

## Sultan

### International Protection of Human Rights

Spring 1983

#### I. [50 Points]

The Convention for the Prevention and Punishment of the Crime of Genocide - known simply as the Genocide Convention - was approved by the General Assembly of the United Nations on December 9, 1948. The convention defines the crime of genocide as: Any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.

On March 1, 1983, after the repeated requests of the past five Presidents (Kennedy, Johnson, Nixon, Ford and Carter) and upon the advice of his "Reelection Policy Committee," President Reagan also requests the United States Senate to give its "Advice and Consent" to the Convention. Surprisingly, the necessary two-thirds vote is realized within a week, on March 8. On March 10 the President officially notifies the United Nations of this nation's ratification of the Convention.

On April 1, 1983, Teddy Means (TM) the President of the "Re member Wounded Knee Association of Native Americans" (RWK) brings suit in the United States District Court for South Dakota, in that State's Capital, Pierre (not far from Wounded Knee) , against the Secretary of the Interior, Mr. Watt, and his subordinate, John Runninghorse (JR) , Commissioner for Indian Affairs, charging that the United States Government's policy with respect to Native Americans violates the third definition of the Genocide Convention ("c" above) , and requests (a) the immediate elimination of the "reservation system" and (b) one

hundred billion dollars in compensation to be distributed on an equitable basis to all living Native Americans.

A recent graduate of the University of Dayton Law School, and with a yen for the wide-open-spaces," you are presently employed as the Clerk to the Chief Judge of the U.S. District Court in South Dakota. Assuming that any procedural problems (Title 28, U.S. Code.) are all satisfied, he requests a memo reflecting the substantive law that he is bound to follow, if any, in this lawsuit.

## II. [50 Points]

Tim Connley (T.N.) a citizen of Dublin, Ireland (Free State) is picked up by the police while on a visit to his former "college chum" who now resides in Londonderry, Northern Ireland. T.M. is then detained for 48 hours, denied sleep, food or water, and constantly questioned regarding his ties to "those bloody terrorists" -- The Irish Republican Army. After convincing them of the truth -- that he has no connection with any such group -- T.M. is released. He immediately returns home to Dublin and seeks out his solicitor (lawyer) from whom he demands action against "the Brits" (British).

1. What alternative remedies are available and what procedures will they involve?
2. With respect to these alternative procedures, what are T.M. 's chances with respect to compensation? With respect to a condemnation of the United Kingdom?

END OF EXAMINATION