



Libraries and Learning Services

University of Auckland Research Repository, ResearchSpace

Suggested Reference

Charters, C. W. N. (2014). The legitimacy of indigenous peoples' norms under international law. In Politics and International Relations Seminar, University of Auckland. Federation of Graduate Women's Suite, Old Government House, Auckland, NZ.

Copyright

Items in ResearchSpace are protected by copyright, with all rights reserved, unless otherwise indicated. Previously published items are made available in accordance with the copyright policy of the publisher.

For more information, see [General copyright](#).

The legitimacy of indigenous peoples' norms under international law

Dr Claire Charters



Overview

- Legitimacy:
 - “the quality in international norms that leads states to internalise the pull to obey them even when it might not be in their interest to do so and despite the lack of an international sovereign or sanction”
 - Procedural
 - Substantive
 - Engagement (differs from scholarship usually associated with legitimacy – closely related to social movement theory, constructivism etc)



Procedural legitimacy

- Deficits:
 - Proliferation of norm makers: unsettled, unclear, unordered process
 - Unauthorised extension of mandates leads to institutional competition
 - Changes in process mid way through law making
- Positives
 - Dialogue between norm makers
 - Reflexive policing of mandate boundaries
 - Processes remain robust
 - Venues to respond to indigenous peoples' issues
- Participation of indigenous peoples



Substance legitimacy

- Deficits
 - Indeterminacy
 - Incoherence
- Positives
 - Greater fairness
 - Dialogue facilitating greater determinacy
 - Indeterminacy permits greater flexibility in norm application



Engagement legitimacy

- States engagement with norm infrastructure leads to internalisation of the norm, even involuntarily
- Norm infrastructure includes international institutional framework, civil society, courts and commissions
- Case study: New Zealand's change of position on the Declaration on the Rights of Indigenous Peoples