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Introduction

S. James Anaya

University of Colorado Law School

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INTRODUCTION

When the United Nations Human Rights Council appointed me in 2008 as its Special Rapporteur on the Rights of Indigenous Peoples, I did not fully comprehend what lay ahead for me. I understood from the beginning the nature of my task as set out in the formal Human Rights Council resolution defining the mandate of the position, one of several “special procedures” mandates of the Council established to address different topics of human rights concern.¹ With the world’s indigenous peoples as my particular focus, I was to receive and examine information from all relevant sources concerning their human rights conditions, evaluate the information in the light of applicable international standards, identify good practices as well as problem situations, and make recommendations.² But what I did not quite understand was how the work as Special Rapporteur might actually make a difference. As my work in the position progressed, I came to understand how it might—just might.

Over the course of two 3-year terms as Special Rapporteur, I would find myself in diverse settings—from meetings with indigenous leaders and community members in remote places to the offices of cabinet ministers and heads of state in national capitals—in countries across the globe. Appointed by the forty-seven U.N.-Member-State Members of the Human Rights Council with their own diverse political agendas, but charged with doing the work as an “independent expert” in pursuit of human rights, I struggled to find the objective voice of a neutral fact finder while trying to be both responsive to indigenous peoples’ concerns and capable of wielding influence over powerful actors.

I travelled to twenty-six countries to investigate and assess the overall human rights conditions of indigenous peoples there, or to visit sites to investigate particular cases of alleged violations of indigenous peoples’ rights, most often in association with mining, oil extraction, or hydroelectric projects within indigenous traditional territories. I examined and engaged with governments on dozens of other cases through written communications, without the benefit of an on-site visit, and on occasion worked with indigenous peoples and governments to build forward-looking policy and legal reforms. Finally, I conducted studies on cross-cutting issues of concern to indigenous peoples on a global scale, including studies on the content and reach of the U.N. Declaration on the Rights of Indigenous Peoples, the duty of States to consult and obtain consent, corporate social responsibility, and extractive industries.³

Through all this work, I was confronted with entrenched problems and human suffering at the hands of powerful forces built upon historical colonial

¹ For a description of the system of special rapporteurs and other independent experts of the Human Rights Council, known as “special procedures,” see INTERNATIONAL HUMAN RIGHTS: PROBLEMS OF LAW, POLICY, AND PRACTICE 653-68 (Hurst Hannum, S. James Anaya & Dinah L. Shelton eds., 5th ed. 2011).

² See Human Rights Council Res. 15/14, A/HRC/RES/15/14 (Oct. 6, 2010); Human Rights Council Res. 24/9, A/HRC/RES/24/9 (Oct. 8, 2013).

³ My reports to the Human Rights Council reflecting this work can be found at <http://unsr.jamesanaya.org>.

patterns. I was constantly reminded that change does not come easy in the face of such forces and that the authority I had as Special Rapporteur was a complex tool with limited reach. But I found that, at a minimum, I could help amplify the voices of indigenous peoples and shed light on important issues, through my interactions with government officials, my reports to the Human Rights Council, and my public statements. And every now and then, I could perceive and help advance positive change. By and large, however, I see the body of my work as Special Rapporteur as representing how much there remains to do in the work of human rights, especially when it comes to indigenous peoples.

I am honored that the *Journal* has chosen to feature a sampling of my work as Special Rapporteur. Along with the full texts of five of my reports to the Human Rights Council, this issue of the *Journal* includes commentaries by distinguished colleagues and friends—Claire Charters, Andrew Erueti, Angela Riley, and Gina Cosentino. These contributions provide in their own right valuable insights that build upon a growing body of scholarly inquiry into the human rights concerns of indigenous peoples. I am grateful to the contributors and to the *Journal* staff for its work in putting together this issue.

S. James Anaya

Regents' and James J. Lenoir Professor of Human Rights Law and Policy,
University of Arizona James E. Rogers College of Law