

The Revolving Door Between the U.S. Legal Academy and the UN

by Julian Ku

May 13th, 2012

Walter Olson at Cato has a sharp observation [here](#) at the Daily Caller, on the revolving door between U.S. international law professoriate and various UN bodies.

Mr. Anaya, the U.N. rapporteur, was sent on his mission by none other than the U.N. Human Rights Council, notorious, as Doug Bandow has [written](#), for being “dominated by human rights abusers and their enablers.” ([Fidel Castro has a seat](#), as did Libyan dictator Moammar Qaddafi until his overthrow.) What you wouldn’t have realized from [most](#) of the news reports — an exception was [Claudia Rosett’s](#) — is that Anaya is not just parachuting in from some U.N. redoubt in Geneva or the Hague. He’s an American law professor based at the [University of Arizona](#) and active in particular in the school’s [Indigenous People’s Law and Policy Program](#), which he [drew on to support](#) his U.N. probe (he’s due to report to the Council itself this fall).

There’s a wider story here, which I told at some length in [Chapters 10 and 11](#) of my book “Schools for Misrule” last year. In the 1970s, with inspiration from the law schools and backing from the Ford Foundation and other liberal funders, some advocates began a sustained effort to [resuscitate old Indian land claims](#) (often in the process casting a cloud on the title of European-descended occupants who have farmed or ranched the land for one or even two centuries). After years of havoc and uncertainty of rights, the U.S. courts in the past decade came down against the tribal claims, ruling that they are grounded neither in the Constitution nor in applicable statutory law. As it became clear that the land-claim litigation would fail in U.S. courts, advocates launched a new strategy of involving the U.N. system and other international organizations on the grounds that to deny the tribes the right to reoccupy old lands would be to violate their international human rights. Very helpful in this process has been the advance of a document called the U.N. Declaration on the Rights of Indigenous Persons (UNDRIP), which the U.S. long opposed and then, in an Obama turnabout last year, [decided to support](#).

I think Olson is on to something here. First, he is undoubtedly right that various UN human rights bodies have become a court of last resort for advocates who have failed in domestic U.S. proceedings. (See, e.g., the NAACP's failed effort to block voter ID laws). Second, he is also right that U.S. law professors, and indeed other law professors, often have a deeply intertwined relationship with UN Bodies, like the UN Human Rights Commission, that appoint them to various positions. I'm not sure there is anything nefarious about this, but I think he is right that the standards for recognizing particular legal claims are different, and much more generous, in an international forum than in a domestic one. And that the aura of international objectivity that some might accord to a UN probe is largely undeserved.