PART III

BECOMING NATIONS AGAIN

Tribes have been denominated domestic dependent nations for nearly 200 years. This means tribes "are in a state of pupilage. Their relation to the United States resembles that of a ward to his guardian."[1] While wardship is an unflattering classification, it does contain an undercurrent of optimism. As the United States Court of Claims has pointed out, "[A] guardian-ward relationship implies that, at some point, the ward will begin to take responsibility for handling its own affairs."[2] The time has arrived.

Since 1975, the United States has openly supported tribal self-government. Tribal self-determination is the only federal policy that has improved tribal social and economic welfare.[3] With greater sovereignty, tribes can be expected to benefit further. For example, recognizing tribal jurisdiction over their lands will enable tribes to prosecute all criminals in Indian country, and this will enhance public safety. The ability to exercise jurisdiction over all persons on their land will provide tribes with an incentive to enhance their legal institutions. Tribal legal institutions will reflect tribal values when outside sovereigns are prohibited from imposing their rules in Indian country. Once this occurs, tribes will be able to operate as nations again. But before a tribe can govern, it must be recognized by the federal government.

[1] Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1, 17 (1831).
[2] Cherokee Nation of Oklahoma v. United States, 21 Cl. Ct. 565, 573 (1990).
[3] Joseph P. Kalt & Joseph William Singer, *Myths and Realities of Tribal Sovereignty: The Law and Economics of Indian Self-Rule* 1 (Native Issues Rsch. Symp., Harv. Univ., Working Paper No. RWP04-016, 2004).

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