international criminal tribunal to address and prosecute state-sponsored crimes in order to safeguard indigenous sovereignty worldwide. This special issue presents the first half of Reid's powerful article, with a focus on the enduring genocidal legacies of settler colonialism in North America and beyond. The fourth contributor is Toshina Boyer, an indigenous scholar and activist from the Bay Area in northern California. Her poetic narratives in "18 Broken Treaties," explore the history of Anglo-Saxon settler colonialism and indigenous genocide in California, examining the historical erasure of California's indigenous nations who signed treaties with the U.S. government in efforts to retain the rights to self-determination.

The fifth article, "An International Criminal Court for Indigenous Women" by Melissa Farley and Jeri Moomaw, discusses the urgent need to protect the rights of indigenous women, who have long been among the primary targets of Europe's imperial and colonial projects throughout the world. Drawing on their decades of advocacy work in the Bay Area and beyond, the authors explore how the establishment of the NICT could advance the protection of indigenous women's rights, not only in California, but also globally. In the last article, "The Indigenous Oromo Nation: Victims of Natural Resource Theft under Abyssinian Imperialism and Colonialism in the Creation of Modern Ethiopia," Dr. Muhammad Al-Hashimi suggests that the proposed NICT could serve as a fair and impartial international forum for resolving disputes, particularly those involving natural resource exploitation in Oromo's ancestral territories in West Africa. The author highlights ongoing disputes over gold and silver extraction from the Lega Dembi Mine in the Gujii Oromo Zone, suggesting that such cases would receive fairer adjudication under the NICT than within Ethiopia's current judicial system.

The concluding section of this introduction reflects on the future possibilities of the NICT and its potential to uphold indigenous sovereignty,

safeguard bio-cultural diversity, and promote the ecological health of the Earth, on which all life, including humanity, ultimately depends, in the years and decades to come.

History of the Nations International Criminal Tribunal (NICT)

The Center for World Indigenous Studies (CWIS) played a pivotal role in conceptualizing and advancing the Nations International Criminal Tribunal (NICT) as a judicial body grounded in indigenous sovereignty and legal traditions to adjudicate state-sponsored crimes committed against indigenous nations and peoples. Under the leadership of CWIS Director Rudolph C. Rÿser, a coalition of respected indigenous leaders, academic scholars, international legal experts, and global allies have collaborated to develop the legal and conceptual framework for the NICT.[9]

Before the rise of modern state systems, various tribunals operated under the authority of European monarchies and their colonial proxies. These included colonial courts, indigenous councils, and hybrid legal forums that addressed crimes against indigenous peoples and responded to grievances arising from Europe's settler colonialism, including genocidal violence, land dispossession, and forced displacement. During the Spanish conquest of the Americas, for instance, the Crown implemented legal reforms such as the *Laws of the Indies*, and later, *New Laws* of 1542, which established local colonial courts and formerly recognized indigenous communities as *republicas de indios*.[10] These measures aimed to regulate colonial abuses under the encomienda system and within settler colonial governance.[11] Notably, early legal critiques of colonial violence emerged in these settings, most prominently from Bartolome de las Casas, a prominent Spanish jurist and scholar, who recounted documented atrocities committed against the Taino and other indigenous people of Hispaniola during the sixteenth century. Legal authority during the colonial period remained firmly under monarchic control, with little to no meaningful indigenous representation or inclusion in decision-making processes.[12] Although indigenous grievances were occasionally heard, these courts ultimately functioned to uphold imperial interests rather than to recognize or protect indigenous rights. With the transition from colonial rules to modern state systems, newly- established judicial institutions continued this legacy. These state-sponsored courts consistently failed to adjudicate cases brought by indigenous peoples in ways that would challenge the legitimacy of the state or dismantle its own predatory policies and structural foundation. Even domestic state courts and major political institutions have historically proven unwilling or

[9] The creation of the NICT Charter was also shaped by the invaluable contributions of numerous scholars, activists, and practitioners, including Nallein Sowilo, Aline Castenada, Irene Delfanti, Andrew Reid, Patrick Harrigan, Mohamed Aboelazm, Maureen Ngozi Eke, Francesco Chessa, Faraz Saberi, Sabina Singh, Giuliane Bertaglia Correia, Deborah S. Rogers, Melissa Farley, Muhammad Al-Hashimi, and many others whose knowledge, experience, and commitment have been essential in building the foundation of the tribunal. We wish to thank them for their valuable contributions.

[10] See, for example, Clarence Henry Haring. *The Spanish Empire in America* (1963, Oxford University Press).

[11] *Ibid.*

[12] For Bartolome de las Casas' description of genocidal violence in Hispaniola, see Howard Zinn, *A Peoples' History of the United States* (NY: Harper Perennial, 1980), pp.7-9.

unable to hold the state accountable for policies that target indigenous communities confined within and across arbitrarily imposed territorial boundaries.[13]

In the aftermath of the First World War (1914-1918), the League of Nations (LON) became the first modern intergovernmental organization explicitly designed to maintain global peace and security. As part of its mandate, the LON created the Permanent Court of International Justice (PCIJ) in 1919, to adjudicate legal disputes brought by sovereign states. Prior to its establishment as an international court, the First Hague Peace Conference in 1899 created the Permanent Court of Arbitration (PCA) as the first formal international judicial organ for the peaceful resolution of disputes among states. Unlike the PCIJ, which had a broader judicial mandate and addressed public international law, the PCA was primarily designed to facilitate arbitration and mediation in civil and administrative matters.[14] Both the PCA and PCIJ, however, operated strictly within a state-centric legal framework, recognizing only sovereign states and their authorized bodies as legitimate parties to legal proceedings. Consequently, indigenous nations were systematically excluded from these forums and denied recognition as rights-bearing entities capable of bringing cases or seeking redress for historical and ongoing injustices.

The voices of colonized and indigenous peoples began to find new resonance in the international area following the First World War (WWI). At the 1919 Paris Peace Conference, Japan, which was recognized as the leader of colored racial states after its victory over Tsarist Russia in the Russo-Japanese War (1904-1905) and the German Empire in WWI (1914-1918), introduced a proposal to include a racial equality clause in the Covenant of the League of Nations (LON). Although the proposal was ultimately rejected, Japan's advocacy for the "equal and just" treatment of all nationals, both "in law and in fact," sparked a broader global consciousness among indigenous and colonized peoples. This moment catalyzed a wave of political awakening in the colonized world, which began to see the LON and other international institutions not only as instruments of imperial power, but also as potential platforms from which to assert their sovereignty and to demand recognition of their rights to self-determination.

A. Japan's Racial Equality Proposal to the Covenant of the League of Nations in 1919

The Permanent Court of International Justice (PCIJ), which was i in 1919 under the auspices of the League of Nations (LON), failed to provide a legal avenue for indigenous nations, as they were not recognized as subjects of international law under the LON's 1919 Covenant and its

[13] For the Spanish colonial judiciary, see Louis G. Kahle, "The Spanish Colonial Judiciary," *the Southwestern Social Science Quarterly*, 32: 26-37 (1951).

[14] SThe Permanent Court of Arbitration (PCA) adjudicated the investor-state dispute between Chevron and Ecuador, ultimately annulling $19 billion punitive damages award issued by an Ecuadorian court against Chevron for the environmental damage caused by oil spills in the Ecuadorian Amazon since the late 1960s. Generally see Judith Kimerling, "Lessons from the Chevron Ecuador Litigation: The Proposed Intervenors' Perspective," *Stanford Journal of Complex Litigation*, (1): 241-294 (2013).

legal mandate. This exclusion was epitomized by the rejection of Japan's 1919 Racial Equality Proposal, which had sought to make a clear distinction between the state and the nation and to prohibit discrimination on account of "race or nationality" for all sub-state communities under the member-states' jurisdiction. Japan's proposed amendment to Article 21 of the LON Covenant explicitly stated: "The equality of nations being a fundamental principle of the League of Nations, the High Contracting Parties agree to accord, as soon as possible, to all alien nationals of States members of the League, equal and just treatment in every respect, making no distinction, either in law or in fact, on account of their race or nationality."[15]

While the majority of LON members supported Japan's Racial Equality Proposal, the defeat was orchestrated by Anglo-American powers, including the U.K. and its Dominions, specifically Australia, New Zealand, Canada and South Africa. U.S. President Woodrow Wilson served as Committee Chair in the deliberation and exploited procedural barriers, demanding unanimous rather than majority approval despite precedent for majority adoption.[16] The proposal's failure ultimately reaffirmed and institutionalized the state-centric legal framework, rendering indigenous peoples as invisible "non-entities" under international law and the emerging global order. This structural exclusion of indigenous nations' voices became embedded in the operations of PCIJ and its successors, such as ICJ and ICC, where the principle of state sovereignty continues to take precedence over indigenous self-determination.

The rejection of Japan's Racial Equality Proposal also reflected Anglo-Saxon settler colonial anxieties about the prospect of racial equality undermining white supremacy regimes in their respective territories.[17] Japan's 1919 Racial Equality Proposal introduced a revolutionary principle that decoupled the state from the nation, challenging the Westphalian doctrine of absolute state sovereignty over all territorial inhabitants, including indigenous nations and peoples within their borders. By asserting that "alien nationals" deserved "equal and just" treatment "in law and in fact," the proposal threatened to internationalize minority rights, including those of indigenous peoples, a notion so transformative at the time that its discussion at the Paris Peace Conference unsettled many nationalists and anti-colonial activists within the Anglo-American colonial establishment, including Ho Chi Minh of Vietnam in Indochina, Saad Zaghloul of Egypt, Jawaharlal Nehru of India, Sun Yat-sen of China, and many indigenous activists worldwide.[18]

Japan's Racial Equality Proposal also received widespread attention among African activists, including W.E.B. DuBois, Marcus Garvey, and other African diasporic intellectuals from North America and the Caribbean. Pan-African

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[15] Naoko Shimazu, *Japan, Race, and Equality: The Racial Equality Proposal of 1919* (NY: Routledge, 1998). P.20.

[16] *Ibid*, pp.15-16.

[17] *Ibid.*

[18] Many political activists of the colonized world began to see Japan as the leader of colored races against European imperial powers. For the international impacts of Japan's Racial Equality Proposal, see Gerald Horne, *Race War! White Supremacy and the Japanese Attack on the British Empire* (NY: NYU Press, 2005).

activists and organizations such as the African Blood Brotherhood promoted the creation of the separate nation called the "Black Belt Republic" in the U.S. South.[19] Elijah Muhammad, the co-founder and leader of the Nation of Islam, expressed solidarity with Japan as a member of the "Asiatic Black Men" in opposition to white supremacy.[20] To engage with Japan's Racial Equality Proposal, W.E.B. DuBois also organized the 1919 Pan-African Congress, concurrent with the Paris Peace Conference, to consider this revolutionary proposal as a potential tool to dismantle the global order of white supremacy and racially discriminatory policies worldwide.[21] By asserting international legal recognition for "alien nationals," the proposal threatened to erode two fundamental pillars of Anglo-American colonial domination: (1) the fiction of absolute state sovereignty over internal affairs, and (2) the racial hierarchy that underpinned and legitimized its colonial empire. Its adoption would have established the principle that the unequal and unjust treatment of sub-state national, ethnic, and indigenous groups was not merely an international matter, but a legitimate concern of international law, a principle to be only partially realized decades later with the adoption of the 1948 Genocide Convention and the gradual development of international "minority" rights protections.

Japan's Racial Equality Proposal created a revolutionary precedent in international law by recognizing sub-state indigenous nations as rights-bearing entities capable of challenging discriminatory state and international policies. This initiative sparked significant debates and established two critical principles: (1) that self-determination and cultural autonomy were legitimate claims under international law, and (2) that the LON, despite its state-dominated structure, could serve as a forum for addressing racial and indigenous injustice. This precedent had immediate consequences, influencing later anti-colonial and human rights movements.

In 1920, the Nama people of South West Africa (present-day Namibia) petitioned the LON to challenge South Africa's oppressive administration under its Mandate System.[22] Nama and Herero Nations had endured Germany's genocidal campaign (1904-1908), which had marked the first genocide of the 20th century.[23] Though their efforts were ultimately suppressed, their strategic use of the LON's mechanism to assert sovereignty set a precedent later adopted by other indigenous nations in anti-colonial struggles. The Six Nations Iroquois Confederacy engaged the LON to assert and defend treaty rights against Canada and the U.S., with Chief Deskaheh traveling to Geneva in

[19] For the history of the Black Belt Nation in the U.S. south, see William J. Maxwell, *New Negro, Old Left: African-American Writing and Communism Between the Wars* (NY: Columbia University Press, 1999), p.92.

[20] Abul Pitre, *An Introduction to Elijah Muhammad Studies: The New Educational Paradigm* (Maryland: University Press of America, 2021).

[21] Clarence G. Contee, "Du Bois, the NAACP, and the Pan-African Congress of 1919," *The Journal of Negro History*, 57: 13-28 (1972).

[22] Ben Kienan, *Blood and Soli, a World History of Genocide and Extermination from Sparta to Darfur* (Connecticut, NH: Yale University Press, 2007), p.36.

[23] *Ibid.*

1923 to demand recognition of Haudenosaunee sovereignty.[24] Maori leaders from Aotearoa (New Zealand) also petitioned the LON, invoking the 1841 Treaty Waitangi to assert land rights and self-governance.[25] However, as an institution embedded in the colonial order of the post-WWI colonial context, the LON systematically marginalized and sidelined indigenous claims despite these petitions and interventions. Nevertheless, these efforts planted critical seeds for the recognition of international indigenous rights. Such activism created a critical space for legal discussions that would eventually influence subsequent foundational instruments, including the International Labor Organization (ILO) Conventions 169 (1989), and the U.N. Declaration of the Rights of Indigenous Peoples (UNDRIP) (2007), establishing precedents for transnational indigenous rights recognition.

B. The CWIS's Leadership Role in the Establishment of the NICT

Similar to the League of Nations (LON) that emerged in the aftermath of World War I, the United Nations (U.N.) emerged in 1945 after World War II, established by the five principal Allied Powers who had been victorious, along with other founding states. Japan's 1919 Racial Equality Proposal had suggested the inclusion of "race and nationality" as protected categories under international law, and Article 1, Section 3 of the U.N. Charter did adopt the language of race as a cognizable category, affirming a commitment to promote human rights and prevent discrimination within the framework of international law and politics.[26] The omission of "nationality" in Article 1(3) might have reflected post-WWII political compromise, so as to avoid historical challenges by indigenous nations to the principle of state sovereignty, as the Universal Declaration of Human Rights (UDHR) would in 1948 become the first to include "nationality" in its provision.[27] Following the global wave of decolonization movements during the 1960s and the early 1970s, numerous European colonies gained independence, formed sovereign states, and joined the U.N., expanding its membership from 51 states in 1945 to 193 states by 2025. While the U.N. Charter sought to advance universal human rights of individuals, including indigenous people, it fell short of recognizing the rights of indigenous nations as collective entities under international law, a principle that had been more directly addressed in Japan's 1919 Racial Equality Proposal, which had sought to secure the recognition of "nation" and "nationality" as racialized communities within the state jurisdiction.

The U.N. would be subject in coming years to persistent efforts of indigenous nations and activists to have it address indigenous rights and sovereignty, leading to the creation of the U.N. Working Group on Indigenous Populations (WGIP) in 1982 by the U.N. Economic and Social

[24] "Six Nations Appeals to the League of Nations, 1922-31," *History Beyond Borders*, May 26, 2020, available at https://historybeyondborders.ca/?p=189.

[25] See Claudia Orange, *The Treaty of Waitangi* (Wellington, NZ: Bridget Williams Books, 2021).

[26] UN Charter, Article 1, Section 3.

[27] Article 16(1) specifies that "Everyone has the right to a nationality".

Council. CWIS Director Dr. Rudolph Rÿser participated in the WGIP discussions, and for more than 25 years, made annual visits to the U.N. Headquarters in Geneva and in New York to contribute to the shaping of international legal discourse on indigenous sovereignty. Consequently, the UNDRIP was finally adopted by the U.N. in 2007, despite strong opposition from four Anglo-American settler colonies, including the U.S., Canada, Australia, and New Zealand.[28] The united opposition paralleled their rejection of Japan's Racial Equality Proposal at the 1919 Paris Peace Conference. Dr. Ryser noted that the U.N. Charter had been drafted by designees of fifty states at the U.N. Conference on International Organization in San Francisco in June 1945, to be implemented in October 1945. He also raised the concern that the U.N. was created to serve the interests of colonial state entities meshed with corporate interests, and was thereby unable to act in the interests of indigenous nations that had been captured and colonized across and within respective state boundaries.

Recognizing the inability of state-centric legal frameworks such as the League of Nations' PCIJ and the United Nations' ICJ or ICC, Dr. Ryser directed his efforts towards envisioning an international judicial body rooted not in conventional, state-centric models, but in indigenous legal traditions and ecologically holistic frameworks.[29] His advocacy was also informed by a broader mission to promote Fourth World governance systems that resist privatization agendas, elevate indigenous knowledge systems for the protection of ecological diversity, and secure meaningful indigenous participation in the formation of both domestic and international legal frameworks.

The NICT's operation is based on these foundational principles embraced by its signatories, comprising both indigenous nations and states that consent to its procedures. Distinct from the ICJ or ICC, one of the defining features of the NICT is its integration of indigenous legal traditions and respect for indigenous sovereignty. This ensures that its processes align with the cultural and legal norms of indigenous communities, and that states and their proxies will be held accountable for crimes of genocide, crimes against humanity, crimes of aggression, and other grave offenses committed against indigenous nations and communities. In addition, the NICT prosecutes indictable crimes such as ecocide, culturicide, gendercide and other genocidal violence, reflecting its commitment to addressing forms of violence and destruction that disproportionately affect indigenous peoples and their ways of life.[30]

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[28] Siegfried Wiessner, "Indigenous Sovereignty: A Reassessment in Light of the UN Declaration on the Rights of Indigenous Peoples," *Vanderbilt Journal of Transnational Law*, 41: 1141–1176 (2008). They later adopted it with significant reservations and qualifications as a non-legally binding declaration.

[29] For Dr. Rÿser's life-long advocacy for the indigenous nations' rights to self-determination and sovereignty see "In commemoration of the Life and Work of Rudolph C. Rÿser," *Fourth World Journal* 24:i-iii (2024).

[30] Rÿser, *supra note 6*.

By 2024, more than eighty indigenous nations worldwide had ratified the NICT Charter, signaling a powerful collective commitment to the indigenous-led vision of justice.[31] As explored in the following section, the NICT Charter introduces innovative provisions grounded in nation-based perspectives, including the incorporation of Rafael Lemkin's original definition of genocide, notably restoring the cultural component that was excluded from the 1948 Genocide Convention. In reclaiming this crucial aspect, the Charter directly assesses the ideological, cultural, and socio-historical erasure long experienced by indigenous nations and peoples. The NICT Charter also strengthens and builds upon existing international legal principles advanced by indigenous leadership, such as the UNDRIP and the requirement of Free, Prior and Informed Consent (FPIC) and others. The Charter also offers new, participatory legal mechanisms through which indigenous nations themselves can formerly bring charges, prosecute, and, where appropriate, sentence individuals, corporations and state actors responsible for violations against indigenous peoples, territories, and ways of life.

II. The NICT Charter: Summaries, Application, and Implementation

The NICT Charter is composed of the Preamble and 13 sections, each of which provides distinct functions and components of the tribunal (see Table 1). As stated earlier, the Charter reinforces Rafael Lemkin's original, comprehensive definition of genocide to include the systematic destruction of cultural institutions, languages, or spiritual practices of indigenous societies. Similar to the opposition of the Anglo-American and colonial bloc to Japan's Racial Equality Proposal at the 1919 Paris Peace Conference, the U.S., the U.K., Canada, Australia, New Zealand and other European colonial powers resisted the inclusion of cultural genocide in the 1948 Genocide Convention. Their opposition stemmed from a reluctance to acknowledge and be held accountable for their own histories of forced assimilation and systemic violence against indigenous nations and peoples within their own territories.[32] In contrast, the NICT Charter confronts these deliberate omissions from Lemkin's original framework and the 1948 U.N. Genocide Convention, explicitly recognizing cultural destruction (*ethnocide*) and the eradication of people's "essential foundations of the life,"[33] such as environment health and ecological diversity (*ecocide*) as constitutive elements of genocidal violence against indigenous nations and their ancestral lands.

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[31] *Ibid.*

[32] The opposition was led by the U.S., Canada, the U.K., Australia, New Zeland, South Africa and others for the inclusion of cultural genocide from the 1948 Genocide Convention. See generally Jayme Herschkopf and Julie Hunter, "Genocide Reconsidered: An Analysis of the Genocide Convention's Potential Application to Canada's Indian Residential School System," the paper prepared for the Canadian Truth and Reconciliation Commission (2011), available at https://law.yale.edu/sites/default/files/area/center/schell/canadian_trc_paper_final.pdf.

[33] Raphael Lemkin stated that the genocide "is intended … to signify a coordinated plan of different actions aimed at the destruction of essential foundations of the life of natural groups." Raphael Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (D.C.: Carnegie Endowment for International Peace, 1944), p.79.

Table 1. The Nations International Criminal Tribunal (NICT) Charter: Sections and Articles

Section	Title	Article	Title
	Preamble		
1	The Establishment of the Tribunal	1 - 7	1. Purpose; 2. Definitions; 3. Principles; 4. The Tribunal; 5. Jurisdictional Relationships; 6. Seat of the Tribunal; 7. Legal Status and Powers of the Tribunal
2	Jurisdiction, Admissibility and Applicable Law	8 - 25	8. Crimes within the Jurisdiction of the Tribunal; 9. Crime of Aggression; 10. Genocide; 11. Crimes against Humanity; 12. War Crimes; 13. Elements of Crimes; 14. Limitations of Rules of International Law; 15. Jurisdictional (ratione temporis) Obligations over Time; 16. Preconditions to the Exercise of Jurisdiction; 17. Exercise of Jurisdiction; 18. Referral of a Situation by a Nation or State Party; 19. Principal; 20. Deferral of Investigation or Prosecution; 21. Issues of Admissibility; 22. Preliminary Rulings regarding Admissibility; 23. Double Jeopardy; 24. Challenges to the Jurisdiction or Admissibility of Evidence; 25. Applicable Law
3	Composition and Administration of the Tribunal	26 - 44	26. Organs of the Tribunal; 27. International Commission of Parties; 28. Prosecution Review Commission; 29. Justices; 30. Service, Qualification, Nomination, and Selection of Judges; 31. Judicial Seat Vacancies; 32. Principal Justice; 33. Chambers; 34. Judicial Independence; 35. Excusing or Disqualification of Judges; 36. Office of the Principal; 37. Registry; 38. Tribunal Staff; 39. Solemn Undertaking; 40. Removal from Office; 41. Disciplinary Measures; 42. Privileges and Immunities; 43. Official and Working Languages; 44. Rules of Procedure and Evidence
4	General Principles of Criminal Law	45-55	45. No Crime without Law; 46. No Penalties without Law; 47. Non-Retroactivity by Reason of Official Position; 48. Criminal Responsibility; 49. Irrelevance of Official Capacity; 50. Responsibility of Commanders and Superiors; 51. Non-applicability of Charter of Limitations; 52. Mental element; 53. Mitigation of Criminal Responsibility; 54. Superior Orders and Prescription of Domestic Law; 55. Rules of the Court
5	Legal Code, Investigation and Prosecution	56-57	56. Investigative Duties and Powers of the Principal; 57. Rights during an Investigation

Section	Title	Article	Title
6	Trial	58-71	58. Place of Trial; 59. Trial in the Presence of the Accused; 60. Functions and Powers of the Trial Division; 61. Admission of Guilt; 62. Presumption of Innocence; 63. Rights of the Accused; 64. Protection of Victims and Witnesses; 65. Evidence; 66. Offenses against the Administration of Justice; 67. Sanctions for Misconduct before the Court; 68. Requirement for a Decision; 69. Reparations; 70. Sentencing; 71. Protection of State or Nation Security
7	Penalties	72-75	72. Applicable Penalties; 73. Sentencing; 74. Trust Fund
8	Appeal and Revision	76-80	76. Appeal against Acquittal or Conviction or Sentence; 77. Appeals against Other Decisions; 78. Proceedings on Appeal;79. Revision of Conviction or Sentence; 80. Unlawful Detention;
9	International Cooperation and Judicial Assistance	81-88	81. Commitment to Cooperation of Parties; 82. Requests for Cooperation; 83. Procedures under Domestic Law; 84. Surrender of Defendants; 85. Competing Requests; 86. Requests for Arrest and Surrender; 87. Provisional Arrest; 88. Other Forms of Cooperation
10	Enforcement	89-95	89. Role of the State or Nation in the Enforcement of Sentences of Imprisonment; 90. Transfer after Sentencing; 91. Enforcement and Supervision; 92. Enforcement of Fines and Forfeiture Measures; 93. Review by the Court concerning Reduction of Sentence; 94. Escape; 95. Special Assistance and Collaboration Arguments
11	International Commission of Parties		
12	Financial Support	96-101	96. Financial Regulations; 97. Payment of Expenses; 98. Funding; 99. Voluntary Contributions; 100. Assessment of Contributions; 101. Audits
13	Closing Clauses	102-111	102. Settlement of Disputes; 103. Reservations; 104. Amendments; 105. Amendments to Provisions of an International Nature; 106. Review of the Charter; 107. Transitional Provision; 108. Signature, Ratification, Acceptance, Approval, or Accession; 109. Entry into Force; 110. Withdrawal; 111. Official Texts
	ANNEXES	A-E	A. Treaty of Sevres; B. Establishment of the Provisional Government of Ezidikhan; C: Trial by Jury; D. International Covenant on the Rights of Indigenous Nations; E. ALDMEM for Negotiated Consent and Restorative Justice

The Charter also overcomes the limitations within existing international legal systems such as the ICC, the International Criminal Tribunal for the former Yugoslavia (ICTY) (1993), the International Criminal Tribunal for Rwanda (ICTR) (1994), and the Special Court for Sierra Leone (SCSL) (2002)[34] that have largely confined their prosecutorial mandates to individual actors, thereby leaving corporations, states and other collective entities essentially shielded from accountability for mass atrocities. The Preamble of the Charter states that the jurisdiction of the NICT extends to the investigation and adjudication of atrocities committed not only by individuals, but also by "business organizations, government and non-government organizations, intergovernmental organizations, armed groups, and other entities responsible for internationally recognized crimes."[35] Further, the Charter notes that since 1945 many alleged crimes of genocide have been committed against indigenous nations and peoples worldwide, by "States, organizations, militias, or Nations [and the overwhelming majority of these crimes] remain unheard by judges or resolved by an objective judicial forum," thereby perpetuating systemic impunity.[36] The 1998 Rome Statute that established the ICC further marginalized indigenous nations and peoples by requiring state referrals for prosecution, thereby excluding cases where the state itself is the perpetrators of crimes, such as forced assimilation, land dispossession, and other forms of genocidal violence. The Charter grants referral rights to indigenous nations, stating that "every Nation or State may exercise international jurisdiction to try to repair through restorative justice any harms resulting from the commission of a crime under this Charter where located."[37] Moreover, the Charter reinforces its commitment to the International Covenant on the Rights of Indigenous Nations (ICRIN) (1994), a well-respected document developed by the U.N. Working Group on Indigenous Populations, which further affirms the rights of indigenous nations to bring cases to pursue investigation and prosecution.[38]

Section One of the NICT Charter outlines the establishment and objective of the tribunal. Article 2 (Definitions) provides the definitions of key terms used throughout the Charter. For instance, "culturicide," a concept absent from the ICC Statute, is defined as "willful act and measures undertaken to destroy nation's or ethnic group's culture through spiritual, natural, social, and cultural destruction, including destruction of cultural artifacts, such as books, artworks, and structures." Similarly, "ecocide" is defined as "the willful destruction of the balance of ecological

[34] This special tribunal tried individuals responsible for war crimes, including Charles Taylor, former Liberia President. See William A. Schabas, *The UN International Criminal Tribunals: The Former Yugoslavia, Rwanda and Sierra Leone* (NY: Cambridge University Press, 2006).

[35] NICT, Preamble.

[36] *Ibid.* See also NICT Charter, ANNEX E.

[37] *Ibid.* The NICT Preamble also includes any other individuals or collective entities in the planning of atrocities. See Article 3, Principles, Section 6 ("criminal responsibility for planning, instigating, or ordering the commission of such crimes.")

[38] While the ICRIN was not formerly adopted by the UN, it emerged as a well-respected document developed by the UN Working Group on Indigenous Populations, which included Dr. Rÿser and the International Indian Treaty Council. Notably, the ICRIN is included in the NICT Charter as Appendix D: International Covenant on the Rights of Indigenous Nations, Authorized Ratified Version, Initialed July 28, 1994, Geneva, Switzerland.

relationships and environment including destruction of foods and medicines on which a people depends." "Gendercide" is defined to include "the killing of specific groups of people identified by their gender … by way of feticide (sex-selective abortion), infanticide and gender-based violence."

Section Three addresses the composition and administration of the tribunal (Articles 26-44), while Section Four establishes the general principles of criminal law (Articles 45 to 55). The procedures for investigation, prosecution, and the tribunal's legal codes are detailed in Section Five (Articles 56-57). Section Six covers trial procedures, including provisions on the place of trial, the presence of accused, and presumption of innocence; offenses against the administration of Justice; sentencing; and the protection of state or national security (Articles 58-71). Section Seven (Article 72-75) specifies the types of penalties the tribunal imposes.

Section Eight (Articles 76-80) outlines protocols for international cooperation and judicial assistance, including surrender of defendants, requests for arrest, and other cooperative measures. Section Ten (Articles 89-95) covers the enforcement procedures, such as the roles of the states or nations in carrying out sentences, enforcing fines and forfeiture, and reviewing sentences for possible reduction. Section Eleven establishes the International Commission of Parties, and Section Twelve (Article 96-101) addresses the tribunal's financial framework, including financial regulations, expense payment, contribution assessment, and audits. Finally, Section Thirteen (Articles 102-101) includes the closing provisions, covering matters such as the settlement of disputes, reservations, and procedures for reviewing and amending the Charter.

A. Indigenous Participation and Decolonizing Justice in International Legal Processes

Unlike the ICC and other U.N.-sponsored tribunals, the NICT Charter mandates the active inclusion of indigenous voices and participation at key stages of investigations and adjudication. It ensures that indigenous nations are not merely subjects of legal processes, but active shapers of legal outcomes. In contrast, the U.N. Charter and its associated institutions lack formal mechanisms for incorporating indigenous perspectives in prosecuting state-perpetrated crimes.

Second, as stated earlier, the ICC limits its prosecutorial scope to individual perpetrators, while the NICT Charter broadens the frame to include "state crimes," holding states, corporations, and other collective entities accountable for crimes against indigenous nations. It does so while incorporating indigenous conceptions of justice, prioritizing community-centered, restorative, and collective forms of redress for harms inflicted at the state level. A key feature of the NICT model is the incorporation of an indigenous jury system, modeled after practices of Argentina's *Jurado Indigena* (Indigenous Jury of the Twelve), which consists of randomly- selected six men and six women from indigenous and non-indigenous backgrounds, along with other collaborative

deliberation councils.[39] In this framework, community representatives and cultural knowledge holders, rather than international legal experts, serve as decision-makers. This ensures that verdicts are guided by the indigenous customary law, consensus-based justice, and the prioritization of social healing over punitive codes. This approach also ensures that verdicts, along with indigenous customary law, emphasize consensus-based justice, and prioritize social healing over punitive measures.

Third, under the NICT Charter, investigations commence following Principal's evaluation (Article 55) and incorporate a Prosecution Review Commission (PRC) (Article 28), reflecting a more collaborative, consensus-driven process that actively involves indigenous representatives. Inspired by Japan's Kensatsu Shinsakai (Prosecution Review Commission), which allows citizen panels to challenge prosecutors' decision not to indict, the NICT's PRC empowers indigenous nations and communities to protest prosecutorial inaction in cases of genocide, ecocide, and other forms of state or corporate violence.[40]

If state or tribunal prosecutors decline to pursue charges, the PRC, which is comprised of randomly-chosen indigenous representatives, can overturn non-prosecution decisions and compel prosecution. This mechanism disrupts state monopolies over legal decision-making, ensuring that crimes committed against indigenous nations cannot be buried by political elites or shielded by state impunity. The NICT's investigative and prosecutorial model uniquely fuses bottom-up accountability through indigenous participation and oversight via the PRC, creating a dual system of justice that prioritizes cultural legitimacy, community involvement, and independence from state control. Conversely, the U.N. Charter and ICC lack civilian participatory mechanisms such as juries or independent civilian review panels. As a result, cases addressing state-perpetrated violence, particularly on the part of powerful states, are often derailed by geopolitical pressures and diplomatic maneuvering.

Fourth, the NICT Charter places indigenous legal traditions at the heart of its legal framework, establishing a pluralistic system that recognizes and elevates indigenous legal systems alongside international law. In contrast, the U.N. Charter, through treaties and reliance on customary international law, has historically treated indigenous legal systems as peripheral, only acknowledging them when formerly recognized by state governments. The NICT Charter fundamentally challenges the Westphalian model of absolute state sovereignty by centering indigenous legal pluralism, enabling collective accountability for state-sponsored harm, and ensuring the active participation of indigenous and marginalized communities in both investigations and legal-decision making processes. This marks a radical departure from the state-centric framework of the U.N. and

[39] NICT Charter, ANNEX C: Trial by Indigenous Nation Jury.

[40] Hiroshi Fukurai and Zhuoyu Wang, "People's Grand Jury Panels and the State's Inquisitorial Institutions: Prosecution Review Commissions in Japan and People's Supervisors in China," *Fordham International Law Journal* 37: 929–972 (2014); Hiroshi Fukurai, "Lay Judge and Victim Participation in Japan: Japan's *Saiban'in* Trial, the Prosecution Review Commission (PRC), and the Public Prosecution of White-Collar Crimes," *Hastings Journal of Crime and Punishment* 1: 395-438 (2020).

ICC, which largely uphold state authority as the primary legal actor. Further, the NICT Charter affirms the status of indigenous nations as equal legal authorities, capable of exercising jurisdiction and prosecuting crimes collaboratively, while the ICC remains constrained by its reliance on state cooperation and consent to investigate and prosecute crimes, limiting its ability to hold states accountable for violence against indigenous nations.

Fifth, by centering indigenous traditions and legal cultures, the NICT Charter expands the scope of international criminal accountability to include crimes excluded from the ICC's jurisdiction. Among them are crimes against nature and indigenous culture, including ecocide and culturicide, and gender-based atrocities such as gendercide and femicide (Article 2 (f), (h)). Unlike the ICC's limited prosecutorial framework, the NICT Charter mandates the active participation of indigenous representatives in the investigation and prosecution of these crimes, particularly those targeting indigenous nations, lands, and ways of life. This participatory model ensures that legal responses are not only culturally appropriate, but also restorative, integrating indigenous philosophies of justice and sovereignty into decision-making processes.

For instance, ecocide is further defined in the NICT Charter as the destruction of "the balance of ecological relationships and enslavement including the destruction of foods and medicines on which a people depends." Similarly, culturicide is further defined to encompass acts such as "invasion, settlement, apartheid, military, or administrative occupation, taking of lands and territories and resources, or national policies of assimilation by a dominant power." It also includes the "imposition of propaganda or other forms of public pronouncements designating a population in terms of separating 'us' – the colonizer – and 'them' – the colonized as a threat," and marginalization of indigenous peoples as " primitive," "backward," "savages," or "threats" to the dominant order, along with the policies and pronouncements that deny indigenous humanity, rights, and sovereignty. By enabling indigenous participation in investigative and adjudicative processes, the NICT Charter not only addresses these long-ignored harms but confronts the structures of state, corporate and proxy violence that have historically perpetuated them.

B. Punishments and Enforcement Mechanisms for Collective Proxies

Unlike predominantly retributive, individually-focused punitive measures employed by the ICC or other U.N.-led tribunals, which emphasize criminal accountability for offenses committed by individuals, the NICT Charter establishes restorative justice as the principal framework for penalties. It recognizes that crimes such as ecocide, culturicide, and genocide often inflict collective, intergenerational harms on indigenous nations and require remedies beyond imprisonment. The Charter outlines several key forms of restorative and structural justice measures, including: (1) restorations in requiring financial, material, and ecological reparations to address the harms inflicted by crimes against indigenous nations, their lands, cultures, and ways of life; (2) restitution in mandating the

return of stolen lands, cultural artifacts, sacred sites, and resources to the rightful indigenous nations; (3) criminal accountability in permitting the prosecution of not merely individuals, but also of corporate leaders, state officials, and other actors responsible for planning, authorizing, or facilitating crimes under the Charter, such as genocide, apartheid, forced assimilation, and other violations specified under the Charter; and (4) removal of immunities in denying states, corporations, and their agents the ability to invoke legal immunities for crimes committed under the charter (Article 3.8), thereby demanding longstanding protections that have historically shielded powerful actors from accountability.

The NICT Charter thus differs fundamentally from the ICC in both its approach and its underlying objectives. While the ICC prioritizes retributive justice, focusing on individual criminal accountability through imprisonment, fines, and asset forfeiture, the NICT Charter emphasizes restorative and collective justice, addressing the distinct harms suffered by indigenous nations and peoples.

Further, the ICC framework acknowledges the value of reparations for victims, and its primary mandate remains the prosecution and punishment of individual perpetrators. By contrast, the NICT Charter envisions a broader, culturally-responsive range of penalties, designed to repair, restore, and sustain indigenous communities in the aftermath of violence and dispossessions. Such penalties would be tailored to the specific harms suffered by indigenous communities, such as financial and material reparations; land restitution and the return of cultural artifacts; cultural preservation measures; rehabilitative programs designed to address psychological, social, and communal impacts of violence, displacement and historical trauma; and formal apologies, acknowledgements, and commitments to non-repetition as the formal official recognition of past harms [41] (Articles 69, 72).

C. The Proactive Genocide Framework and Enforcement Mechanisms

Further, the NICT Charter's definition of genocide (Article 8) incorporates a ten-stage framework that includes early, pre-violent stages, such as classification, symbolization, and discrimination, as integral components of the genocidal process. By recognizing these foundational stages, the NICT is in a better position to identify the root causes of conflicts, foster early intervention, and promote healing and reconciliation within indigenous communities. This proactive framework empowers indigenous nations to safeguard their sovereignty and cultural survival before violence escalates. In addition, this comprehensive understanding of the genocidal process enables the NICT to develop holistic, culturally-grounded remedies that address not only the immediate

[41] The NICT Charter emphasizes the significance of reconciliation and restitution, highlighting the necessity of a formal apology from perpetrators. For instance, in 1988, the US government issued an apology alongside monetary compensation as part of the reparation for Japanese Americans affected by the government's incarceration and detention policies. For more details, see Hiroshi Fukurai and Alice Yang, "The History of Japanese Racism, Japanese American Redress, and the Danger Associated with Government Regulation of Hate Speech," *Hastings Constitutional Law Quarterly*, 45: 533-576 2018).

harms, but also the long-term intergenerational effects of genocide, dispossession, and cultural erasure.

This NICT approach stands in stark contrast to that of the ICC, which is structurally confined to investigating and prosecuting the "actus reus" (the prohibited act itself), coupled with genocidal intent, often after atrocities have already occurred. While the ICC's deterrent effect lies in post-facto criminal accountability, it lacks both the mandate and preventive mechanisms to intervene at the early stages of genocidal processes. In this way, the NICT's model offers a more preventive, restorative, and community-empowering alternative to the ICC's reactive, state-centered system.

The NICT charter also establishes several enforcement mechanisms, including: (1) member state cooperation so that the NICT relies on the nations and states that ratify the charter to enforce judgments through their own legal systems (Art. 4); (2) legislative actions so that charting nations and states must enact laws to waive immunities and implement tribunal decisions (Art. 3.8); and most importantly, (3) universal jurisdiction, in which nations and states must exercise jurisdiction over crimes committed outside their territories if they impact their own peoples and resources (Art. 3.1-3.2).

While both the NICT and the ICC face challenges and limitations regarding enforcement and recognition, the NICT Charter adopted different approaches to addressing atrocities. The NICT promotes a more comprehensive and proactive strategy for preventing genocide by acknowledging that such events do not occur suddenly, but rather are the culmination of a long historical process involving discrimination, cultural destruction, and economic exploitation. By identifying early warning signs of genocide outlined in Article 8, the NICT aims to address the root causes of potential genocide before violence erupts. This approach fosters systemic changes in laws, policies, and social attitudes that perpetuate discrimination and marginalization of indigenous nations and peoples.

The NICT Charter embodies Dr. Rudolph Rÿser's vision of a mechanism to address the historical and ongoing impunity for crimes against indigenous peoples and other vulnerable groups.[42] Its primary goal was to establish a tribunal dedicated to holding individuals, states, militias, corporations, and predatory collective proxies accountable for crimes such as genocide, forced displacement, environmental destruction, and other human rights abuses that disproportionately affect indigenous nations. The NICT Charter was specifically designed to address and remediate gaps in existing international justice systems, particularly the limited scope and inefficiencies of institutions like the ICC. It critiques the ICC for its minimal, if not complete lack of, accountability regarding crimes against indigenous peoples, noting that only a small number of cases have been prosecuted despite the widespread occurrence of such crimes globally.

Additionally, the NICT charter aims to challenge the dominance of state-centric

[41] Rÿser, *supra note* 6.

frameworks in international law by providing a platform through which indigenous nations can seek justice beyond traditional state-based legal systems. Dr. Rÿser envisioned this approach as a necessary and urgent response to historical injustices, genocidal violence, and dispossession inflicted on indigenous nations, lands, and ways of life under Euro-American colonialism and imperialism. The NICT Charter seeks to amplify distinct indigenous legal traditions, cultural varieties ,and sovereignty of indigenous peoples, placing them at the center of accountability, reparations, and lasting justice.

The following section briefly examines various applications and developments of the NICT Charter, including the recent adoption by the Ezidikhan Nation in the Middle East, its relevance to ongoing anti-colonial struggles in West Africa, the refinement of its provisions, and the establishment of international tribunals modeled on its framework. It also considers the longstanding impacts of treaty erasure and historical amnesia in North America, which have perpetuated intergenerational trauma among indigenous nations and further underscore the necessity of tribunals like the NICT to correct historical injustices and demand reparations. Many of these efforts have involved active participation from the Center for World Indigenous Studies (CWIS) and affiliated initiatives, reflecting a growing global recognition of the urgent need for independent, indigenous-led tribunals to address colonial and structural violence across the globe.

III. Highlights and Thematic Insights of Contributing Articles to the FWJ Special Issue

This section introduces six individual papers featured in this special issue. As stated earlier, they are authored by indigenous activists, academic scholars specialized in indigenous studies, political advocates, and socio-legal experts. They have dedicated their careers to addressing historical injustices faced by indigenous peoples globally, alongside CWIS allies who have collaborated on projects to establish international criminal tribunals for adjudicating crimes committed against indigenous nations and peoples worldwide.

The first paper, “An Introduction to the Nations International Criminal Tribunal” by Samuel Stoker, highlights the NICT’s role in delivering justice to indigenous nations. Stoker is a longtime CWIS director of projects, screenwriter, producer, and scholar. While the 2007 UNDRIP acknowledged indigenous rights, it lacked means of enforcement, thus leaving unpunished such crimes as genocide, land theft, and cultural destruction. In response to the 2014 Yezidi genocide, the Ezidikhan government, alongside Dr. Ryser and allies from the CWIS, helped create the NICT framework, i.e., the first international tribunal designed to prosecute states, corporations, and armed groups for crimes against indigenous nations and peoples. Unlike the ICC, the NICT blends international law with indigenous customary justice, prioritizing restorative measures such as land return, cultural restoration, and indigenous juries. Its charter

covers ecocide and culturicide and asserts universal jurisdiction, confronting both historical and ongoing atrocities and injustices. Stoker concludes that the NICT offers a path towards the decolonization of justice, transforming UNDRIP's promises into actionable steps, and empowering indigenous nations to hold powerful actors accountable on their own terms.

The second article, "Ezidikhan Customary Laws: A Blueprint for Indigenous Justice" by Patrick Harrigan, demonstrates the crucial utility of the NICT in the prosecution of genocide and the protection of marginalized communities beyond state borders. The article presents the Ezidikhan Court for International Crimes (ECIC) and explores how the NICT, as proposed by Dr. Ryser, the CWIS, and international allies, gained traction as a legal and moral framework in Kurdish regions, particularly in the autonomous Ezidikhan (Ezidistan) region, following the 2014 genocide perpetrated by ISIS and others against the Yezidi people. The systematic campaign of mass killings, sexual enslavement, and cultural erasure inflicted upon the Yezidis underscored the catastrophic failures of existing international legal mechanisms, prompting Kurdish authorities and indigenous rights advocates to adopt the NICT as a viable alternative for prosecuting crimes of ethnocide, femicide, and ecocide, which conventional tribunals had long neglected. The Ezidikhan regional government, asserting its sovereignty in the wake of ISIS's atrocities, positioned the NICT as both a judicial remedy and a political statement, rejecting the monopoly of state-centric institutions like the ICC, which had repeatedly marginalized indigenous communities and peoples. By invoking the NICT's expanded jurisdiction, Kurdish and Yezidi leaders sought not only justice for historical crimes, but also a precedent to challenge the structural impunity that enabled ongoing violence against indigenous nations. At the same time, powerful opponents such as the U.S., the Iraqi government, and Kurdish authorities resisted the establishment of the NICT, fearing indigenous autonomy, while the tribunal seeks global recognition through alliances with nations like Armenia and the members of the U.N. The authors stress Yezidi peoples' resistance symbolizes a broader indigenous struggle. and suggest that the NICT's adoption could reshape the investigation and prosecution of genocidal violence and protect marginalized communities beyond the limits of state-centric judicial frameworks.

Andy Reid, a prominent legal scholar specialized in indigenous struggles, is the author of the third article, "The Slow Genocide of Indigenous Nations and Peoples: Hiding in Plain Sight." The author explores the concept of "slow genocide" as it pertains to indigenous nations and peoples, emphasizing the systemic and structural nature of genocidal violence built into settler colonial policies. Despite its genocidal nature, Reid argues that English settler colonialism and forced assimilation in its dominions have been largely excluded from international legal definitions of Raphael Lemkin's notion of genocide, due to the dominant role of Euro-American powers in shaping these laws. Lemkin emphasized that genocide targets groups as socio-cultural entities rather than individuals, with the aim of erasing collective identities such as nations or tribes. Reid emphasizes that English settler colonialism constitutes a form of "slow genocide"

that operates through forced assimilation and systemic practices embedded in laws and institutions, making it less visible but equally destructive over time. Finally, Reid critiques international law for failing to adequately address these processes, and advocates for recognizing their genocidal nature so as to ensure justice for indigenous nations. The NICT offers a viable alternative to existing international legal frameworks by confronting the persistent legacies of settler colonialism and prosecuting those responsible for maintaining policies of forced assimilation and genocidal practices against indigenous nations around the world.

The fourth article, "18 Broken Treaties," is a poetic work by Toshina Boyer, an Indigenous scholar and activist from California's Bay Area. Boyer traces violent U.S. policies, from the 1830 Indian Removal Act to the unratified California treaties of the 1850s, that dispossessed indigenous nations like the Mono people, forced children into abusive residential schools, and left generations homeless. She reflects on her own family history, in which her great-great-grandmother was taken to a residential school at age seven, had her hair cut, her language forbidden, and her cultural ties severed. Boyer highlights the U.S. government's concealment of eighteen treaties signed with California tribes in the early 1850s, following the U.S.-Mexico War and the annexation of California, and the denial to indigenous nations of the reservations and rights promised to them. Through fragmented timelines, family photographs, and memories, her poetic narrative powerfully exposes systemic violence, while quietly affirming indigenous survival and resilience. The article makes a compelling case for the NICT's vital role in investigating the erasure of these treaties and addressing the long-unresolved crimes of genocidal violence against California's indigenous nations.

The fifth article, "The International Criminal Court for Indigenous Women," by Melissa Farley and Jeri Moomaw, examines the potential of the NICT to serve as an international court for prosecuting crimes against indigenous women. Jeri Moomaw is the executive director of "Innovations Human Trafficking Collaborative," the indigenous-led nonprofit based in Olympia, Washington, dedicated to combating human trafficking in indigenous communities. Melissa Farley serves as the executive director of the San Francisco-based Prostitution Research and Education, focusing on the harms of prostitution and trafficking. Together they discuss the urgency of protecting the rights of indigenous women, situating their analysis within the long history of human rights violations indigenous women have faced due to the intersection of their individual and collective identities. The authors emphasize the inseparable connection between indigenous women, their land, and the survival of indigenous nations, arguing that an indigenous-centered tribunal is critical for addressing such crimes as ecocide and culturicide, i.e., harms that are central to indigenous women's experiences. The paper calls for the establishment of a specialized international tribunal as a vital mechanism for achieving justice in the face of historical and ongoing genocidal policies, unfulfilled treaty obligations, and state violence. it concludes by underscoring the urgent need to ensure indigenous women's full and equal access to such a tribunal.

The last article, "The Indigenous Oromo Nation: Victims of Natural Resources Theft under Abyssinian Imperialism and Colonialism in the Creation of Modern Ethiopia" is by Dr. Muhammad Al-Hashimi, a specialist in African indigenous struggles. Dr. Al-Hashimi traces the exploitation of Oromo resources to the 19th-century imperial expansion of Emperor Menelik II, which laid the foundations of modern Ethiopia through the colonization of non-Abyssinian lands. He challenges the myth of Ethiopia's uncolonized history, noting both European interventions and the Oromo's own efforts to secure sovereignty, including an attempted alliance with Japan in the 1930s.[43] Using the Lega Dembi Gold Mine as a case study, Dr. Al-Hashimi reveals how successive regimes have dispossessed the Gujii Oromo through resource extraction and environmental harm. He argues that the NICT could offer a vital forum for justice, especially if the Oromo Liberation Front (OLA) negotiates political recognition.[44] Finally, he calls for Oromo participation in the NICT's indigenous rights frameworks so as to protect their land, people, and sovereignty.

IV. Conclusions

The establishment of the NICT, as envisioned and advanced by the CWIS and its Director Dr. Rudolph Rÿser, marks a transformative step toward justice for indigenous nations and peoples worldwide. Rooted in indigenous legal traditions and participatory justice, the NICT responds directly to centuries of colonial violence, land dispossession, ecological devastation, and the persistent impunity enjoyed by states, corporations, and their collective proxies. The tribunal's unique framework, centering indigenous sovereignty, democratic jury panels, and mechanisms like the Prosecution Review Commission (PRC), addresses the profound limitations of existing international legal institutions, such as the ICC and ICJ, which have systematically marginalized indigenous voices and excluded them from meaningful legal recourse. Empirical evidence demonstrates that the vast majority of armed conflicts since World War II have involved indigenous nations and peoples defending their rights, lands, and ways of life against states, corporate entities, and other collective forces. This enduring pattern of resistance underscores the urgent need for a robust international legal mechanism capable of holding all perpetrators, such as states, corporations, militias, and other collective proxies, accountable for crimes such as ethnocide, ecocide, gendercide, and culturicide, which remain outside the jurisdiction of conventional international legal institutions such as the ICC and other U.N.-sponsored tribunals.

By foregrounding indigenous knowledge systems, environmental stewardship, and biocultural diversity, the six papers in this special issue substantiate that the NICT not

[43] Andrew Laurence, "Marriage Between the Imperial Houses of Ethiopia and Japan," *Egypt-Search Reloaded*, Dec. 16, 2014, available at https://egyptsearchreloaded.proboards.com/thread/1826/marriage-imperial-houses-ethiopia-japan.

[44] The Oromo Liberation Army (OLA) is an armed opposition group in Ethiopia, fighting for the rights, self-determination, and sovereignty of the Oromo peoples- the country's largest indigenous nation. For its historical emergence, see Asafa Jalata, *Oromo Nationalism and the Ethiopian Discourse: The Search for Freedom and Democracy* (New Jersey: Red Sea Press, 1998).

only seeks to redress historical and ongoing injustices, but also to affirm the critical and necessary interdependence between the survival of indigenous nations and the maintenance of planetary ecological health. These articles further highlight the NICT's potential to provide fair and impartial adjudication for indigenous peoples, to protect the rights of indigenous women, and to advance anti-colonial futures rooted in justice, sovereignty, and ecological integrity.

The NICT stands as a vital and long-overdue innovation in international law, offering a critical path forward for indigenous nations to gain the means to assert their rights, seek reparations, and safeguard their lands and cultures against ongoing threats. The NICT's success will depend on continued advocacy, broad adoption, and the unwavering commitment of indigenous peoples and their allies to building a just, pluralistic, and sustainable world for generations to come.

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