Indigenous Rights and United Nations Standards

The debate on indigenous rights has revealed some serious difficulties for current international law, posed mainly by different understandings of important concepts. This book explores the extent to which indigenous claims, as recorded in the United Nations fora, can be accommodated by current international law. By doing so, it also highlights how the indigenous debate has stretched the contours and ultimately evolved international human rights standards. The book first reflects on the international law responses to the theoretical arguments on cultural membership. After a comprehensive analysis of the existing instruments on indigenous rights, the discussion turns to self-determination. Different views are assessed and a fresh perspective on the right to self-determination is outlined. Ultimately, the author refuses to shy away from difficult questions and challenging issues and offers a comprehensive discussion of indigenous rights and their contribution to international law.

Alexandra Xanthaki is a lecturer in International Human Rights at Brunel University. After graduating from Athens Law Faculty, Alexandra completed an LLM in Human Rights at Queens University, Belfast, and later a PhD at Keele University under the supervision of P. Thornberry. She has published on human rights, group rights and indigenous rights and has repeatedly acted as a consultant to the United Nations Special Rapporteur on Indigenous Issues. She has participated in several projects funded by the European Commission, DfID and international NGOs in the UK, Greece and Ukraine. She is a member of the Athens Bar.
CAMBRIDGE STUDIES IN INTERNATIONAL AND COMPARATIVE LAW

Established in 1946, this series produces high quality scholarship in the fields of public and private international law and comparative law. Although these are distinct legal sub-disciplines, developments since 1946 confirm their interrelation.

Comparative law is increasingly used as a tool in the making of law at national, regional and international levels. Private international law is now often affected by international conventions, and the issues faced by classical conflicts rules are frequently dealt with by substantive harmonisation of law under international auspices. Mixed international arbitrations, especially those involving state economic activity, raise mixed questions of public and private international law, while in many fields (such as the protection of human rights and democratic standards, investment guarantees and international criminal law) international and national systems interact. National constitutional arrangements relating to ‘foreign affairs’, and to the implementation of international norms, are a focus of attention.

The Board welcomes works of a theoretical or interdisciplinary character, and those focusing on the new approaches to international or comparative law or conflicts of law. Studies of particular institutions or problems are equally welcome, as are translations of the best work published in other languages.

General Editors
James Crawford SC FBA
Whewell Professor of International Law, Faculty of Law, and Director, Lauterpacht Research Centre for International Law, University of Cambridge
John S. Bell FBA
Professor of Law, Faculty of Law, University of Cambridge

Editorial Board
Professor Hilary Charlesworth Australian National University
Professor Lori Damrosch Columbia University Law School
Professor John Dugard Universiteit Leiden
Professor Mary-Ann Glendon Harvard Law School
Professor Christopher Greenwood London School of Economics
Professor David Johnston University of Edinburgh
Professor Hein Kötz Max-Planck-Institut, Hamburg
Professor Donald McRae University of Ottawa
Professor Onuma Yasuaki University of Tokyo
Professor Reinhard Zimmermann Universität Regensburg

Advisory Committee
Professor D. W. Bowett QC
Judge Rosalyn Higgins QC
Professor J. A. Jolowicz QC
Professor Sir Elihu Lauterpacht CBE QC
Professor Kurt Lipstein
Judge Stephen Schwebel

A list of books in the series can be found at the end of this volume.
Indigenous Rights and United Nations Standards

Self-Determination, Culture and Land

Alexandra Xanthaki
## Contents

*Table of cases*  
page viii  
*Table of statutes*  
xi  
*Acknowledgments*  
xxxix  

**Introduction**  
1  

1 Recognition of cultural membership and implications  
Introduction  
13  
The importance of cultural membership  
13  
Autonomy and the neutral state  
15  
The need for multiplicity of cultural frameworks  
19  
Interaction of cultures  
22  
Preservation of cultures  
27  
Especially on collective rights  
29  
Concluding comments  
38  

**Part I United Nations instruments on indigenous peoples**  
47  

2 The ILO Conventions  
Convention No. 107  
49  
The ILO and indigenous peoples  
49  
Provisions of ILO Convention No. 107  
52  
Concluding comments  
66  
Convention No. 169  
67  
Procedure of the revision  
67  
Basic orientation of Convention No. 169  
68  
Provisions of Convention No. 169  
70  
Concluding comments  
90
## 3 Emerging law: The United Nations draft Declaration on indigenous peoples

- Process and status of the draft Declaration
- The contents of the draft Declaration
  - Peoples, membership, self-identification, nomadic peoples
  - Individual and collective rights
  - Self-determination
  - Protection of indigenous peoples
  - Cultural and linguistic identity
  - Land and resources
- Concluding comments

## Part II Thematic analysis

### 4 Do indigenous peoples have the right to self-determination?

- Introduction
- Are indigenous peoples beneficiaries of the right?
- The issue
  - No clear recognition of indigenous as ‘peoples’ in international law
  - Employment of the definition of ‘peoples’ in international law
  - Employment of international documents
  - The hurdle of territorial integrity
- The scope of the right to self-determination
  - The minimalist approach: self-determination as independence
  - The maximalist approach: self-determination as an umbrella right
- Re-evaluating the meaning of the right
  - Self-determination is a right and a principle
  - The political core of the right to self-determination
- Concluding comments
5 Indigenous cultural rights 196
   Introduction 196
   Overview of standards relevant to indigenous peoples 197
   General standards 197
   Minority standards 200
   Obstacles to the effective protection of indigenous cultural rights by international law 204
   The meaning of culture 204
   The concept of cultural property 209
   Ownership of culture 211
   Specific issues concerning cultural rights 214
   Indigenous cultural autonomy 215
   Misappropriation and misuse of indigenous cultural heritage 217
   Repatriation of indigenous cultural objects 221
   Indigenous biodiversity rights 224
   Concluding comments 227

6 Indigenous land rights 237
   Introduction 237
   Legal basis for indigenous land claims 238
   Important issues related to indigenous land claims 243
   Collective ownership 243
   Rights of consultation and participation 252
   Rights of use, management and resources 256
   Removal and relocation 262
   Restitution and compensation 264
   Concluding comments 267

Conclusions 280

Bibliography 286
Index 306
Table of cases

**International courts**

*League of Nations*

Åland islands case, LNQJ Supp. No. 3 (1920) 141, 182–3

*Permanent Court of Justice*

Eastern Greenland case (1933), PCIJ Series A/B, no. 53, 46 243, 270
Minority Schools in Albania, Advisory Opinion (1935), PCIJ Series A/B, No. 64 18, 40, 248

*International Court of Justice*

Burkina Faso v. Mali (Frontier Dispute case), Judgment, ICJ Reports (1986) at 567 139, 181
Legal Consequences for States of the continued presence of South Africa in Namibia, Advisory Opinion of 21 June 1971 188
Nauru v. Australia (Certain Phosphate Lands in Nauru), Preliminary Objections, Judgment, ICJ Reports 1993, 243 239, 269
South West Africa cases (Second phase), 6 (1966) ICJ Reports, 303–4 272
Western Sahara case, Advisory Opinion of 16 October 1975 188, 243–4, 270

*United Nations Human Rights Committee*

Apirana Mahuika et al. v. New Zealand, Communication no. 547/1993 134, 178
### TABLE OF CASES

<table>
<thead>
<tr>
<th>Case Study</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hopu v. France</td>
<td>Communication no. 549/1993 229, 259, 269</td>
</tr>
<tr>
<td>Ignatane v. Latvia</td>
<td>Communication no. 884/1999 191</td>
</tr>
<tr>
<td>Lovelace v. Canada</td>
<td>Communication no. 24/1977 36, 45, 109, 122, 123, 166, 171, 183, 194, 201,</td>
</tr>
<tr>
<td>Mikmaq People v. Canada</td>
<td>Communication no. 205/1986, Views in A/47/40 191, 273</td>
</tr>
<tr>
<td>Ominayak v. Canada (Lubicon Lake Band case)</td>
<td>Communication no. 167/1984 99, 208, 228, 229, 231, 259, 261, 269, 275</td>
</tr>
</tbody>
</table>

#### Regional courts

**African Commission on Human Rights**


**Inter-American Commission on Human Rights**

*Mayagna (Sumo) Community of Awas Tingni v. Nicaragua*, Case no. 11.555P, Series C no. 79, judgment of 31 August 2001 246, 252, 254, 271, 274

*Miskito Indians* case, OAS Docs. OEA/Ser.L/V/II.62, docs. 10 and 26 139, 181


**European Court on Human Rights**

*Chassagnou et al. v. France*, ECHR, Reports 1999-III, para. 112 161


#### National Courts

**Australia**

### Table of Cases


**Canada**

*Reference re Secession of Quebec*, Judgment of 20 August 1998, reproduced in *Bayevsky, Quebec and Lessons Learned* at p. 504 143, 183, 273  
*Sparrow* (1990) 1 SCR 1075, 1099 247, 279  
*Van der Peet (R. v. Van der Peet)*, (1976) 2 SCR 507 257–8, 275

**Norway**

*Selbu*, Norway Supreme Court Reports, 2001, p. 769 257, 275

**United States**

*Sac and Fox Tribe of Indians of Oklahoma v. United States*, (1967) 383 F 2d 991 at 998 272
Table of statutes

**United Nations documents**

*Conventions and Treaties*

Chapter 11 143

Article 2 125

Universal Copyright Convention (1952) 217

International Covenant on Civil and Political Rights (ICCPR) (GA Resolution 2200A (XXI)), 16 December 1966 156, 219–20, 243
Joint Article 1 (with ICESCR below) 42, 109–11, 115, 132–3, 140, 146, 147, 153, 157–8, 173, 175, 176, 205, 239, 240–1, 259
Article 5 177
Article 12 262
Article 23 42
Article 25 160, 161–2
Article 47 239, 259

International Covenant on Economic, Social and Cultural Rights (GA Resolution 2200A (XXI)), 16 December 1966 156, 197–8, 234, 243
Article 1 see ICCPR above
Article 13 116, 219
Article 15 205, 206
Article 25 239
## Table of Statutes

**Article 5** 205, 230, 248, 253  

Convention on the Rights of the Child (GA Resolution 44/25),  
20 November 1989 15, 198–9  
**Article 9** 125  
**Article 17** 199  
**Article 29** 40, 42, 198–9  
**Article 30** 198  
Optional Protocol 114, 125  

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990) 94  

Convention on Biological Diversity (1992) 226, 236, 243, 277  
**Article 8** 226  
**Article 10** 261  


**UNESCO:**  
Convention for the Protection of Cultural Property in the Event of Armed Conflict (1952) 209, 211, 222, 230, 231  
Second Protocol 209, 231  

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (1961) 205  

**Preamble** 232  
**Article 1** 231–2  

Convention for the Protection of Producers of Phonograms against Unauthorised Duplication of their Phonograms (1971) 205–6  

Convention concerning the Protection at National Level of the World Cultural and Natural Heritage (1972) 210, 212, 218, 222–3, 230, 232
TABLE OF STATUTES xiii


Declarations

Declaration on the Rights of Indigenous Peoples (draft) (see also main Index)
Preamble 114–15, 117
Article 1 104–5, 108
Article 2 105
Article 3 109–11, 162
Article 5 121
Article 6 112–13
Article 7 113–14, 117
Article 8 105
Article 9 105, 121
Article 10 117
Article 11 114, 117
Article 12 116, 222
Article 13 116, 117
Article 16 115
Article 19 111, 162
Article 20 111
Article 24 116, 224, 226
Article 25 117
Article 26 117
Article 27 118
Article 28 114
Article 29 116, 224, 226
Article 31 111, 162, 165
Article 32 111, 171
Article 33 108, 109
Article 34 108
Article 35 106, 170
Article 36 118, 170
Article 39 111
Article 42 104
<table>
<thead>
<tr>
<th>Statute</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Universal Declaration on Human Rights (GA Resolution 217),</td>
<td>219, 244</td>
</tr>
<tr>
<td>Article 13 262</td>
<td></td>
</tr>
<tr>
<td>Article 16 42</td>
<td></td>
</tr>
<tr>
<td>Article 27 205, 206, 234</td>
<td></td>
</tr>
<tr>
<td>Declaration on the Granting of Independence to Colonial Countries and</td>
<td>136–7, 146–7, 170, 180, 184</td>
</tr>
<tr>
<td>Peoples (GA Resolution 1514), 14 December 1960 136–7, 146–7, 170,</td>
<td></td>
</tr>
<tr>
<td>180, 184</td>
<td></td>
</tr>
<tr>
<td>Article 6 137</td>
<td></td>
</tr>
<tr>
<td>Article 7 137</td>
<td></td>
</tr>
<tr>
<td>Declaration on the Inadmissibility of Intervention in the Domestic</td>
<td>147, 185</td>
</tr>
<tr>
<td>Affairs of States and the Protection of their Independence and</td>
<td></td>
</tr>
<tr>
<td>Sovereignty (GA Resolution 2131), 21 December 1965 147, 185</td>
<td></td>
</tr>
<tr>
<td>Declaration on Principles of International Law concerning Friendly</td>
<td>110–11, 138–9, 140, 141–2, 147, 148, 159, 167, 176, 180</td>
</tr>
<tr>
<td>Relations and Co-Operation among States (Friendly Relations</td>
<td></td>
</tr>
<tr>
<td>Declaration), 24 October 1970 110–11, 138–9, 140, 141–2, 147, 148,</td>
<td></td>
</tr>
<tr>
<td>159, 167, 176, 180</td>
<td></td>
</tr>
<tr>
<td>Declaration on the Right of Peoples to Peace (GA Resolution 39/11),</td>
<td>42</td>
</tr>
<tr>
<td>12 November 1984 42</td>
<td></td>
</tr>
<tr>
<td>Declaration on the Right to Development (GA Resolution 41/128),</td>
<td>240-1, 269</td>
</tr>
<tr>
<td>4 December 1986 42</td>
<td></td>
</tr>
<tr>
<td>Article 1 240</td>
<td></td>
</tr>
<tr>
<td>Article 2 260</td>
<td></td>
</tr>
<tr>
<td>Declaration on the Rights of Persons Belonging to National or Ethnic,</td>
<td>18, 30, 42, 74, 75–6, 86, 107, 111, 113, 160–1, 162, 164, 185, 190,</td>
</tr>
<tr>
<td>Religious or Linguistic Minorities (GA Resolution 47/135), 8 December</td>
<td>200, 201, 215, 243, 253</td>
</tr>
<tr>
<td>1992 18, 30, 42, 74, 75–6, 86, 107, 111, 113, 160–1, 162, 164, 185, 190,</td>
<td></td>
</tr>
<tr>
<td>200, 201, 215, 243, 253</td>
<td></td>
</tr>
<tr>
<td>Article 1 44, 203</td>
<td></td>
</tr>
<tr>
<td>Article 2 26, 43, 203</td>
<td></td>
</tr>
<tr>
<td>Article 3 33</td>
<td></td>
</tr>
<tr>
<td>Article 4 22</td>
<td></td>
</tr>
<tr>
<td>Rio Declaration on Environment and Development, 1992 30, 243, 261</td>
<td></td>
</tr>
<tr>
<td>Vienna Declaration and Program of Action, 1993 110, 140, 141–2, 148–9,</td>
<td>176, 181–2, 186, 240, 262–3, 269, 277</td>
</tr>
</tbody>
</table>
TABLE OF STATUTES

Durban Declaration of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (8 September 2001) 134, 178

UNDP Draft Guidelines for Support to Indigenous Peoples 134

UNESCO:
Declaration on the principles of International Cultural Co-Operation (1966) 15, 22, 199, 211, 232
Article 1 42, 205, 230
Articles 5–8 42

Declaration on Race and Racial Prejudice (1982) 21, 44, 105, 199
Article 5 205, 230

Declaration of San José (1991) 113

Declaration on Cultural Diversity (2001) 15, 21, 199
Preamble 41
Article 1 41
Article 2 42
Article 4 41, 42
Article 6 42

Castellón Declaration on New Prospects for the Common Heritage of Humanity (1999) 223, 235

Resolutions (other than the above)
GA Resolution 421(V) of 4 December 1950 179
GA Resolution 545(VI) of 5 February 1952 179
GA Resolution 567(VI) of 19 January 1952 179
GA Resolution 637(VII) of 16 December 1952 179
GA Resolution 648(VII) of 10 December 1952 179
GA Resolution 742(VIII) of 27 November 1953 179
GA Resolution 1188(XII) of 11 December 1957 179
GA Resolution 1541(XV) of 15 December 1960 137–8, 144, 147, #180, 185
GA Resolution 1654 (1961) 185
Table of Statutes

GA Resolution 1803(XVII) of 14 December 1962 on Permanent Sovereignty over Natural Resources 239

GA Resolution 1810 (1962) 185

GA Resolution 2526 (1971) 185

GA Resolution 3103(XXVIII) of 12 December 1973 180

GA Resolution 41/120 of 4 December 1986 133, 177

GA Resolution 46/10 of 22 October 1991 223

GA Resolution 48/163 of 21 December 1993 11

GA Resolution 49/214 (International Decade of the World’s Indigenous Peoples), 23 December 1994 103, 121

GA Resolution 43/157 of 8 December 1988 160

GA Resolution 1995/32 103

GA Resolution 1995/60 185

HRC Resolution 2000/5 260

HRC Resolution 2000/87, 27 April 2000 11

ECOSOC Resolution 1503(XLVIII), 1970 29, 43

ECOSOC Resolution 1982/34, 7 May 1982 10

Sub-Commission on Indigenous Peoples, Resolution 1984/35C 12

Sub-Commission on Minorities, Resolution 1994/24 277

Recommendations and other non-binding documents

Agenda 21 (Action Plan, Rio 1992) 243

Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI/GEN/1 (1992) 269


The Effect of Racism and Racial Discrimination on the Social and Economic Relations between States and Indigenous Peoples, UN Doc. HR/PUB/89/5 150, 187
TABLE OF STATUTES xvii

Commission Drafting Group/WGIP/other indigenous fora:
UN Doc. E/CN.4/Sub.2/404 179
UN Doc. E/CN.4/Sub.2/1982/33, Report of the WGIP on its First Session 176
UN Doc. E/CN.4/Sub.2/1985/22 121
Statement of the Representative of the Four Directions Council during the 10th Session of the WGIP (1992) 193
UN Doc. E/CN.4/1993/29 121
UN Doc. E/CN.4/Sub.2/AC.4/1993/10 (Future Role of the Working Group: Working Paper submitted by Mr Miguel Alfonso Martinez, Member of the Working Group) 10
UN Doc. E/CN.4/Sub.2/AC.4/1993/1 124

UN Doc. E/CN.4/1995/WG.15/2 (Consideration of a Draft United Nations Declaration on the Rights of Indigenous Peoples, Information Received from Governments) 133, 177, 192, 193

UN Doc. E/CN.4/1995/WG.15/2/Add.1 (Consideration of a Draft United Nations Declaration on the Rights of Indigenous Peoples, Information Received from Governments) 44, 177, 182

UN Doc. E/CN.4/1995/WG.15/2/Add.2 (Consideration of a Draft United Nations Declaration on the Rights of Indigenous Peoples, Information Received from Governments) 193

UN Doc. E/CN.4/1995/WG.15/3 (Consideration of a Draft United Nations Declaration on the Rights of Indigenous Peoples, Information Received by Non-Governmental Organisations) 125


Statement made on behalf of the Office of the Aboriginal and Torres Strait Islander Social Justice Commissioner, 24 November 1995 132, 176

Statement of the Four Directions Council distributed during the 1995 Commission Drafting Group 168

UN Doc. E/CN.4/1995/L.11/Add.2 11, 121

UN Doc. E/CN.4/1996/84 (session of the Commission Drafting Group) 122, 125, 126, 151, 176
<table>
<thead>
<tr>
<th>Document Reference</th>
<th>Title and Content</th>
</tr>
</thead>
<tbody>
<tr>
<td>UN Doc. E/CN.4/Sub.2/AC.4/1996/2/Add.1</td>
<td>Comments by the Aboriginal and Torres Strait Islander Commission concerning a Definition of Indigenous Peoples</td>
</tr>
<tr>
<td>Statement of Delegation of Canada on Articles 27, 28 and 30, Commission Drafting Group</td>
<td>29 October 1996</td>
</tr>
<tr>
<td>Delegation of the United States of America, US comments on Articles 27, 28 and 30, Commission Drafting Group</td>
<td>30 October 1996</td>
</tr>
<tr>
<td>Statement by T. Moses on behalf of the Grand Council of the Crees in the Commission Drafting Group</td>
<td>30 October 1996</td>
</tr>
<tr>
<td>Statement of the Caucus of Australian Indigenous Representatives</td>
<td>1997 Commission Drafting Group</td>
</tr>
<tr>
<td>Document</td>
<td>Description</td>
</tr>
<tr>
<td>----------</td>
<td>-------------</td>
</tr>
<tr>
<td>UN Doc. E/CN.4/Sub.2/1999/20</td>
<td>Study on Treaties, Agreements and other Constructive Arrangements between States and Indigenous Populations, Final Report by Miguel Alfonso Martinez, Special Rapporteur</td>
</tr>
<tr>
<td>UN Doc. E/C.12/2000/17</td>
<td>Protecting the Rights of Aboriginal and Torres Strait Islander Traditional Knowledge, Background Paper submitted by the Aboriginal and Torres Strait Islander Commission (Australia)</td>
</tr>
<tr>
<td>Statement of Inuit Circumpolar Conference during the 8th Session of the Drafting Working Group</td>
<td>125</td>
</tr>
<tr>
<td>UN Doc. E/2002/43/Rev.1</td>
<td>Report of the First Session of the Permanent Forum</td>
</tr>
</tbody>
</table>

© Cambridge University Press  www.cambridge.org
| UN Doc. E/CN.4/2004/WG.15/CRP.5 (Information provided by the Sámi Council and Tebtebba Foundation) | 124, 127, 195 |
| Indigenous Peoples’ Proposed Amendments relating to the Right of Self-Determination, Proposal submitted to the 2005 session of the Drafting Working Group, 20 September 2004 | 124 |
| Dalee Sambo and Millani Trask proposals combined, Written Statement distributed during the 2005 session of the Drafting Working Group | 124 |
| 2nd Intervention of the USA on Self-determination, Statement made in the 2005 session of the Drafting Working Group | 124 |
xxii TABLE OF STATUTES

CERD (Committee for the Elimination of Racial Discrimination):
General Recommendation XXI (48) on Self-determination (1996), UN Doc. CERD/48/Misc.7/Rev.3 140, 148–9, 182, 186

General Recommendation XXIII (51) concerning Indigenous Peoples of 18 August 1997, UN Doc. CERD/C/51/Misc.13/Rev.4 208, 253, 255, 267, 269

Findings on the Native Title Amendment Act (1998), UN Doc. ERD/C/54/Misc.40/Rev.2 272

Decision 1 (53), 11 August 1998, UN Doc. A/53/18 272, 274

Decision 2 (54), 18 March 1999, UN Doc. A/54/18 L994, 272, 274

Decision 3 (55), 16 August 1999, UN Doc. A/55/18 272

Concluding Observations: Australia, UN Doc. CERD/C/56/Misc.42/Rev.3 of 24 March 2000 274

Concluding Observations: Uruguay, UN Doc. CERD/C/304/Add.78 of 12 April 2001 41

Summary record of the first part of the 1481st meeting: China, Vietnam. 30/08/2001, UN Doc. CERD/C/SR.1481 270, 277

Concluding Observations: Fiji, UN Doc. CERD/C/62/CO/3 of 2 June 2003 41

UN Doc. CERD/C/65/CO/1 of 10 December 2004 (Argentina) 228

UN Doc. CERD/C/LAO/CO/15 228

Concluding Observations: Australia, UN Doc. CERD/C/AUS/CO/14 of 14 April 2005 273

Concluding Observations: Lao PDR, UN Doc. CERD/C/LAO/CO/15 of 18 April 2005 274, 278

Concluding Observations: Nigeria, UN Doc. CERD/C/NGA/CO/18 of 1 November 2005 253, 274, 277

Concluding Observations: Venezuela, UN Doc. CERD/C/VEN/CO/18 of 1 November 2005 228, 273, 278

Concluding Observations: Brazil, UN Doc. CERD/C/BRA/CO/2 of 1 December 2005 273
Other Anti-Discrimination Committees/Fora:

Concluding Observations of the Committee on the Elimination of Discrimination against Women, Australia, UN Doc. CEDAW/C/AUL/CO/5 of 3 February 2006 125

World Conference on Racism (2001), Draft Declaration and Programme of Action, UN Doc. A/CONF.189/WG.1/3 224, 235


The Causes of, and Remedies for, Racial Discrimination, Michael Bainton, UN Doc. E/CN.4/1999/WG.1/BP.7 235

Committee of the Rights of the Child:
Recommendations, Day of General Discussion on the Rights of Indigenous Children, 3 October 2003 228

Concluding Observations, Nepal, UN Doc. CRC/C/15/Add.261 of 3 June 2005 228

Concluding Observations, Ecuador, UN Doc. CRC/C/15/Add.262 of 13 September 2005 228

Concluding Observations, Australia, UN Doc. CRC/C/15/Add.268 of 13 September 2005 228

Economic, Social and Cultural Rights Committee:
General Recommendation XXIII (51) 198

Revised Guidelines regarding the Form and Contents of Reports to be submitted by States Parties under Articles 16 and 17 of the Covenant, UN Doc. E/C.12/1991/1 228

Initial Reports submitted by States Parties under Articles 16 and 17 of the Covenant, Greece, UN Doc. E/1990/5/Add.56 194

Report on the Seventh Session, UN Doc. E/1993/22 228

TABLE OF STATUTES

Fourth Periodic Reports submitted by States Parties under Articles 16 and 17 of the Covenant, Denmark, UN Doc. E/C.12/Add.12 (2003) 195

Concluding Observations: Bolivia, UN Doc. E/C.12/1/Add.60 of 21 May 2001 198, 228

Concluding Observations: Colombia, UN Doc. E/C.12/1/Add.74 of 30 November 2001 274, 277, 278

Concluding Observations: Brazil, UN Doc. E/C.12/1/Add.87 of 23 May 2003 278

Concluding Observations: Russian Federation, UN Doc. E/C.12/1/Add.94 of 12 December 2003 273

Concluding Observations: Ecuador, UN Doc. E/C.12/1/Add.100 of 7 June 2004 273, 275

Concluding Observations: People’s Republic of China, UN Doc. E/C.12/1 of 13 May 2005 125

Implementation of the International Covenant: Finland, UN Doc. E/C.12/FIN/5 of 8 February 2006 272

General Assembly:
UNGAO C.4 (253rd meeting), UN Doc. A/2361 (1952) 177–8

Human Rights Commission:


Internally Displaced Persons, Report of the Representative of the Secretary-General, Mr Francis M. Deng, UN Doc. E/CN.4/1996/52 277


Continuing Dialogue on Measures to Promote and Consolidate Democracy, UN Doc. E/CN.4/2003/59 190


*Human Rights Committee:*


General Comment 12(27) 148, 241

General Comment 18(37), Committee Report A/45/40 (1990) 41


Master Plan on Community Development, Environment and Narcotic Crop Control in Highland Areas (1992) 256


General Comment 23(50) on Article 27, UN Doc. CCPR/C/21/Rev.1/Add.5, 26 April 1994 42, 76, 99, 201, 202, 229, 253, 268, 273

Concluding Observations: Finland. UN Doc. CCPR/C/79/Add.91 of 8 April 1998 41
Consideration of Reports submitted by States Parties under Article 40 of the Covenant, Venezuela, UN Doc. CCPR/C/VEN/1998/3 269
Consideration of Reports submitted by States Parties under Article 40 of the Covenant, Peru, UN Doc. CCPR/C/PER/1998/4 269
Concluding Observations: Mexico, UN Doc. CCPR/C/79/Add.109 (1999) 195, 276
Concluding Observations: Norway, UN Doc. CCPR/C/79/Add.112 (1999) 194
Concluding Observations: Denmark, UN Doc. CCPR/CO/80/DEN of 31 October 2000 278
Concluding Observations: Peru, UN Doc. CCPR/CO/70/PER of 15 November 2000 125
Concluding Observations: Venezuela, UN Doc. CCPR/CO/71/VEN of 26 April 2001 230
Concluding Observations: Guatemala, UN Doc. CCPR/CO/72/GTM of 27 August 2001 229
Consideration of Reports submitted by States Parties under Article 40 of the Covenant, Philippines, UN Doc. CCPR/C/PHIL/2002/2 269
Consideration of Reports submitted by States Parties under Article 40 of the Covenant, Russian Federation, UN Doc. CCPR/C/RUS/2002/5 269
Concluding Observations: New Zealand. UN Doc. CCPR/CO/75/NZL of 7 August 2002 41
Fifth Periodic Reports submitted by States Parties under Article 40 of the Covenant, Finland, UN Doc. CCPR/C/FIN/2003/5 195
Summary Record of the First Part (public) of the 2140th Meeting: Philippines, 24/10/2003, UN Doc. CCPR/C/SR/2140 41
<table>
<thead>
<tr>
<th>Topic</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concluding Observations: Philippines</td>
<td>UN Doc. CCPR/CO/79/PHT of 1 December 2003</td>
</tr>
<tr>
<td>Concluding Observations: Suriname</td>
<td>UN Doc. CCPR/C/82/SURI of 4 May 2004</td>
</tr>
<tr>
<td>Concluding Observations: Colombia</td>
<td>UN Doc. CCPR/CO/80/COL of 26 May 2004</td>
</tr>
<tr>
<td>Concluding Observations: Finland</td>
<td>UN Doc. CCPR/C/82/FIN of 2 December 2004</td>
</tr>
<tr>
<td>Concluding Observations: Greece</td>
<td>UN Doc. CCPR/CO/83/GRC of 25 April 2005</td>
</tr>
<tr>
<td>Concluding Observations: Thailand</td>
<td>UN Doc. CCPR/CO/84/THA of 8 July 2005</td>
</tr>
<tr>
<td>Concluding Observations: Uganda</td>
<td>UN Doc. CCPR/CO/80/UGA of 4 May 2005</td>
</tr>
<tr>
<td>Concluding Observations: Thailand</td>
<td>UN Doc. CCPR/CO/84/THA5 of 20 April 2006</td>
</tr>
<tr>
<td>Concluding Observations: Canada</td>
<td>UN Doc. CCPR/C/CAN/COL of 20 April 2006</td>
</tr>
<tr>
<td>Concluding Observations: Congo</td>
<td>UN Doc. CCPR/C/COD/CO/3 of 27 March 2006</td>
</tr>
<tr>
<td>List of Issues to be taken up in connection with the Consideration of the Second and Third Periodic Reports of the United States of America</td>
<td>UN Doc. CCPR/C/Q/3 of 30 March 2006</td>
</tr>
<tr>
<td>UNESCO:</td>
<td>Florence Agreement on the Importance of Educational, Scientific and Cultural Rights (1950) 234</td>
</tr>
</tbody>
</table>
xxviii TABLE OF STATUTES

Recommendation concerning the Preservation of Cultural Property Endangered by Public or Private Works (1968) 230

Recommendation concerning the Protection at National Level of the Cultural and Natural Heritage (1972) 230
Preamble 230
Article 4 205


Recommendation concerning the Status of Scientific Researchers (1974) 234

Recommendation on Participation by the People at large in Cultural Life and their Contribution to it (1975) 230

Recommendation on the Legal Protection of Translators and Translations and the Practical Means to Improve the Status of Translators (1976) 206

Recommendation concerning the Status of the Artist (1980) 206, 234

World Conference in Cultural Policies (1982) 199

Recommendation on the Safeguarding of Traditional Culture and Folklore (1989) 15, 21, 207–8, 213, 217–18, 230
Article 5 206

World Commission on Culture and Development, Report: Our Creative Diversity 26, 43, 208


International Labour Organisation documents

Conventions/Declarations

ILO Constitution 50, 92
Forced Labour Convention (1930) 57, 65, 92, 94
Recruiting of Indigenous Workers Convention (1936) 92
Contracts of Employment (Indigenous Workers) Convention (1939) 92
Penal Sanctions (Indigenous Workers) Convention (1939) 92
Declaration of Philadelphia (1944) 50, 51
Social Policy (Non-Metropolitan Territories) Convention (1947) 64
Abolition of Forced Labour Convention (1957) 65, 94
Convention 107 (1957) concerning the Protection and Integration of Indigenous and other Tribal and Semi-Tribal Populations in Independent Countries (see also main Index)
Article 1 43
Article 2 54–5, 56–7, 59
Article 3 56–7, 58, 62
Article 4 55
Article 5 55, 59–60
Article 7 55, 58–9
Article 8 58–9
Article 9 55, 57
Article 10 58
Article 11 60–2, 245
Article 12 63
Article 13 63
Article 14 60, 62
Article 15 64–5
Article 21 65
Article 22 65
Article 23 65–6
Minimum Age Convention (1973) 89
Convention 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries (see also main Index)
Preamble 69, 70
Article 1 70–3, 74
Article 2 77, 203–4
| Article 3  | 74 |
| Article 4  | 203 |
| Article 5  | 75, 77, 204 |
| Article 6  | 43, 77–8, 163, 191, 216 |
| Article 7  | 78–9 |
| Article 8  | 74, 79, 108 |
| Article 9  | 79 |
| Article 10 | 74 |
| Article 11 | 74–5 |
| Article 12 | 74 |
| Article 13 | 74, 81, 245–6, 251 |
| Article 14 | 81–4, 245, 251, 257, 265 |
| Article 15 | 84–5, 117, 259–60 |
| Article 16 | 81, 86, 265 |
| Article 17 | 81, 87 |
| Article 18 | 87 |
| Article 19 | 87–8 |
| Article 20 | 88–9 |
| Articles 21–3 | 89 |
| Article 23 | 90 |
| Articles 24–31 | 89–90 |
| Article 25 | 79–80 |
| Article 27 | 80 |
| Article 28 | 76 |
| Article 29 | 76 |
| Article 31 | 76 |
| Article 32 | 75–6, 106 |

Declaration on Fundamental Rights and Principles at Work and its Follow-Up (1998) 88

Worst Forms of Child Labour Convention (1999) 88, 94, 114

Recommendations

Recommendation No. 104 (Indigenous and Tribal Populations Recommendation, 1957) 49, 50, 51, 62, 64, 66

Article 4 62

Minimum Age Recommendation (1973) 89

Worst Forms of Child Labour Recommendation (1999) 88