Indigenous self-determination - Papers by Catherine J. Iorns Magallanes, Reader in Law and Mark Bennett, Senior Lecturer in Law, Victoria University of Wellington

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This paper aims to directly address the barriers to the legal recognition of the right of self-determination for indigenous peoples in the hope they can be overcome. The author argues that the ultimate barrier currently posed is the concept of sovereignty currently understood and applied by states, specifically that no right of self-determination is recognized in international law due to a clash with the world system of state sovereignty. The author presents the idea of developing a theory that allows for justification and argument based on the interests of those involved, believing a paradigm shift would allow the claims of indigenous peoples to be seriously considered as claims to political organization and state identity.
"Dedicated Parliamentary Seats for Indigenous Peoples: Political Representation as an Element of Indigenous Self-Determination"
Victoria University of Wellington Legal Research Paper No. 23/2017

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This paper focuses on the relevance of self-determination for indigenous political representation to the debate over indigenous participation in political processes. It presents the argument that decisions regarding indigenous representation in these processes should be better informed by consideration of the methods of best achieving indigenous self-determination. This paper examines indigenous political representation and its response in New Zealand and internationally to evaluate the effectiveness of dedicated parliamentary seats for Indigenous peoples as a means of self-determination.

"A New Zealand Case Study: Child Welfare"

Victoria University of Wellington Legal Research Paper No. 24/2017

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The focus of this paper is the international law right of self-determination and its relevance for Maori child welfare: namely, its implications for the responsibility for the care and placement of Maori children. The author argues in this 1998 book publication that indigenous peoples have a right to the preservation of their separate and distinct cultural identity through cultural self-determination. This right is independent of the UN Draft Declaration as it is already recognised in customary international law. The first section of the paper describes the international right of self-determination and how states have refused to formally recognise that indigenous peoples have this right. The second part describes the rights of indigenous peoples to the protection of their culture and identity as peoples who have been recognised in international law. The UN Declaration on the Rights of Indigenous Peoples and direction of debates surrounding the right of indigenous self-determination are reviewed along with state practices in context of these international laws.

"West Papuan Self-Determination: New Indigenous Rights or Old-Fashioned Genocide?"

Victoria University of Wellington Legal Research Paper No. 25/2017

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This paper addresses the adverse effects of Indonesia’s takeover of West Papua. The author examines the human rights and environmental abuses occurring in West Papua, along with the lack of international effort to aid the people of this nation. The author accepts the increasing international awareness of this issue, along with the political, legal and practical difficulties in advancing the West Papuan, but writes to remind us of the plight of the Papuans. This paper suggests that the claims of severe human rights violations in West Papua are extremely important for the international community to address.

"'Indigeneity' as Self-Determination"
Victoria University of Wellington Legal Research Paper No. 26/2017

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There is presently much controversy concerning the legal and political significance of “Indigeneity” in settler states. Recently, Jeremy Waldron set out to critique what he saw as the uncritical use of liberal property morality by supporters of Indigeneity. This paper argues that self-determination is a liberal principle better suited to founding Indigeneity’s political significance. To this end, this paper examines self-determination as a liberal principle, and develops a historical approach to it to support the argument that it provides a firmer foundation for Indigeneity in liberal political discourse than liberal property principles.
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