
Statement by

Ms. Kyung-wha Kang

Deputy High Commissioner for Human Rights



**At the opening of the 1st session of the
Expert Mechanism on the Rights of Indigenous Peoples**

Palais des Nations, Room XIX

Geneva, Wednesday, 1 October 2008 at 10:00 a.m.

Your Excellency, Ambassador Uhomoibhi,
President of the Human Rights Council,
Distinguished experts,
Ladies and gentlemen,

It gives me great pleasure to open the first session of the Expert Mechanism on the Rights of Indigenous Peoples and to congratulate the experts on their election as the inaugural members of this new body. I take this opportunity to welcome all observers, representatives of Member States, colleagues from the United Nations system and non-governmental organizations. It is a special pleasure to welcome the many indigenous delegations that are attending, including more than 70 representatives supported by the United Nations Voluntary Fund for Indigenous Populations. Allow me also to convey to you the very best wishes for a successful and fruitful session from the new High Commissioner for Human Rights, Ms. Navi Pillay.

Ladies and Gentlemen,

General Assembly resolution 60/251 of 15 March 2006 set in motion significant changes to the way the United Nations undertakes its work in human rights. The resolution established the Human Rights Council to replace the former Commission on Human Rights, and requested the Council to assume, review, improve and rationalize all mandates, mechanisms, functions and responsibilities of the former Commission.

The Council itself has taken important decisions regarding its activities and working methods to implement the request of the General Assembly. These decisions include the affirmation of the Special Procedures mandates, including that of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the establishment of regular human rights reporting on all Member States through the Universal Periodic Review process. This review process has already demonstrated its usefulness in raising issues related to indigenous peoples in many of the reports.

The Council has also established a number of subsidiary advisory bodies, including the Advisory Committee which serves as a think-tank for the Council on human rights matters and replaces the former Sub-Commission on the Promotion and Protection of Human Rights. The present Expert Mechanism was created following an informal meeting held in December last year, and constitutes an additional advisory body for the Council together with the Advisory Committee, the Forum on Minority Issues and the Social Forum.

Ladies and gentlemen,

Allow me to recall the principal elements contained in Human Rights Council resolution 6/36 establishing the Expert Mechanism on the Rights of Indigenous Peoples. The Expert Mechanism is a subsidiary body of the Council established to provide it with thematic expertise on the rights of indigenous peoples in the manner and form requested by the Council, mainly through studies and research-based advice. In addition, the Expert Mechanism may suggest proposals to the Council for its consideration and approval, within the scope of its work as set out by the Council.

The Human Rights Council resolution adopted last week on “Human Rights and Indigenous Peoples” formulate three concrete requests:

- (a) to identify and suggest, by consensus, proposals to the Human Rights Council for its consideration in 2009;
- (b) to assist the Preparatory Committee by undertaking a review and submitting recommendations, as contributions to the outcome of the Durban Review Conference;
- (c) To prepare a study on lessons learned and challenges to achieve the implementation of the right of indigenous peoples to education and to conclude it in 2009.

The Council has requested you to undertake these advisory activities in a coordinated manner with the Special Rapporteur and the Permanent Forum, as well as through seeking input from relevant stakeholders, represented by many observers in this session. While providing thematic expertise in relation to the right to education and the Durban Review Conference, you will also need to present proposals on how best to provide thematic expertise on the rights of indigenous peoples to the Council.

Distinguished experts,

I would like to make some further comments on the Expert Mechanism but before doing so, I believe it is appropriate to pay tribute to the former Working Group on Indigenous Populations. The Working Group was the first UN body established on indigenous peoples and met from 1982 to 2006. It was the birthplace, so to speak, of nearly all of the significant international achievements on indigenous issues – it was responsible for the drafting of the first version of the Declaration on the Rights of Indigenous Peoples that was subsequently reviewed by States and finally adopted in September 2007 by the General Assembly.

The Working Group proposed the International Year of the World's Indigenous People (1993) and the International Decades of the World's Indigenous People, the establishment of the United Nations Voluntary Fund for Indigenous Populations, the Permanent Forum on Indigenous Issues and the mandate of the Special Rapporteur. It also carried out critical studies on treaties and indigenous peoples, on indigenous peoples and their relationship to their lands and resources, on indigenous peoples' cultural heritage and several others.

The new Expert Mechanism is charged with carrying forward the work on indigenous peoples' rights building on the important contributions made by the former Working Group. In this respect, I would like to make some comments on the changed environment for your work. I have referred to the institutional changes represented by the creation of the Human Rights Council but I would also like to refer to the enhanced normative framework. In particular, I would like to encourage the experts to consider how they will contribute to the promotion and implementation of the Declaration on the Rights of Indigenous Peoples through its research-based advice and studies.

The Declaration sets out a clear and universally agreed upon framework for the advancement of the rights of indigenous peoples. While the Declaration is non-binding, it nonetheless offers the basis for reconciliation between indigenous peoples and States. The provisions of the Declaration provide an agenda for dialogue and practical policy-making. The OHCHR's work is to assist States

and indigenous peoples in implementing the Declaration, and I believe that the Expert Mechanism has its role to play in helping to contribute to that end also.

Experts and observers may want to reflect on the proposal made by the Special Rapporteur, in his report to the Council (A/HRC/9/9), in relation to the implementation of the resolution 6/36. He proposes that the studies to be undertaken by the Expert Mechanism would be of key importance in operationalizing the rights affirmed in the Declaration by mainstreaming them into the Council's general activities on the promotion and protection of human rights.

I should also like to stress the importance of all existing human rights and other international instruments which of course equally apply to indigenous peoples and may be taken into account in your work.

The Human Rights Council makes a specific reference to the importance of coordination of the three mechanisms now established for indigenous peoples – namely the Expert Mechanism, the Special Rapporteur on indigenous peoples and the Permanent Forum on Indigenous Issues, which meets in New York with the assistance of the Department of Social and Economic Affairs. OHCHR, in accordance with the resolution of the Council, has invited a representative from the Permanent Forum as well as the Special Rapporteur to take part in this session. I would encourage you to seek ways to work together, avoid duplication and act in a complementary fashion.

By mandate, the three mechanisms are quite distinct: the Permanent Forum is responsible for advising the ECOSOC on coordination of the UN system and better integrating indigenous issues into policies and programmes; the Expert Mechanism is requested to provide expert thematic advice on indigenous peoples' rights to the Council; and the Special Rapporteur is able to take up human rights issues including individual complaints, make country visits and make recommendations to the Council. I hope that the opportunity provided by the presence of representatives of the three mechanisms will lead to some practical arrangements that contribute to cooperation.

Finally, I would like to encourage the Expert Mechanism to consider how it can ensure a participatory approach to its work. The Council resolution calls specifically on you to seek input for

your studies from States, international and regional organizations, OHCHR, national human rights institutions, non-governmental and indigenous organizations. I can see by looking around the room that we have a large number of indigenous and governmental delegates all of whom may be able to make useful contributions. One of the challenges you face is how to mobilise this interest and experience not just during the session but over the 12 months that follow.

Please take these comments as contributions from the Office to the discussions you will hold on how best to implement the Council's mandate. You will certainly have many good ideas and I am sure delegations have come armed with their proposals as well.

Ladies and gentlemen,

Let me conclude by wishing you every success in your deliberations and work and pledging the full support of the Office of the High Commissioner for Human Rights, in facilitating your task in every way possible.

Thank you.