



UNIVERSITAS INDONESIA



UNIVERSITY OF
SOUTH CAROLINA

INT'L ENVIRONMENTAL & MARINE RESOURCE LAW CLASS SEVEN, PART TWO INDIGENOUS RIGHTS & RESOURCE LAW

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INDIGENOUS RIGHTS

Who are indigenous peoples?

What are so-called indigenous rights in international law, and how are legal claims phrased?

What industries are typically affected, and where are they located?

INDIGENOUS RIGHTS

What is the practical effect of indigenous rights claims in the international environmental law area?

Who brings the indigenous rights claims? Why?

What is the claimed international/national law source for such indigenous rights claims (treaty, customary law, general principles, etc.)?

INDIGENOUS RIGHTS

EXAMPLE:

Alien Tort Claims Act as jurisdictional approach

Freeport-McMoran Complaint with two relevant claimed causes of action (environment & cultural genocide)

INDIGENOUS RIGHTS

How do the Freeport environmental law violation claims read?

Are the claims made under domestic or international law?

Source of law?

Correctness of the view of applicable law?

INDIGENOUS RIGHTS

What does the Freeport claim about cultural genocide concern?

How does it differ from the preceding environmental law claim?

Source of law?

Correctness of the view of applicable law?

WHALE HUNTING

Eskimo Whale Hunting as potential marine resource indigenous rights claim

Does the Eskimo Whale Hunting claim look like the Freeport McMoran claims?

Source of law?

INDONESIAN MARINE RESOURCES INDIGENOUS RIGHTS CLAIMS?

What are the potential indigenous rights claims in Indonesian marine resource area, and are they domestic or international law claims?

How might the Indonesian government view such indigenous rights claims in international versus domestic law? Why?

Who are the claims really against, the Indonesian government, against foreigners only, against other Indonesians?

ESKIMO WHALE HUNTING

Please elucidate, Eskimo whale hunting is to traditional Eskimo cultural practices

As

Indonesian marriage ceremonies are to traditional Indonesian marriage practices

ESKIMO WHALE HUNTING

What is the international law treatment of whaling generally?

What kind of regulatory regime is involved, and how does it operate? Who participates?

How are indigenous claims asserted? By whom?

Are indigenous rights (Eskimo) claims more or less authentic than cultural claims, such as Japan may make that whale meat is part of the traditional Japanese diet?

ESKIMO WHALE HUNTING

What happened in the Eskimo Whale Hunting case study?

INDIGENOUS RIGHTS

What is the connection between biodiversity claims and indigenous rights?

BIODIVERSITY CONVENTION

Article 8(j):

“Each contracting party shall, as far as possible and as appropriate...[s]ubject to national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge innovations and practices.”

BIODIVERSITY CONVENTION

Who owns the genetic material in question under the Biodiversity Convention?

Who is Article 8(j) directed against?

Does this have anything to do with indigenous rights?

INDIGENOUS RIGHTS

Where do indigenous rights fit into marine resource law and international environmental law more generally?

Sources of law question again from technical perspective?

Raising indigenous rights question from a technical perspective?

Distinctive aspects of Indonesian situation?