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**Statement of the Special Rapporteur on the situation of human rights and
fundamental freedoms of indigenous people, S. James Anaya**

**Expert Mechanism of the Human Rights Council on the
Rights of Indigenous Peoples**

1 October 2008

Mr. Chairperson,
Distinguished members of the Expert Mechanism on the Rights of Indigenous
Peoples,
Delegates of Member States,
representatives of indigenous peoples and organizations,
Ladies and gentlemen,

Introduction

I want to warmly congratulate you Mr. Henricksen for your election as the first chairperson of the newly established Expert Mechanism on the Rights of Indigenous Peoples. You have a long and distinguished record of service to your own people, the Saami people, and also to indigenous peoples worldwide. I cannot help but recall, with great respect and admiration, your important contribution to the negotiations leading to the adoption last year of the United Nations Declaration on the Rights of Indigenous Peoples. Your profound expertise on issues of concern to indigenous peoples will no doubt be a great asset to the work of the Expert Mechanism.

Mr. Chairperson,

I am honored and very pleased to address the newly created Expert Mechanism on the Rights of Indigenous Peoples on the occasion of its first meeting. This is an historic day, which marks another important milestone in the progress of the international indigenous rights movement and the beginning of another new chapter in that progress. I would like to start by acknowledging the indigenous representatives that advocated for the establishment of the Expert Mechanism, and the members of the Human Rights Council and other Member States that lent their crucial support. I would also like to extend my congratulations to the other experts appointed by the Council to be, along with you Mr. Chairperson, the first members of the Expert Mechanism. This is certainly a distinguished group, all of whom have played key roles in the indigenous rights' movement.

Mr. José Carlos Morales from Costa Rica is another long-time advocate for indigenous peoples, who is likewise to be commended for his role in the development of the United Nations Declaration and to helping to place indigenous peoples' concerns firmly on the international human rights agenda. Ms. Jannie Lasimbang from Malaysia has contributed extensively to training for indigenous peoples and to investigation and fact-finding to help improve the human rights conditions of indigenous peoples in Asia. Mr. José Mencio Molintas from the Philippines has distinguished himself for his groundbreaking legal work advocating for the rights of

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indigenous peoples, also in Asia. Ms. Catherine Odimba Kombe from the Democratic Republic of Congo has done notable research on the gender aspects of indigenous peoples' rights and should be commended for her work advocating for the rights of indigenous peoples in that country and beyond.

Mr. Chair,

Allow me to offer a few thoughts on the important role of the Expert Mechanism, and on my own work as Special Rapporteur in relation to that role. As you know, Mr. Chairperson, according to its mandate from the Human Rights Council, the Expert Mechanism is to provide the Council with thematic expertise on the rights of indigenous peoples, primarily through studies and research-based advice. The Council has specified, with good reason, that there should be coordination in the work of the Expert Mechanism in relation to both my work as Special Rapporteur and the work of the Permanent Forum on Indigenous Issues. Please know that I am committed to coordinating and collaborating closely with the Expert Mechanism as well as with the Permanent Forum, and to ensuring that our work is complementary and avoids unnecessary duplication. In order to achieve this, I will seek to maintain open and fluid lines of communication with the members of the Expert Mechanism and of the Permanent Forum. I look forward to the meeting planned for February, which will take place in Madrid with the support of the NGOs IWGIA and Almaciga, to further discuss methods of coordination.

While the Expert Mechanism and I as Special Rapporteur have different roles, a common purpose that joins us is to advance the human rights of indigenous peoples throughout the world. Clearly an important point of reference for pursuing this common purpose is the United Nations Declaration on the Rights of Indigenous Peoples. In my recent report to the Human Rights Council, I emphasized that the Declaration represents the global common understanding about the minimum content of the indigenous peoples' rights, building as it does upon a well-established body of international human rights law. It provides a normative framework for the work of all United Nations institutions and agencies in relation to indigenous issues. By article 42 of the Declaration itself, the General Assembly calls upon all United Nations bodies and agencies to "promote respect for and full application of the provisions of the Declaration." And in its resolution reauthorizing the mandate of the Special Rapporteur on indigenous peoples, the Human Rights Council directs the Special Rapporteur to promote the Declaration in carrying out the work of the mandate.

I expect that the Declaration will be an important focal point of the Expert Mechanism's research and studies on issues of concern to indigenous peoples, just as it is an important frame of reference for my work in examining the human rights situations of indigenous peoples and making relevant recommendations. I believe our respective work will be mutually reinforcing, to build understanding about the meaning and practical reach of the Declaration, and ultimately to advance its full implementation. We can never forget that the ultimate goal of the Declaration is not simply to see its words repeated in public utterances, laws or other documents, but rather to see the rights it proclaims realized in the everyday lives of indigenous peoples in the communities in which they live. The Expert Mechanism can undoubtedly contribute to this goal through its study of indigenous issues in light of the relevant international human rights framework, of which the Declaration is a prominent part.

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Mr. Chairperson,

As you know the Human Rights Council has requested the Expert Mechanism to address in its first thematic study the issue of education and indigenous peoples. I am sure that the members of the Expert Mechanism and others in the room join me in understanding how important an issue this is. Education is essential to the development of indigenous peoples in all aspects of life and, moreover, to the full realization of self-determination. My distinguished predecessor, Rodolfo Stavenhagen, conducted a study on indigenous education, which I'm sure will now prove useful to the work of the Expert Mechanism on the topic. As the Expert Mechanism considers and proposes potential other topics to be taken up in the future, as requested by the Council, my own work in examining specific impediments faced by indigenous peoples to the enjoyment of their human rights may be useful.

Mr. Chairperson,

Because the mandate of the Expert Mechanism is primarily research-based and study oriented, I now see my own role as secondary in this regard. My predecessor Rodolfo Stavenhagen produced a number of important thematic studies, including and in addition to his study on indigenous education. However, in light of the creation of the Expert Mechanism with its mandate to provide thematic expertise, I foresee that my future work on issues of general concern to indigenous peoples will be mostly to provide input into the thematic work of the Expert Mechanism. Rather than engage on a regular basis in thematic studies of my own, my work will focus on the examination of specific situations in which indigenous peoples' human rights are threatened and being violated.

In contrast with the Expert Mechanism and the Permanent Forum, the Special Rapporteur has a clear mandate to address and make recommendations on the specific human rights situations of indigenous peoples that are brought to the Rapporteur's attention through complaints or otherwise. As I have previously informed the Human Rights Council, as Special Rapporteur I am developing working methods to enhance the effectiveness of my handling of the numerous communications I receive alleging violations of the human rights of indigenous peoples. These working methods will attempt to demonstrate responsiveness to indigenous peoples whose human rights allegedly are being violated, providing them a meaningful conduit to have their legitimate concerns appropriately addressed. I am attempting to identify and assess root or systemic causes of human rights violations, and not just the immediate manifestations of underlying problems, and to engage States and other actors concerned in a constructive dialogue to advance solutions to problem situations, building on relevant progress and good practices already achieved.

In this connection I would like to advise the indigenous peoples and organizations present here that staff from the Office of the High Commissioner for Human Rights will be available throughout the meeting of the Expert Mechanism to receive communications and documentation of alleged human rights violations of indigenous peoples and individuals.

Mr. Chairperson,

I would like to conclude by humbly offering my view that the Expert Mechanism is a new and different institution than any that has existed before within the United Nations system. Its creation comes at a time when indigenous peoples have

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achieved unprecedented recognition of their rights and a greater voice at the international level than ever before. The Expert Mechanism is indeed a manifestation of that recognition and voice. No doubt the Expert Mechanism is in some way a legacy of the foothold indigenous peoples established and built upon with the previous Working Group on Indigenous Populations. But it is clearly different from the Working Group, which was established at a different time and with a different purpose. Rather, the Expert Mechanism is a new institution to be shaped by its five members and the present-day dynamics of the Human Rights Council, all with the participation of indigenous peoples and keeping in mind needs of the indigenous peoples in the localities where they carry out their every day lives across the globe. I am very much looking forward to seeing the Expert Mechanism take on and shape its role in these new and exciting times.

I thank you for your kind attention.