

PEOPLES' RIGHTS AND SELF-DETERMINATION
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AN IDEA WHOSE TIME HAS COME

It would be difficult to conceive of a more important, topical and indeed urgent issue for consideration in the present state of the world than the peoples' right to self-determination. Far away, and close at hand, we see about us evidence of the assertion of this right. The long plane journey which brought me to Budapest was virtually a pilgrimage on the *via dolorosa* of conflicts over self-determination.

Australia, with the assertion of the rights of the Aboriginal people.¹ Indonesia with the conflicts over East Timor² and now Aceh. Across Burma where three groups wage war. Past the forbidden kingdom of Tibet now

ruled by China.⁴ Through India, where the Kashmiris claim independence and the Sikhs demand Kalistan. Past Afghanistan which has resisted foreign intrusions, old and new. Over the forgotten Kurds.⁵ Over Armenia locked in conflict with Azerbaijan. Up the spine of the Soviet Union, its border States rediscovering and reasserting their separate identities. Further north the Baltic States, freshly independent once again. To the south, the Balkans locked in bloody conflict. New claims emerging in the Tyrol⁶. Everywhere in Europe the assertion of minority rights. Hungarians in Romania. Corsicans and Bretons in France. The problem of Northern Ireland.

It has been said that this is the decade in which Woodrow Wilson's insistence upon national self-determination as the governing principle of the new world order comes of age.⁷ Certainly, we are in the midst of extraordinary revolutionary developments. The countries of Eastern and Central Europe have re-established their independence. Germany has achieved the goal declared, in the name of the *German People*, in the Preamble to the *Basic Law*:

*"The entire German people are called up to achieve, in free self-determination, the unity and freedom of Germany."*⁸

The idea is by no means confined to Europe. Everywhere we see its assertion. The people of Quebec. The Indian and Inuit peoples of North America. The Polisario peoples undergoing referendum in Morocco. The people of Kuwait, their identity restored. The people of Palestine hoping for a new era. The Zulu people in South Africa. The indigenous people of the rain forests of Brazil. The Indian people in Fiji. The

Maori of New Zealand. It is a phenomenon of our world. And clearly a giant of an issue is stirring.

World journals put this issue on their covers.⁹ They debate whether the tendency is fusion or fission.¹⁰ The Pope, in his Easter message, calls on humanity to "lend an ear ... to the long ignored aspiration of oppressed peoples". It is in the context of such urgent political, social and economic developments, that the concept of the peoples' right to self-determination must be considered. It is not a disembodied idea to be found in law books, although it is surely there. It is an idea in the minds of peoples in every part of the world. The problem for humanity is one of reconciling the abiding force of group identity (based on language, culture, history etc) with the political, economic and technological realities of the world after Hiroshima.

ORIGINS OF THE LAW

Modern origins of Peoples' rights: It would take an anthropologist or an historian of ancient times to trace the origins in primitive and ancient peoples of the feeling of group identity and its manifestation throughout human history.

The modern expression to the right to self-determination has a number of sources. One of them is clearly the *Declaration of Independence* of the United States of America which begins:

*"When in the course of Human Events it becomes necessary for one people to dissolve the political bonds which have connected them with another ..."*¹¹

The Civil War of the United States had its origin in a number of issues. Today, it is being reconsidered in the context of the right of one section of the peoples of a political Union to have independence from another. The creation of the United States as a modern and increasingly powerful nation, with a constitutional Bill which inculcated notions of individual rights led naturally to the insistence, in President Wilson's Fourteen Points for the Great War, upon the idea of self-determination, at least for the people of the defeated Central Powers. This idea, partly implemented in the settlement of European and Middle Eastern borders after the First World War, gave the impetus to the notion that peoples, as such, having certain common characteristics, enjoy a kind of natural law entitlement, in concert with the same or similar people, to have determination of their own political government.

However, the danger of the idea of "self-determination" was readily apparent to the victorious as well as to the defeated powers in 1919. Within the League of Nations, a committee of rapporteurs that year expressed the opinion that "self-determination" of peoples was not a concept known to international law at all:

"This principle is not, properly speaking, a rule of international law ... It is a principle of justice and of liberty ... To concede to minorities, either of language or religion, or to any faction of a population the right of withdrawing from the community to which they belong, because it is their wish or their good pleasure, would be to destroy order and stability within States and to inaugurate anarchy in international life."¹²

Notwithstanding this opinion, the fascination of the "self-determination" idea gathered force between the two

World Wars. Some writers suggest that there was growing acceptance that it applied to all kinds of "peoples" without distinction, including those occupied and oppressed by defeated powers; those under colonial rule or rule mandated by the League, but also peoples living entirely as minority groups within a State ruled by another "people".¹⁴

In the Permanent Court of International Justice, in the case concerning minority schools in Albania in 1935, a distinction was drawn between discriminatory laws and those designed to safeguard the rights of indigenous minorities living within a State.¹⁵ The Court said:

*"[It is legitimate] first to ensure that nationals belonging to racial, religious or linguistic minorities shall be placed in every respect on a footing of perfect equality with the other nationals of the State. The second is to ensure for the minority elements suitable means for the preservation of their racial peculiarities, their traditions and their national characteristics. These two requirements are indeed closely interlocked, for there would be no true equality between a majority and a minority if the latter were deprived of its own institutions, and were consequently compelled to renounce that which constitutes the very essence of its being as a minority."*¹⁶

The UN Charter: The Allied War aims during the Second World War adopted, also under pressure from the President of the United States, the aspiration of an international order to ensure "self-determination for peoples living under foreign rule".¹⁷

Doubtless under the same influence, the *Charter* of the United Nations is declared in the name of the "Peoples of the United Nations". Its first Article states that the purposes of the new organisation are:

"[t]o maintain international peace and security and

[t]o develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.¹⁸

In other provisions of the *Charter* the commitment of the Organisation to the self-determination of peoples is repeated.¹⁹ For example, by article 76, the Trusteeship System is established to promote the progressive advancement of Trust Territories towards self-government or independence according to:

"The freely expressed wishes of the peoples concerned and as may be provided for the terms of each trusteeship agreement."²⁰

The ICCPR: In the development of the International Bill of Rights in the two decades following the establishment of the United Nations,²¹ a great deal of attention was paid to incorporating the peoples' right to self-determination. In 1949, the Soviet Union proposed that a provision be inserted in the *International Covenant on Civil and Political Rights* (ICCPR), effectively to confine the obligation to grant self-determination only to colonial powers.²² The United Kingdom, France, Belgium and others opposed the idea pointing to the generality of the concept in Article 1(2) of the *Charter*. They asserted that it was essential to include the right to self-determination in the International Bill of Rights. But the concept was not defined.²³ The Committee reporting on it said, enigmatically:

"Concerning the principle of self-determination, it was strongly emphasised on the one side that this principle corresponded closely to the will and desire of peoples everywhere and should be clearly enunciated in the chapter; on the other side, it was stated that the principle conformed to the purposes of the Charter, only insofar as it implied the right of self-determination of peoples and not the right of secession."²⁴

In the end, the provision adopted was expressed in general terms:

"All people have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."²⁵

A number of States opposed the Article in this form. They expressed fear that it would confer rights of secession on minorities although many experts did not concede that interpretation.²⁶

In 1960 the General Assembly adopted the *Declaration on the Granting of Independence to Colonial Countries and Peoples*.²⁷ Without dissenting voice, it was agreed to denounce, as contrary to the *Charter* and as a "denial of fundamental human rights"

"The subjugation of peoples to alien subjugation, domination and exploitation."

Reflecting a by now common theme, however, the *Declaration*, at its close, cautioned against the encouragement of actions which impaired or threatened the territorial integrity or unity of States.²⁸ Throughout Africa in particular, but also in other newly independent States, the idea of redrawing the map was seen as a recipe for disaster. Dr Kwame Nkrumah (Ghana) urged a redrawn map of Africa. He pointed to the artificiality of colonially

determined borders. However, the idea was never popular amongst the political representatives of developing countries who drew their power and legitimacy from States based on current borders. Ghana itself had seventeen major ethnic tribes. The Organisation for African Unity opted, from the start, for the stability of the colonial boundaries. This left, however, irredentist claims in Morocco, the ethnic demands of Somalia and the attempts of secession by Katanga and Biafara to be dealt with. The principle of the peoples' right to self-determination was used to deny recognition to South Africa's Bantustan "States" and recognition of Rhodesia (1965-1980). Resolutions of the General Assembly and the Security Council condemned these States as "invalid" and "illegal", including upon the ground of their non-compliance with the obligation to accord their peoples the right to self-determination.²⁹

In 1970, the General Assembly adopted the *Declaration on Principles of International Law concerning Friendly Relations and Cooperation amongst States in Accordance with the Charter of the United Nations*.

This Charter sought to redefine the rights of all peoples to self-determination as:

*"The right freely to determine without external interference, their political status and to pursue their economic, social and cultural development."*³⁰

Fears of secession: However, whilst denouncing alien subjugation, domination and exploitation and calling for independence for colonial peoples and countries, the *Declaration* contained the standard warning against interpreting the right as:

"Encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above."

Notwithstanding the generality of the language of the United Nations *Charter*, and the International Bill of Rights, the fear about anarchy let loose upon the international order produced valiant attempts to confine the peoples' right to self-determination. The so-called "salt water doctrine" gained much currency. Thus, some writers and many leaders considered that only non self-governing territories, separated geographically from the administering State (as by an ocean), were entitled to exercise the peoples' right of self-determination. The idea that that right would continue as a notion for *internal* minorities of such States, once independent, was doubted, criticised and even denounced.³¹

The "salt water" doctrine abandoned the concept that "peoples" formed "on the basis of political consciousness but living under foreign rule are entitled to self-determination". Instead it rested the exercise of the right upon historical phenomena.³² As many writers have pointed out, it is difficult to justify such a restrictive interpretation upon the basis of the language of the *Charter*, the foundation of the *Charter* in the peoples of the United Nations, the purpose of the provision, and the underlying conceptual basis upon which it rests.

The idea of the peoples' right to self-determination is not confined to the *Charter*, Treaties and Declarations

approved by the United Nations. Gradually it has been accepted as a concept of customary international law.³³ In the opinion of the International Law Commission, the right of self-determination must now be regarded as *jus cogens*. Its violation is "a most serious offence, an international crime".³⁴ As part of international customary law it is binding on all States. The International Court of Justice has also reaffirmed, in a number of decisions, the obligation of members of the United Nations to promote and support the realisation of the peoples' right to self-determination.³⁵

Outside the United Nations, important international statements of principle have accorded full recognition to the peoples right to self-determination. For example, the *Helsinki Final Agreement of the Conference on Security and Cooperation in Europe* did so in these terms:

*"By virtue of the principle of equal rights and self-determination of peoples, all peoples always have that right, in full freedom, to determine when and as they wish, their internal and external political status, without external interference, and to pursue as they wish, their political, economic, social and cultural development"*³⁶

UNESCO's rôle: UNESCO has made a continuing and notable contribution to the attempts to give greater clarity and specificity to the concept of the peoples' right to self-determination. It has done so by convening a series of meetings, of which this meeting in Hungary is but the latest.³⁷ At the most recent meeting in Paris, in November 1989, experts endeavoured to provide a description (not a definition) of who are a "people" for the purpose of enjoying the peoples' right to self-determination accorded by

international law.³⁸ As explained by the experts, the definition of a "people" and the clarification of the right to self-determination are inescapably controversial and sensitive topics. The liberation idea can be readily accepted and people in groups accorded the opportunity to determine their own group organisation and polity. However, special problems are presented by the threat of secession by peoples associated with particular territories and the demands of indigenous people in a territory now containing many other peoples, for the recognition of rights deriving from their historical, indigenous or aboriginal links to the land.

The hard issues, therefore, in the peoples' right to self-determination concern secession and regrouping political rights (on the one hand) and the rights of indigenous populations to self-determination, on the other.

There is no agency in the United Nations system which is established to assist in the lawful and peaceful procedure of peoples' secession from States and regrouping in new political entities. But from time to time, under the United Nations aegis, referenda are held to permit people to determine their political, economic and cultural future. One such venture is current at the moment as a result of the Polisario rebellion in Morocco. Others may be needed in the future, eg for the Kurds, the Palestinians, the Cambodians, the Sudanese, the Ruandins etc. Suggestions are now being advanced for a just procedure by which such claims could be settled within the United Nations system.³⁹

Claims of indigenous peoples: So far as the claims of indigenous populations are concerned, they run into the

self-protective assertion of nation States that the peoples' right to self-determination is to be viewed by reference to the "salt water doctrine". Although that doctrine is probably still the dominant view of international lawyers,⁴⁰ it is coming under increasing question by representatives of minorities and indigenous populations.⁴¹

In 1981, an international non-governmental organisation conference on indigenous people included in its final declaration a request that the United Nations Subcommission on the Prevention of Discrimination and Protection of Minorities should appoint a special rapporteur to "further study the right to self-determination. It suggested that he could focus, in particular, on this right as it refers to indigenous nations and peoples".⁴² The proposal was accepted. A detailed report was prepared by Mr J R M Cobo.⁴³ He concluded that the peoples right to self-determination was the basic precondition for the enjoyment by indigenous peoples of their fundamental rights.

At a meeting of experts on the revision of the *Indigenous and Tribal Populations Convention* in 1986, the peoples' right to self-determination was declared to be "the only concept which would respond to" the needs of the indigenous and tribal organisations present.⁴⁴

In February 1991 at a Founding Assembly held at the Peace Palace in the Hague, representatives of the "unrepresented nations and peoples" joined in a *Covenant*. Its first words are unsurprising:

"Whereas all Nations and Peoples possess the

right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development;

Whereas many Nations and Peoples suffer under alien or colonial occupation or domination or are otherwise denied the exercise of their right to self-determination;

Whereas the rights of individuals and the collective rights of Peoples are inextricably linked;

*Whereas the protection of the natural environment is similarly linked to the rights of nations and peoples to determine their own destiny ...*⁴⁵

This review brings the story of the international moves for the legal recognition and definition of the peoples right to self-determination up to date. It remains only to list the issues which need particular attention in contemporary circumstances.

ISSUES FOR ATTENTION

The Peoples' rights controversy: Most of the fiercest battles about "peoples' rights" have been waged over:

- * Whether such rights exist, separately from the aggregation of individual rights recognised by international law;
- * Whether peoples' rights are antithetical to human rights, providing a basis for authoritarian and statist conceptions of rights as an excuse for derogating from individual human rights;
- * Whether, if such peoples' rights exist they extend beyond a very small class (such as the right to self-determination); and

* Whether the suggested catalogue of peoples' rights are properly "rights" at all, ie whether it is helpful to talk of a "right" to development or to cultural identity.⁴⁶

In the face of the plain terms of Article 1 of the United Nations *Charter*, and the whole development of the peoples' right to self-determination since 1945, it is now impossible to deny the existence of peoples' rights in international law. The question is now what they are and what they require. It is difficult to answer this question for the concept is in a state of rapid development. This much has been established in earlier meetings of UNESCO experts. It is unprofitable to go over such questions.

Issues for our time: More useful, in the context of the peoples' right to self-determination is it to ask questions which advance the debate beyond the point already reached. These questions include:

1. Whether there is any legitimate basis to read down Article 1(2) of the United Nations *Charter* to apply only to colonial or Trusteeship peoples, or peoples subject to the "salt water doctrine" or peoples living under foreign rule or domination?;
2. Whether the concept of the peoples' right to self-determination extends to internal minorities within a State. If so who are a "people" entitled to such "self-determination"?
3. Particularly in the case of indigenous peoples (but equally for peoples whose ancestors have long settled in a particular geographical place) how is their right

to "self-determination" to be reconciled with the rights of others in the State in which they exist? What does "self-determination" require for, say, the Inuit of Canada, the Aborigines of Australia or the Maoris of New Zealand? What does it require for people of the Hungarian speaking minority in Romania? Or for the Afrikaners and Zulus in a future democratic South Africa?;

4. Is there a concept of *internal* "self-determination" known to international law?⁴⁷ If there is, how can it be developed in a way respectful for the peoples' right of self-determination by avoiding the re-emergence of territorial enclaves with features of exclusiveness that marked the illegal apartheid régime of South Africa?;
5. What implications does the peoples' right to self-determination have for the development of new political associations, beyond the unitary nation State? Can new forms of federal or like political association be developed to provide at once the political framework for a nation State so familiar to international law but at the same time respecting the rights to self-determination of various peoples living within that State? Is there such a new arrangement which can be adapted for the challenges posed by the assertions of the right to self-determination of the peoples of Hong Kong, entering the Peoples' Republic of China after 1997? The peoples of Tibet within China? The peoples of the various Republics of the Soviet Union? The peoples of Yugoslavia? Or the Zulu or Boer

- peoples of South Africa?; and
6. Is there a need for a new international agency and/or procedure whereby peoples (colonial, occupied, minority or indigenous) can secure the effective investigation of claims of derogation from the full attributes of self-determination and a peaceful means to assure their achievement?

These and other issues are truly questions for our time. For the peace and security of the world and the full attainment of human and peoples' rights, it is essential that the agencies of the United Nations address these questions. UNESCO, despite initial resistance from a number of powerful quarters, has played an indispensable rôle in the clarification of the concept of peoples' rights. The full importance of UNESCO's work is only now realised as the world faces the enormous contemporary challenge of the assertion everywhere of the peoples' right to self-determination. It will surely be one of the most important issues to accompany us into the next millennium.

FOOTNOTES

- * President of the New South Wales Court of Appeal, Australia; Commissioner and Chairman-elect of the Executive Committee of the International Commission of Jurists, Geneva. Personal views.
1. Australia, the Law Reform Commission, *The Recognition of Aboriginal Customary Laws*, ALRC 31, AGPS, Canberra, 1986, vol 1, 108ff. See also B Smith

- "Self-Determination - Helping Aboriginal Families to Realise the Ideal" (1991) 29 *Family Matters* (Aust Fam Studies) 45.
2. Portugal has commenced proceedings in the International Court of Justice against Australia arising out of the *Timor Gap Treaty* signed between Australia and Indonesia.
 3. An Indonesian Court has reportedly sentenced a member of a separate organisation in the western province of Aceh to ten years imprisonment. *Sydney Morning Herald*, 9 July 1991, 9.
 4. International Committee of Lawyers for Tibet, *The Right of the Tibetan People to Self-Determination*, Preliminary Report, July 1990 (hereafter Tibet Report).
 5. In the aftermath of the war following the occupation of Kuwait, demands were made for a United Nations protected enclave for Kurdish refugees.
 6. A demand for an independent German-speaking State of Tyrol was reported from North Italy on 17 September 1991.
 7. N McCormick, "Of Self-Determination and Other Things", in (1990) 15 *Bulletin Aust Soc Leg Philos* 1, 9.
 8. Preamble to the *Basic Law* of the Federal Republic of Germany. See discussion J Brunnée, "The Reunification of Germany: Comments on a Legal Maze", (1990) 13 *Dalhousie LJ* 725.
 9. See eg *Time Magazine*, 24 June 1991, 16 ("The Unwanted").
 10. See *The Economist*, 6 October 1990, 15 ("Go Forth and Unify"). See also *ibid*, 23 June 1990, 9.

11. United States, *Declaration of Independence*. See discussion M D Kirby, "Report on the Study of the Concept of the Rights of Peoples" in P H Parekh (ed) *Human Rights Year Book 1989* (India), 39, 43.
12. *Report of the Committee of Rapporteurs* (Buyens, Calonder, Elkens) L N Council Doc B 7/21/68/106 [VII] 27-28 (1919). See discussion, P Ditton, "'Self-Determination' or 'Self Management'" [1990] *Aust Int L News* 3,4. Much of this analysis is derived from Ditton.
13. K J Partsch, "Self-Determination, Equality and Non-Discrimination" in K Vasak and P Alston (eds) *The International Dimensions of Human Rights*, vol 1, (1982), UNESCO, Connecticut, USA, Greenwood Press, 61, 63.
14. Cf R L Barsch, "Indigenous North America and Contemporary International Law" 62 *Ore L Rev* 73, 76ff (1982). See also Ditton (above) 5.
15. BCIIJ, SER A/B No 64 (1935). Cited in AORC 31, 110.
16. *Ibid*, 17.
17. A Cassese, "The Self-Determination of Peoples" in L Henkin (ed) *The International Bill of Rights: The Covenant on Civil and Political Rights*, New York, Columbia, 1981, 92, 93.
18. United Nations *Charter*, Article 1 in I Brownlie, *Basic Documents in International Law* (3rd ed), Clarendon, Oxford, 1983, 1, 3.
19. See also *ibid*, 18 (Art 55). Note also chapters XI, XII, XIII and cf Arts 73 and 76.
20. M I el-Kayal, *The Role of the United Nations in the*

- Protection of Human Rights*, 1975, 310. See also Tibet Report (above) 5.
21. D McGoldrick, *The Human Rights Committee: Its Role in the Development of the International Covenant on Civil and Political Rights*, Clarendon, Oxford, 1991, 254ff.
 22. Cassese, above, n 17, 92.
 23. UN Doc A/C 3/SR 309, para 59 (1950).
 24. UN Doc 343 I/1/16, 6 UN Conf International Ord Docs 296 (1945).
 25. ICCPR, Art 1(1). According to McGoldrick, the practice of the Human Rights Committee under Article 1 has been "somewhat disappointing". See *ibid*, 256.
 26. L B Sohn, "The Rights of Minorities", in L Henkin (above) 276.
 27. *General Assembly Resolution 1514 (XV)*, 14 December 1960.
 28. *Id*, Paris, 6.
 29. J Dugard, Comments in Book Review, M N Shaw, *Titled Territory in Africa: International Legal Issues* in [1986] CLJ 515, 516.
 30. *General Assembly Resolution 2625 (XXV)* of 24 October 1970.
 31. P Thornberry, "Minority Rights, Human Rights and International Law" (1980) 3 *Ethnic and Racial Studies* 248, 259.
 32. B Gross, "The United Nations, Self-Determination and the Namibia Opinions", 82 *Yale LJ* 533 (1973); J W Nichel, "Cultural Diversity and Human Rights" in J L Nelson and V M Green (eds) *International Human*

- Rights: Contemporary Issues*, New York, 1980, 45.
33. During the General Assembly's Sixth Committee Meeting to discuss the Draft Law of Treaties, the International Law Commission and various speakers expressed support for this view. See Gros Espiell, *Right to Self-Determination: Implementation of United Nations Resolutions*, UN Doc E/CN.4/sub.2/405/Rev/1 (1980), Paris, 70 ff. See also Tibet Report, 11.
34. R T Coulter, *The Evolution of International Human Rights Standards: Implications for Indigenous Populations of the Americas*, Indian Law Research Centre, Washington, 1984, 46.
35. *Advisory Opinion on Western Sahara* [1975] ICJ; *Advisory Opinion on Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)* [1971] ICJ 16.
36. A Cassese, "The Helsinki Declaration and Self-Determination" in T Buergenthal, ed, *Human Rights, International Law and the Helsinki Accord*, 1977, 99f.
37. J Crawford (ed), *The Rights of Peoples*, Clarendon, Oxford, 1988. See esp I Brownlie "The Rights of Peoples in Modern International Law" at pp 1ff.
38. UNESCO, "International Meeting of Experts on Further Study of the Concept of the Rights of Peoples", November 1989, *Final Report and Recommendations*, SHS/89/CONF.602/7 p 7.
39. Within Australia, such proposals have been made. See eg H Feith and A Smith, "The Kurds and

- Self-Determination: The UN Must Act Now for a New Process", 1991 (Monash University).
40. ALRC 31, 128. See also K M'baye, "Human Rights in Africa" in K Vasak and P Alston (eds) *The International Dimension of Human Rights*, 283; Ditton (above) 8f.
 41. G Bennett, *Aboriginal Rights in International Law*, London, RAI, 1978, 50. See also General Assembly Resolution 1514 (XV), 14 December 1990.
 42. B/CN4/SUB2/1983/21/ADD 6 para 152.
 43. J R M Cobo, *Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities: Study of the Problem of Discrimination Against Indigenous Populations*, E/CN 4/SUB 2/1986/7 ADD 1-3 (1983).
 44. Meeting of Experts on the Revision of the Indigenous and Tribal Populations Convention, 1957 (No 107), Geneva 1-10 September 1986 Appl/MER/107/1986/D.7, Para 50.
 45. Covenant of the Unrepresented Nations and Peoples Organisation, Founding Assembly, 11 February 1991, The Hague, Netherlands.
 46. L V Prott, "Cultural Rights as Peoples' Rights in International Law" in Crawford (ed) above n 37, 93.
 47. Partsch (above) 67.