

Getting Government To Listen

A Guide to the International Human Rights System for Indigenous Australians

Bill Barker - Human Rights International

Getting *Government to Listen* is a practical guide to the United Nations international human rights systems. It is designed to raise consciousness within the Aboriginal community about the function of the United Nations and to provide advice and information about the ways indigenous people may address injustices and promote better observances of human rights at an international level in order to correct the failings of our domestic laws pertaining to basic human rights.

The author points out that in circumstances where a particular right is being violated in Australia, and after all opportunities have been explored within our domestic legal system, certain provisions of the international human rights system can be sought to remedy these injustices.

That such action might be necessary, the author argues, is because although Australia has pledged to accept the principles of the United Nations and to act upon them, in many cases these standards are not being met. According to the author, in situations where there is a conflict of interest, the observance of human rights may come off second best.

This is an unpretentious and articulate book that reveals a deep understanding of

United Nations operations, the issues that confront indigenous Australians, and the instrumentation through which indigenous people can voice their concerns and address violations of human rights. The author succeeds in explaining human rights and the complex mix of operational, supervisory and informational activities under the aegis of the multifaceted United Nations organisation in a manner which is clear and accessible.

A brief overview of Australia's legal system, and the role of government in ensuring that human rights are observed, appear in the opening section of the book to highlight problems in the observance of human rights at a domestic level. The place of the United Nations in supervising government performance on the observance of human rights is presented as an encouragement for indigenous Australians to become involved in the United Nations systems.

Practical information is contained in the two middle sections of the book (parts 2 and 3).

Part 2 describes the structure of the United Nations, highlighting the 'instruments' - the expressions of human rights standards (such as the Universal Declaration of Human Rights) - that the

United Nations has developed to create an obligation on government to observe rights. Diagrams are included throughout this section to illustrate the structure and function of the various bodies that comprise the United Nations, and to summarise the main points of each chapter as to the possibilities for action.

In the discussion of the United Nations human rights instruments, an important distinction is made between



← For details see overleaf

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those which are legally binding (where governments have agreed to give effect to United Nations provisions in domestic law) and those which have only morally persuasive force. We learn that indigenous people can make complaints to the supervisory committee of three of the six human rights instruments if they believe their rights are being violated. The process of making a complaint is explained by reference to issues on which indigenous people might want to focus, by providing practical advice on how to make a complaint, and by citing successful cases brought against Australia through the complaints mechanism.

Because Australia is a party to each of the six main legally binding instruments, indigenous people can also comment on government reports to the United Nations on its implementation of each of the instruments. This process is explained with information on Australia's reporting obligations and information on preparing a report and contacting relevant committees. While government delays in submitting reports, and committee delays in considering them, are serious weaknesses of the reports process, the author argues that the involvement of indigenous people in this area can nevertheless form an important part of a continued campaign to lobby government for change.

What is unique about the explanation of the human rights instruments in this book is the additional, interpretative component which outlines the limits and possibilities of the United Nations to bring about change without reference to complex theory of international politics. Accounts of successful cases brought

against Australia through the complaints mechanism, for example, are presented in the context of the limited capacity of the United Nations to force governments to comply with international law. Each element of the human rights system that can exercise influence is also presented with a candid reference to the likely impact of participation.

Another distinctive feature of the book is the attention paid to the important but often overlooked instrumentation of the Charter-based system whereby individuals and groups can exercise influence within the United Nations.

Part 3 combines details about the various Charter-based bodies with useful information concerning the scope for participation at each of these forums. Here, particular emphasis is placed on the most important bodies for indigenous people – the Commission on Human Rights Working Group on Indigenous Populations, and the Commission on Human Rights Working Group on the draft Declaration on the rights of indigenous peoples.

The Charter-based bodies operate mainly through conferences and meetings at which representatives of government and non-government organisations can advocate their positions and register their concerns. Because of this, the author incorporates key information about the form each forum takes, the purpose of the body, and the likely impact of participation.

In Part 4, the author completes the guide through the United Nations systems with an overview of the impact the United Nations has had on the development of Australian law, and this country's approach to the promotion of human rights internationally. In the context of Australia's human rights record, the author expresses concern over disparity between what Australia's leaders proclaim, and what is actually implemented in practice. The author maintains that, whereas Australia has in place human rights as an integral part of legislation, and has been an active player in trying to strengthen human rights internationally, there are still things that need to be done to promote better observance of human rights in relation to indigenous people in this country.



International human rights law has unquestionably promoted "the great principles of justice", social progress and better standards of life in Australia by shifting the protection of human rights away from the sole concern of individual governments and towards a consensus drawn from a community of nations. *Getting Government to Listen* helps all of us to understand the role of the United Nations in promoting respect for human rights and fundamental freedom. Sadly, the very existence of the book reflects Australia's past failings and imparts a sense of foreboding about possible attitudes and future legislation in relation to the treatment of indigenous Australians.

This informative and timely book is essential reading for anyone with an interest in the structure and function of the United Nations, specifically those who wish to know how to use the international human rights system effectively. While it is intimately related to the politics of race relations in Australia, its underlying theme about the place of human rights in the world, and the way that we should be changing the world to accord indigenous people their human rights in the very broadest sense, not simply in a narrow sense, is an important message for all Australians.

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