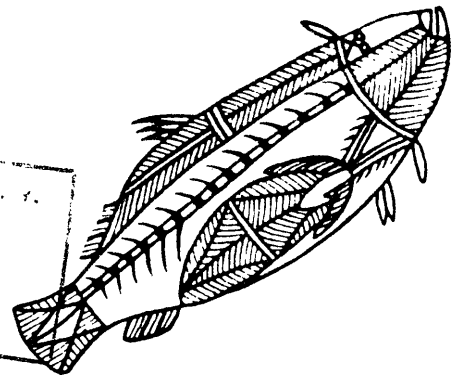


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ABORIGINAL LAW NOTES

17 DEC 1984

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NO. 84/7

NOVEMBER, 1984.

Being notes on matters of current interest, concerning Aborigines and the Australian legal system, as reported to, or discussed at meetings of the Aboriginal Law Research Unit.

SYDNEY

Next Meeting : 4.30 p.m. Tuesday, 18 December, 1984.
Law School Common Room, Room 1121, 11th level, Library Tower, University of New South Wales (Entry via High Street, Gate 9).

RECEPTION

Judge Thomas Berger from Canada, currently chairman of the Alaska Native Review Commission.

Please write or phone if you propose to attend.

THE ABORIGINAL LAW RESEARCH UNIT is located in the Faculty of Law, University of New South Wales, P.O. Box 1, Kensington, N.S.W., 2033, Australia. Chairman: Garth Nettheim - Telephone (02) 697-2252.

The Unit also publishes the Aboriginal Law Bulletin four times a year.

Aboriginal Law Notes is distributed to members of the Unit's Advisory Council. Subscriptions \$5.00 per annum.

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CANADIAN CONTACT

Garth Nettheim writes :

"Brad Morse, a recent visitor to Australia, has arranged for me to visit several centres of activity in regard to Native Rights Law in Canada - in Ottawa, Montreal, Toronto, Kingston and Saskatoon. The visit will be from 6 January to 10 February. If any individual or organization on the ALRU network would like me to seek out any particular information or to do anything else on their behalf, please contact me soon."

UNITED NATIONS

Set out below is a letter from the Centre for Human Rights in Geneva and a Resolution 1984/35B of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

The Aboriginal Law Research Unit proposes to respond by the due date of 15 March 1985. We would be happy to cooperate with other organizations and individuals, or to receive suggestions as to what the Unit might put forward. Some organizations (NAC, NAILSS, Federation of Land Councils) have established their own direct lines of communication to the Geneva agencies; the Unit would be grateful to receive copies of their submissions.

OFFICE DES NATIONS UNIES A GENÈVE

CENTRE POUR LES DROITS DE L'HOMME



UNITED NATIONS OFFICE AT GENEVA

CENTRE FOR HUMAN RIGHTS

Palais des Nations
CH - 1211 GENEVE 10



Telegrammes: UNATIONS, GENEVE
Télé. 24 90 05
Téléphone: 34 60 11 - 31 02 11
REF. No G/SO 234 (18-2)

(à rap. et dir. à réponse)

26 November 1984

Dear Sirs,

I should like to refer to Economic and Social Council resolution 1982/34 entitled "Study of the problem of discrimination against indigenous populations", a copy of which is attached to this letter.

In that resolution the Council authorized the Sub-Commission on Prevention of Discrimination and Protection of Minorities to establish annually a working group on indigenous populations to meet before the annual sessions of the Sub-Commission in order to review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous populations, including information requested by the Secretary-General annually from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council, particularly those of indigenous peoples, to analyse such materials, and to submit its conclusions to the Sub-Commission bearing in mind the Study of the problem of discrimination against indigenous populations. The Council also decided that the Working Group shall give special attention to the evolution of standards concerning the rights of indigenous populations, taking account of both the similarities and the differences in the situations and aspirations of indigenous populations throughout the world.

The Working Group held its third session, in Geneva, from 30 July to 3 August 1984 and submitted its report on this session (E/CN.4/Sub.2/1984/20) to the Sub-Commission. In its resolution 1984/35 B of 30 August 1984, the Sub-Commission, inter alia, endorsed the Plan of Action drawn up by the Working Group for its future work, attached to its report, and requested that the Secretary-General circulate, as soon as possible, the Working Group's report, and the conclusions, proposals and recommendations contained in the final report of the Special Rapporteur, Mr. José R. Martínez Cobo (E/CN.4/Sub.2/1983/21/Add.8) to Governments, specialized agencies and United Nations bodies concerned, organizations of indigenous peoples and other interested non-governmental organizations, for comments, and suggestions, in anticipation of its fourth session in 1985. Copies of resolution 1984/35 B, the Working Group's report and the conclusions, proposals and recommendations of Mr. Martínez Cobo's report are also attached to this letter.

I would be most grateful for any information which your organization may wish to provide under the above-mentioned resolutions. I would appreciate it if such information could be forwarded to the Centre for Human Rights, United Nations Office at Geneva, CH-1211 Genève 10, if possible by 15 March 1985, in order that it can be submitted in time to the Working Group on Indigenous Populations of the Sub-Commission, at its fourth session scheduled to be held from 29 July to 2 August 1985, in Geneva.

Yours sincerely,



Kwadwo F. Nyamekye
Officer-in-Charge
Centre for Human Rights

Sub-Commission resolution 1984/35 B

Report of the Working Group on indigenous populations

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling resolution 1982/34 of 7 May 1982 of the Economic and Social Council, authorizing the establishment annually of a Working Group on Indigenous Populations,

Having examined the report of the Working Group on its third session held from 30 July to 3 August 1984,

Taking into account the views expressed in the course of the Working Group's session and in the discussion of its report,

1. Expresses its appreciation to the Working Group and in particular to its Chairman-Rapporteur Mrs. Erica-Irene Daes, and its satisfaction for the valuable information gathered by the Working Group during its third session and recognizes the need for the continuation of a broad approach and flexible methods of work;

2. Further expresses its great appreciation for the increased, active and constructive participation of government observers, representatives of specialized agencies, non-governmental organizations, and in particular of representatives of indigenous peoples' organizations;

3. Warmly welcomes the decision taken by some Governments to be represented at the third session at cabinet minister level or by high-ranking officials;

4. Endorses the Plan of Action adopted by the Working Group for its future work, contained in annex I to the report;

5. Requests that the Secretary-General circulate, as soon as possible, the Working Group's report, and the conclusions, proposals and recommendations contained in the final report of the Special Rapporteur, Mr. José R. Martínez Cobo, to Governments, specialized agencies and United Nations bodies concerned, organization of indigenous peoples and other interested non-governmental organizations, for comments and suggestions, in anticipation of its fourth session in 1985;

6. Requests the Working Group to consider elaborating, as appropriate, analytical papers with a view to their subsequent circulation to interested observers, analyses of basic issues such as the legal foundation of indigenous rights in general, as well as draft principles relating to land rights;

7. Requests the Working Group henceforth to focus its attention on the preparation of standards on the rights of indigenous populations and to relate its consideration of developments affecting the rights of indigenous populations to the process of preparing international standards thereon;

8. Requests the Working Group to consider in 1985, in addition to the question already scheduled in its fourth session, the drafting of a Body of Principles on Indigenous Rights based on relevant national legislation, international instruments and other juridical criteria;

9. Reiterates its recommendations that the reports of the Working Group be made available to the Commission on Human Rights at each of its sessions;

10. Requests the Secretary-General to give all necessary assistance to the Working Group in discharging its tasks;

11. Decides to include in the agenda of its thirty-eighth session as a matter of high priority an item entitled "The Discrimination against Indigenous Populations".

CORRESPONDENCE

with Brad Morse, (Ottawa) on exchange of materials and information.
to Stuart McGill (New York) on proposed resources project.
to David Weissbrodt (Minnesota) about Working Group on Indigenous
Populations.
from Kwadwo F. Nyamekye, Centre for Human Rights, UN, Geneva
about Working Group on Indigenous Populations.

CONFERENCES

18-26 August, 1986, Sydney/Melbourne - Twelfth Congress of the
International Academy of Comparative Law. One session will focus
on comparative native rights law.

REPORTS AND PUBLICATIONS

International

Survival International, "Peru : Indians killed.
Park no protection as development encroaches",
Urgent Action Bulletin, PRU/3/Oct/1984.

"Guatemalan refugees now threatened by relocation",
Urgent Action Bulletin/GUA/1/July/1984.

Survival International News No. 6 1984 (including
short articles on Australia "Heritage Act row"
and about effect of British nuclear tests on
Aborigines).

International Work Group for Indigenous Affairs (IWGIA)
Robert Barnes, Whaling off Lembata : The effects
of a development project on an Indonesian community,
IWGIA Document 48, May 1984.

Jean Pierre Chaumeil, Between Zoo and Slavery :
The Yagua of Eastern Peru in their present situation,
IWGIA Document 49, July 1984.

IWGIA Newsletter No. 37, May 1984 (including
short articles on Australia, "New Government
principles on Aboriginal land rights" and "Aboriginal
past : Australia's future").

IWGIA Newsletter No. 38, July 1984 (including a short
article on Australia, "More evidence of nuclear
testing harming Aborigines.")

Centre for Human Rights, UN, Geneva :

Report of the Working Group on Indigenous Populations
on its third session, August 1984.

Conclusions, Proposals and Recommendations from the
final report of Jose R. Martinez Cobo.

Resolution 1984/35B of the Sub-Commission on Prevention
of Discrimination and Protection of Minorities.

Canada

Amending our Constitution. The rights of the aboriginal
peoples, 1983 amendments to the Canadian Constitution
Office Consolidation of the Indian Act.

The Western Arctic Claim. The Inuvialuit Final Agreement.

North American Work Group Newsletter, No. 1, October, 1984.

Human Rights Research and Education Bulletin, No. 1,
November, 1984.

Tundra Times, Anchorage Alaska, 7 November 1984.

Richard H. Bartlett, Indians and Taxation in Canada
(Native Law Centre, University of Saskatchewan, 1980).

Australia

The Aboriginal Land Inquiry, Report by Paul Seaman, Q.C.,
Western Australia, September, 1984.