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Short Papers Prepared for the Law Reform Commission While in Australia

Stephen Conn

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Summary

These four brief papers were submitted for the consideration of the Law Review Commission of Australia (later the Australian Law Review Commission) in its inquiry about whether it would be desirable to apply, either in whole or in part, Aboriginal customary law to Aboriginal and Torres Strait Islander people. The author presents suggestions and information based on his research on traditional law ways among Alaska Native peoples and the relationship between indigenous law and the western law system in Alaska.

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Additional information

The Australian Law Reform Commission's inquiry into Aboriginal Customary Laws was conducted from 9 February 1977 to 12 June 1986. Its focus was on whether it would be desirable to apply, either in whole or in part, Aboriginal customary law to Aboriginal and Torres Strait Islander peoples — generally or in particular areas or to those living in tribal communities only.

The inquiry's findings were reported in:

Recognition of Aboriginal Customary Laws. ALRC Report 31. Australian Law Reform Commission, 11 Jun 1986.

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Short papers prepared for the Law Reform Commission while in Australia:

1. Some Preliminary Points -- and Suggestions.
2. The Mediation or Arbitration Panel and the Coombs Paper.
3. Further Inquiry -- On Interface, Fringe Camps and Outback Centres (Decentralized Communities)
4. Descriptive Outline of Materials Left for Use by the Commission Staff on Customary Law Reference.

Some Preliminary Points -- and Suggestions

Although the debates over the appropriate standing of Aboriginals under Australian law and optional forums are at least 50 years old, and perhaps 150 years old, the context of those debates is new. The national intent to vest Aboriginal people with the rights under law due all citizens, the move to allow for an integrationist rather than an assimilationist approach in government programming and, most importantly, the press for land claims are new contextual matters of extreme importance to the role of customary law.

We cannot tell at this point whether the Commonwealth will take special initiatives to empower Aboriginal minorities through a treaty or otherwise under a broad mandate of political self-determination.

We also cannot free or isolate reforms from historical and cultural perceptions arising from the immediate and longer term experience of European majorities and Aboriginal minorities.

Thus, the suggestions I would advocate would serve to improve the capacities of legal agencies and consumers of law.

1. To make intelligent choices as matters of cultural pluralism arise in the legal sphere.

2. To address problems which are new to the experience of both groups.

3. To allow for continued evolution of the Western system as well as the process of customary law in traditional, land-based settings and in new settings (e.g., fringe camps and outback settlements as well as former reserves, missions and settlements)

SUGGESTIONS

1. Community and high school legal education. Bicultural legal education deals comparatively with law ways and law as each addresses problems in the community. The student is prepared to make choices within a pluralistic legal environment.

   Delivery of materials varies as to method and delivering person.

   Field officers for Aboriginal Legal Aid and for other legal agencies should carry out this task in anticipation of legal problems as well as after legal problems arise.

   Video tape, posters, role play, cassettes etc. have all been used to good advantage.

   I prepared two distinct sets of texts, one for the Navajo and another for the Eskimo and will shortly embark on a project for Chicano (Latin) students and adults in the United States.

   ~~You have~~ attorneys, social scientists and educators who could take on this project from the standpoint of material development and field testing.

   Legal education is no panacea, but legal information does empower persons relatively especially when they deal out of one legal tradition with another.

2. Interpreters. Gloria Brennan deals with the subject of interpreters as culture brokers in her July 1979 research report.

   Interpretation, of course, means more than translation. It often implies detailed explanation of Anglo-Australian legal concepts and some evaluation of the root meaning of lay legal vocabulary in Aboriginal languages so as to probe for basic misunderstandings.

   Most paralegals are hired as interpreters but expand upon this to take on other activities.

   The Canadians have trained a cadre of Inuit interpreters for government work going so far as to have them visit the United Nations. Working legal vocabularies were developed in Alaska along with jury instructions in native languages.

   Interpreters are the first of a number of Aboriginal persons whose position in the legal process could allow for brokering of persons from and to Australian legal process from and to the customary law process.

3. Prisoner's friend. The Brilliant Supreme Court Opinion which gave rise to the concept of prisoner's friend provides an opportunity to bridge cultural barriers and improve communication between police and their clients. I would suggest that a team of prisoner's friends be created to be deployed when such persons are mandated by the high court's rules. These persons would be paralegals who could provide preliminary explanations about the Western process in terms comprehensible to victims, witnesses and arrested persons. By this I do not mean advice appropriate to solicitors.

   These paraprofessional prisoner's friends would provide liaison to relevant agencies and could, in fact, monitor use of protective custody by following that process on a regular basis.

   I suspect that these persons could develop a communications network to fringe camps so that fringe camps could avail themselves of police assistance and relationships could be improved.

   I would prefer to see these persons attached to neither the police or to legal aid but to some third Aboriginal organization.

4. Settlement paralegal. We are developing this role in Alaska. This person could be called an access person in ~~bureaucratic jargon~~ (Dianne Bell). Prepared sufficiently to understand various legal processes including criminal law, civil and administrative, these persons would channel matters to various legal bureaucracies and would be employees of the settlement council.

5. Field officers for Aboriginal legal aid are a potentially useful resource as investigators of social facts as well as legal facts and as legal culture brokers. Only Western Australia Legal Aid has a trainer at present.

   There is a vast literature on paralegals for public and private law work, training formats, training materials, etc. which I draw upon when I design paralegal training programs. There is no need to reinvent the wheel, although the wheel for specific kinds of paralegals must be well thought out for trainees, their communities and especially (and I cannot emphasize this point sufficiently) for the professionals with whom the paralegals will work in order to insire their co-operation in design and implementation of the program. The most important training occurs on-the-job and as follow-through to off-the-job training.

   The police aid scheme has proven to be very unsatisfactory, I suspect, because the bush tracker image is hard to remove from a new program.

The field officer concept needs substantial improvement in the realm of legal aid and then expansion to the office of the Crown Solicitor and the realm of adult and juvenile corrections.

6. To formalize and elevate to a public level customary process, I recommend:

(1) Hiring and training of local JPs to hear cases independent of the magistrate, subject to normal and new checks built into the territorial system. These checks would include:

a. A defendant has a right to a hearing before a lawyer-magistrate if he or she chooses.

b. Some ongoing review of records of JP hearings.

c. Perhaps, that JPs will only accept guilty pleas until trained sufficiently to handle cases where not guilty pleas are entered.

As in all common law systems, where either JPs or police who cannot perform because of familial relationships, they should be allowed to pass those matters to non-affected judicial or police officers. I am persuaded that this oft-expressed problem of conflict between official duty and family duty can be dealt with on a case-by-case basis.

The model I am suggesting is not a culture court where custom is codified. It is not the Queensland model tied to the local Native Administrator. It is not the New Guinea model.

This approach is also not that of Western Australia or the lay assessor approach where Aboriginals have some advisory role in sentencing. When bush camp, spearing, beatings, etc. are suggested by lay assessors, they are no longer elements of the Aboriginal customary process but are, in fact, fixtures of the Australian process which pertains to Aboriginals. That is to say, they lose their meaning as integrated and logical extensions of the customary law process.

(2) Hiring and training of settlement police, subject to hire and fire by the council. It may be that the model drawn upon for this in Australia should be a non-public police model or even an historical English model (e.g. watch and ward).

(3) A framework of arbitration or mediation that is voluntary for disputants would contain customary legal process and would interact with the Western judicial and police institutions in the settlement. The membership of this entity could vary as to the problem addressed. The problems addressed could be both traditional and facets of new Western problems. Thus, settlement policies regarding juveniles or alcohol could be developed in this context and have some bearing upon the role of courts or police, both settlement courts and police and those outside of the settlement who intervene upon request of the council.

Again, models about for this approach from the recent citizen dispute settlement centers in Australia and America to village conciliation boards developed in Alaska and juvenile and alcohol committees in Canadian Eskimo and Indian settlements.

I should point out that only where such entities are tied to a settlement community and legal system do referrals of cases come directly from community members. In Urban Centers, Citizen Dispute Centers receive the lion's share of matters from other bureaucracies.

The settlement of justice system I envision would interact on many problem areas in many ways allowing for dynamic use and development of customary approaches as well as for improved quality of Western legal assistance.

One cannot sever customary legal development from Western legal process. The first will develop or will wither in the context of the experienced Western legal process. As it is experienced.

Local judicial and policy authority, tied to the larger system, will provide some buffering of the external process, some brokering of matters Western and materials cultural, and allow for some autonomy and discretion for the customary forum.

Both customary and Western law will then be allowed to co-exist and work collaboratively to discover and experiment with solutions to new and old problems that now concern Australians, Aboriginal and non-Aboriginal.

Further suggestions

*Juvenile law-

Serious effort at development of community based corrections with paymebt to kin who supervise youthful offenders (continuation of Galvin experiment).

Reinforcement of kin lines- authority structure

* Corrections in general

No corrections person is given complete indication of what happened to everyone.

Rules on returning persons to home community are ill conceived.

An internal rule against giving release dates.

Reluctance to use kin as supervising agents, reliance on police aides and community council aides.

There are no requests for pre-sentence reports from prosecution or police.

* Parole Board perhaps needs more direct contact with communities.

Some legislative models which might have a use for you.

Indian Reogranization Act: the governmental aside of the act.

Indian Child Welfare Act- Use of Community Representatives and Standing provided for "Indian Guardians"

The mediation or arbitration panel and the Coombs paper

There is much in the H.C. Coombs paper, Aboriginal Control of Law and Order - Yirrkala that suggests to me that development of the conciliation board experiment in Alaska may have relevance to the Law Reform Commission reference on customary law.

There are for your inspection several articles on this subject.

The environment we confronted -

Alaska native villages are communities within the state law jurisdiction. Hence, Eskimos are subject to state law and village ordinances compatible with state law.

For a half century and longer Eskimo villages developed within village councils (introduced by teacher-missionaries and others) a process of dispute adjustment reflective of the approach used by social groups before justice was institutionalized.

Although fines and other sanctions were the official result of councils and although some villages had printed ordinances, neither these rules nor western sanctions were critical to the council's work.

The councils were consensus seeking bodies. Their concern was repair of social relationships and suspension of conduct (whether violative of rules officially articulated or not) that if continued, would result in continuing violence or severed ongoing relationships.

The style of councils was non-adversarial. Complaints would be informally lodged. Persons were invited to attend. (Police might convey these invitations, but did not make arrests.)

Composition of the council could vary depending on the issue. Contrition was expected of persons before the council, but each person was informed of the way his behaviour challenged the normative village consensus. Several chances to change one's behaviour were offered.

Only prolonged misbehaviour was cast in Western legal terms and reported to outside police.

Rationale for the project

In the early 1970s the state introduced magistrates (JPs) to some villages. In these villages, village councils usually went out of business, not because the magistrate employed the same approach or had the same concerns, but because he or she 'wore the black robe'.

We pointed out to policy makers that the procedural assumptions of judicial activity were often in direct contradiction to those of the council. For example, persons brought before the council were expected to demonstrate acceptance of their guilt as a preliminary matter in order that the deliberative process aimed at reintegration of the offender back into the community could occur. Or, the process of filing a complaint required that persons make over public statements and cast complaints in common law terms. Thus, many matters of importance were not treated by the court.

In fact, although we were correct in our assessment of the fundamental stylistic difference between councils and courts and its influence upon problems resolved by each, there was an evident need for a fining and jailing entity in small villages to deal with crimes of violence related to alcohol, as well as councils.

The state of Alaska was not prepared to authenticate councils as legal forums. Also, councils which had attempted to act as extra-legal police courts, found that social pressure alone did not support collection of fines as it did reform of behaviour.

Magistrates in villages realized that many matters brought before them could not be treated well as common law disputes and requested council involvement. That is, they were prepared to divert cases to councils. However, councils were unsure of their authority, increasingly involved in other governmental matters, and not prepared to operate as institutions parallel to the court without some explicit authorization to do so.

Mediation panels

My colleagues and I then set about constructing a framework of authority for council-like dispute processing. We called it 'conciliation board'. Eskimos called it 'problem board'.

We looked for legal hooks to hang the concept upon. State statutes which allowed victims and offenders of misdemeanours to effect compromises and to present these to a judge for dismissal were used as a basis for development of the boards. So, also, were rules which allowed magistrates appointed as special masters of superior (your supreme) courts to draw upon members of the community in 'informal disposition' of juvenile offenders.

We did not use aribtration statutes, primarily because their wording suggested that small claims necessitated either magistrates or attorneys as arbitrators.

As the articles we wrote at the time indicate, we had anticipated that the conciliation board would receive matters of an interpersonal nature after an arrest and initial presentation to magistrate's court. Compromises would be reached and presented to the court for either reinforcement through sentences or as statutory basis for dismissal of the original charge.

In fact, what occurred was different. While the court and police did divert some kinds of cases to conciliation boards for 'counselling', many other matters were brought directly to the board by the public.

As our evaluation indicates, these matters were often related to alcohol use and its impact on relationships. Board deliberations dealt with matters whose nature was often pre-legal in Western terms, non-legal or sub-legal, but which if left untreated were (by community perception) likely to result in violence, arrests and intervention of the criminal justice system.

As a price of official recognition, conciliation boards promised not to fine or jail persons. Thus, boards were denied powers which councils used occasionally and symbolically where no judicial presence was available to impose the sanction.

Conciliation boards operated (and operate) in association with Western policing and judging. These devices occupy the same social field. Each applies remedies and, more fundamentally, approaches to problems which are different and appropriate to different kinds of problems.

The state courts system experimented with six boards. After an evaluation the court system ended its association with boards remarking that boards were not substitutes for courts. Of course, as board members and sympathetic rural law officials remarked, boards were never intended to be substitutes for courts.

The concerns of the boards were not limited to particular rule violations but were entirely open ended. The boards were not concerned with absolute rectification of problems but, instead, with 'remaking the social balance' as Dr Laura Nader characterizes the work of typical village mediators.

The boards in fact continued in operation even after official recognition was removed. A field study of the Alaska Federation of Natives applauded the concept, but recommended that it include provision for imposition of civil fines under rules of administrative procedure where no court or police were available to villagers and that, in those cases, an ultimate power to arbitrate be afforded the board.

Thus, the development of legal problems in Eskimo villages came to require several different kinds of reliable legal involvement:

1. A framework for voluntary dispute adjustment, authorized by state law, but more importantly reinforced by social pressure with an open-ended agenda though with some limits on sanctions. No body of written traditional rules governed this process and, to my mind, this was an advantage. Inquiries were prolonged and personalized and capable of addressing matters with direct traditional implications as well as problems which had their basis in the impact of new problems on traditional relationships. Board members (except for a secretary) were not necessarily literate in English. Native language could be used. Meetings could be private or public.

2. Also present in the village or accessible to the board was an entity capable of meting out sanctions of jail terms and fines. Usually, it was the court but in some cases the older village council now more directly involved in guilt finding and sanctions became 'courtlike'.

3. Also present was a village policeman who made arrests for the court but who also channeled matters to the board and, in his own right, controlled drunks.

Implications for the Coombs proposal

The focus upon formalization of customary law should be upon the process of dispute adjustment and creation of a framework to contain that process. In order to allow that process to address both new and old matters on terms acceptible to persons who voluntarily (in a legal sense) submit to the process, it should be cast in terms of private mediation or arbitration.

A separate judicial authority should be prepared to deal with rule violations, rules drawn either directly from territorial law or special rules reflective of cultural differences. This authority should have the power to punish or, alternatively, to order restitutive or remunerative results.

Policing activities which deal with immediate and daily incidents of alcohol related conduct should also exist.

Dr Coombs voices reservations about independent allocation of justices of the peace who may develop their own authority base and cut across traditional authority.

The Alaskan experience and field studies in legal anthropology in many countries suggest that multiple forums which approach differing facets of problems in differing ways can co-exist within the same legal environment. Police, courts and forums can serve complementary purposes and serve such purposes as consumers of law determine what each does and does not accomplish.

It appears that each legal instrument has its own capacities and its own limitations. Thus, village councils have proven to be weak police courts. Magistrates have proven to be limited as conciliators, in part because of their training but also because they do not represent the corporate interests of the community, the village consensus, and are bound by procedures for receiving complaints and by rules for assessing the significance of deviance.

Police are best delegated responsibility for intervention in violent situations as they occur. But in villages they usually seek reinforcement of boards, councils or courts when they move beyond these initial acts.

The further implication of this is that law reformers cannot address the dimension of one aspect of a legal environment without due consideration of matters which require other remedies or approaches.

In fact, problems in relationships are likely to have aspects which are the appropriate concern of differing legal agents. For example, B a violent drinker, receives grog from A. B jr. threatens to kill himself. The conciliation board focuses upon A's conduct. A policeman focuses on B when drunk. The court fines B. B jr's problem is solved by the interaction of legal entities.

The court did not act on behalf of the council; the council or board did not (and perhaps should not) compete with the court. Each contributes to the resolution of problems in its own way.

Thus, I advocate local appointees as judges and police because it is more likely that local persons can perceive and act within a legal environment that contains a mechanism for dealing with matters in customary legal ways. Complementation and not usurpation of custom is more likely to result.

Furthermore, local JPs and police provide a buffer to ensure that constant overriding outside intervention will not undercut the role of customary process. Where Western intervention will occur, it will be 'brokered' by persons equipped to read out and react to Western and non-Western implications of disputes, by persons as willing to pass back to a customary board matters best dealt with within its purview as to assume responsibility for matters best treated by judicial officers or police.

Further inquiry - on interface, fringe camps and outback centres
(decentralized communities)

The challenges for Western and Aboriginal law of most difficulty and most significance occur in two areas: the fringe camps and in the decentralized homeland centres.

Fringe camps

It is not likely that settlements within predominantly European townships will disappear. I suspect that they will grow and become permanent in the manner of so-called marginal communities in many third-world countries.

It appears that present government policy focuses upon residents of fringe camps who come into the urban center and by their presence act or appear in ways that do not befit the 'image' of the clean, prosperious, well-behaved town that Australians wish to impart to their communities.

Less efficient than 'street cleaning' efforts of local police are responses to requests for legal assistance and communication generally between legal agents and fringe camp residents.

Drawing upon my own residence in urban squatter colonies in various Brazilian cities, let me suggest that some connection between social control agents in the camps and outside must be established. The relationship need not be official, but should be reliable. That is, agents of possible social control (be they councils or any other political entity charged with some significant developmental activity in the camp or camps) should be empowered officially or unofficially as primary communicants with municipal police. If this exclusive or near-exclusive authority is established, then local agents can employ this derived power to deal with other problems which may or may not require notification of police.

Decentralized communities

A real threat exists that direct physical implantation of western law enforcement might follow placement of a nuclear European population in decentralized communities. It is in part this overinvolvement in settlements that migrants back to traditional and non-traditional settlements appear to be escaping.

Government policy should be extremely cautious in the level of its penetration of these decentralized centres with Western policing and judging.

The insights of Aboriginal JPs and police into involvement in outcamps along with those of the settlement council and outcamp residents would form the best guides for territorial bureaucracies.

I am concerned that, introduction of a European presence and vast disparities in property of staff and residents will result in Western crimes and requests for assistance by staff, requests which wil receive a hearing that overshadows views of other residents.

In sum, selective intervention in fringe camps and in outcentres will probably be necessary. There is probably a need for more selective intervention in fringe camps at present. Special caution will be required in outcentres not to overturn new experiments in adaptation of Aboriginal law to what are essentially new kinds of traditional living arrangements set within the modern world.

Both fringe camps and out centres will require that some reliable form of interface between Aboriginal communities and Australian legal agents bne established and adhered to.

To: Bruce DeBelle, Commissioner, Law Reform Commission

From: Stephen Conn, Professor of Justice

Subject: Descriptive outline of materials left for use by the Commission staff on customary law reference.

1. Donna Kydd, Towards a Legal Education and Information Program for Native People

This Canadian document deals with development of community legal education for indigenous peoples. It includes an annotated bibliography of Canadian and American materials. Many published and unpublished materials produced by me in association with A. Hippler as well as legal education materials produced for the Navajo (D. Vicenti) and Eskimo (Barthel first author listed) are described in annotated form.

On rural justice including work of councils and conciliation boards in Alaska and byplay with Western judges, see pp. 41, 49-52. On Navajo legal education, see p. 63. On Eskimo materials, ee p59.

2. Paper prepared fpr Greenland conference on rura criminal justice includes general description of the Alaska rura justice system as compared with Greenland including description of role of customary legal institutions. Title- Small village law systems-their place as part of the whole.

3. Ethos, "The Changing Legal Culture of North Alaska Eskimo" with A. Hippler. pp. 178- 185 deals with the institutionalization of Eskimo law ways within the council and the impact of introduction of the magistrate. In this and other articles, please skip descriptions of child rearing and Eskimo cultural personality. These were professor Hippler's contribution and are viewed with some skepticism by fellow anthropologists. Many variables shape law ways.

4. "Conciliation and Arbitration in th Native Village and Urban Ghetto," Judicature, compares our conciliation board project at the stage of its definition with ongoing projects in urban American from the standpoint of process, reasons for use of the forum, kinds of problems and kinds of participants.

5. "The Village Council and Its Offspring: A Reform For Bush Justice,"

(continued p. 2)

UCLA-Alaska Law Review. This article describes how village councils process evolved into the conciliation board project, how original expectations and the differing uses to which the board was put by Eskimo people. Descriptions of cases heard by the board are offered. Again skip pp24-30, except for footnotes, since this deals with Hippler's cultural personality "gloss" on the materials.

I have other unpublished materials on the conciliation board project which describe cases heard including an evaluation of the boroader project conducted for the court system that is case-oriented. If you wish, I will copy and send this material to you when I return to Alaska.

6. My colleague, John Angell, worked with state troopers and native organziations on a 55 village survey of criminal law problems and problems of insufficient legal resources to meet alcohol-related and juvenile problems.

   A short version of his report is Crime and Justice System in Rural Alaska Villages. Although the survey was titled toward those villages where state-appointed magistrates are in residence, he found that 24 percent of the cases handled took place in extra-legal councils, problem boards and other forums other than before the state courts (pp.26-28).

7. Alaska Village Justice: An exploratory study by Angell is the complete survey. It demonstrates that a combination of professional law services and resources and customary mechanisisms are now needed in small Alaska villages. Alaska's indifference to rural legal problems, while providing an opening for experimentation with new or customary approaches, now resulted in an abundance of problems which are outside the parameters of customary or local resources and, in fact, threaten the integrity of the local process. As I have noted in our discussions, both modern and villages approaches ~~are~~ have a place in rural justice schemes. Professional legal agents must offer reliable reinforcement of local resources or both systems will fail to deliver adequate services. Creation of an appropriate balance and working relationship is the nub of our problem and yours.

8. Alaska Village Police Trainino by Angell. Angell has reviewed village police (constable) training by the Alaska State Troopers and other agencies and offers recommendations for improvement(pp.6[illegible]-73) which Northern Territory Police would be well-advised to review.

When professional police academides offer training to village police, they must be prepared to develop training relevant to tasks undertaken at the village level. Funding for police must be sufficient.

Over the years,we have suggested that several villages be linked together for police operations in "clusters" which reflect other natural social exchanges. This concept is now being pursued in rural Alaska within the framework of our concept of local government, the organized borough. There was some early resistence to this concept by the state police since that agency competes for the policing dollar from the state with borough police.

The state troopers have also borrowed the concept of trooper constable a kind of sub-rank of trooper who is stationed in rural areas only, from the RCMP. As I stated in the meeting, the trooper constable who is stationed by himself in a settlement or region comes to perform the same work as the trooper. Some problems arise, however, when constables and troopers (or RCMPs) work together. The constable tends to be treated as a clerk.

Since the state troopers require transfers to urban areas and supervisory responsibilities as requirements for advancement in one's career, trooper constables are often denied advancement opportunities.

Career systems must give due emphasis to foreign language skills and to rural justice skills if persons who are very good at rural legal work are to make their entire careers in these areas and are to be afforded suitable advancement. This is a personnel problem that has an impact on every area of law as it pertains to rural areas and the recruitment and retention of rural persons for law jobs.

9. The weakest component of our system is that of juvenile and adult corrections in rural Alaska. The absence of a suitable network of correctional personnel in rural Alaska has resulted in juvenile and adult offenders being drawn into distant and inappropriate urban institution

as well as allegations that judges sentence Alaska natives to jail for crimes for which whites receive probation.

Ironically, this is an area where paracorrectional persons and traditional institutions can offer special assistance.

Alaska has failed to adequately pursue ~~them~~ these alternatives or to provide adequate holding facilities or institutions in rural Alaska.

Canada has done a better job in this regard. An open-door prison for ~~s~~rious young adult offenders in Forbisher bay, one that offers programs which prepare offenders for the work-world and at the same time develop their skills as hunters and fishermen, has existed at Frobisher Bay for more than ~~g~~five years. In addition, the RCMP have encouraged the develop of juvenile committees in the settlements.

Roger Endell, our corrections specialist, has drafted several proposals for reform of rural corrections which might be valuable to appropriate Australian dedepartments.

Included here are:

9A. Rural Corrections Plan (A Summary for Concerned Citizens)

9B. Rural Corrections- Overview

9C. Alaska Corrections Master Plan- A Preliminary Draft Summary.

10. "Mid-Passage- The Navajo Tribe and Its First Legal Revolution," American Indian Law Review. You have observed the Navajo legal system and its deployment of paralegals.

This article traces the consideration[s] of the tribal council and tribal attorneys as they set about creating an official tribal legal process. The Navajo people had a fully developed customary law system well documented by scholars. Yet the Navajo legal revolution envolved a pragmatic assessment of the extent and means by which an official law system could overtly reflect the cultural system and relate to it and to Navajo consumers and their problems.

Attention was focused upon those persons who would take up Western law systems and not to formalization of customary norms and procedures.

What was created was a system capable of change over time and one which insured continuing legal autonomy vis a vis state legal jurisdictions.

The flavor and political realism of the Navajo experience may well carry over to your own deliberations on formalization of custom.

11. Traditional Athabascan Law Ways and Their Relationship to Contemporary Problems of "Bush Justice." This monograph and its approach might be useful for you. The Athabascan society is highly structured. Authority is determined by organization of the kin structure. In this regard, it is closer to the Aboriginal societies than the Eskimo society. We spell out (pp. 13-17) the problems which flow from this model of law ways for persons who confront the Western legal process. You will note many similarities to the Australia situation.

Such disjunctions then suggest a need for special re-education to Western law where persons confront it and also the relevance of allowing some continued use of customary law where, as here, traditional law and traditional kin structure with rights and duties flowing therefrom remains a dynamic force in Aboriginal societies.

12. Finally, Organizing Police For the Future: An Update of the Democratic Model by John Angell attempts to redefine the model for modern policing in terms of problems it has confronted in dealing with small, rural communities.

I will attempt to circulate the set of biculwtural legal education texts, Alaska Natives and the Law, to interested educators in Australia (for example, The Institute for Aboriginal Development). An article which I did for the American Bar Association is in press. I will send it along when it appears.