

S. JAMES ANAYA

REGENTS' PROFESSOR AND JAMES J. LENOIR PROFESSOR OF HUMAN RIGHTS LAW AND POLICY
UNITED NATIONS SPECIAL RAPPORTEUR ON THE RIGHTS OF INDIGENOUS PEOPLES

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EMPLOYMENT

Academic
positions:

Regents' Professor and James J. Lenoir Professor of Human Rights Law and Policy, University of Arizona, Rogers College of Law. Employed August, 1999-present. Teaching and research in international human rights, rights of indigenous peoples, and constitutional law. Direct the International Human Rights Advocacy Workshop, in coordination with the College's Indigenous Peoples Law & Policy Program. With university and external funding, the Workshop involves students in human rights projects worldwide.

Professor of Law, University of Iowa College of Law. August 1988-May 1999. (Associate Professor from August 1988-July 1992).

Visiting Professor, Harvard Law School. Winter terms, 1998, 2002, 2003: courses on indigenous peoples in international law.

Visiting Professor, University of Toronto Faculty of Law. Fall 1996, Winter 2001, 2003, 2004, 2007 (Distinguished Visiting Professor series): courses on indigenous peoples in international law and on international organizations.

Visiting Professor, University of Tulsa College of Law. Fall 1993: courses on international organizations and on indigenous peoples in international law.

Adjunct Professor, University of New Mexico School of Law. Fall 1987: course in federal public lands and resources law. Fall, 1987.

Other: Special Counsel, Indian Law Resource Center, Albuquerque, New Mexico (main office in Helena, Montana). In residence Jan. 1997 - Dec. 1999 while on leave from the University of Iowa. Legal advocacy on behalf of indigenous peoples from North, Central and South America in domestic and international forums; research on issues concerning indigenous peoples worldwide.

Staff Attorney, National Indian Youth Council, Albuquerque, New Mexico. May, 1985 - August, 1988; continued as a consultant to the organization through 1993. Directed the law project of the National Indian Youth Council (NIYC), a non-profit organization. The project concerned Indian land and natural resource rights, religious freedom, voting rights, and political asylum. Law practice involved litigation, legislative work, and advocacy before international institutions, including advocacy to develop international standards concerning indigenous peoples.

Associate Attorney, Luebben, Hughes & Tomita, Albuquerque, New Mexico. May, 1983 - May, 1985. Practice involved litigation in state, federal (U.S. district and appellate courts, U.S. Supreme Court) and tribal courts in the areas of federal Indian

law, water law and civil rights. Also initiated international practice, which including advocacy for an indigenous rights declaration at the United Nations and counseling Miskito indigenous leaders in land and autonomy negotiations with the government of Nicaragua.

**UNITED NATIONS
APPOINTMENT**

Special Rapporteur on the rights of indigenous peoples – Appointed by the UN Human Rights Council (the 47-member inter-governmental body) for an initial three-year term beginning May 1, 2008. Duties include monitoring conditions of indigenous peoples worldwide; investigating allegations of human rights violations against them, including through country visits; and making appropriate recommendations to the Council, governments, and others. See <http://unsr.jamesanaya.org>

EDUCATION

Harvard Law School, Cambridge, Massachusetts
Juris Doctor, 1983

University of New Mexico, Albuquerque, New Mexico
Bachelor of Arts in Economics, 1980

AWARDS

Named Regents Professor, effective June 2010, the “highest of faculty ranks” at the University of Arizona, “reserved for tenured professors with exceptional achievements that have brought them national or international recognition.” No more than 3% of the University’s tenure and tenure-eligible faculty may hold the title at any given time.

Haywood Burns/Shanara Gilbert Award for “outstanding service to the recipient’s community,” by the Northeast People of Color Conference, October 2009

John O’Connor Human Rights Award for “Outstanding Achievement in Promoting the Rights of Indigenous Peoples,” by Cultural Survival, May 2002

Award for “outstanding contributions to the worldwide community in the area of human rights,” by the Iowa City Human Rights Commission, October 1998

Scholar in Residence at the Rockefeller Foundation's Study and Conference Center, Bellagio, Italy, February-March, 1994

One of nine 1989 recipients nationwide of the American Bar Association's annual Pro Bono and Professional Responsibility Award for "high standards of professionalism and outstanding contributions in promoting an open profession and an open system of justice"

Featured as one of "20 Young Lawyers Who Make a Difference" in Summer 1988 issue of Barrister (a national publication of the American Bar Association)

1987 "Employee of the Year," National Indian Youth Council

BAR

MEMBERSHIP

New Mexico (Admitted October, 1983); U.S. District Court, District of New Mexico; U.S. Court of Appeals, 10th Circuit; U.S. Court of Appeals, 9th Circuit; United States Supreme Court

PUBLICATIONS

Books: International Human Rights: Problems of Law, Policy and Practice (Aspen Publ., 5th ed. 2011) (with Hurst Hannum and Dinah Shelton) (an edited compilation of materials with extensive original commentary)

International Human Rights and Indigenous Peoples (Aspen Publ./Wolters Kluwer Law & Business 2009) (an edited compilation of materials with extensive original commentary)

Los pueblos indígenas en el derecho internacional (Editorial Trotta, 2005) (translation into Spanish of the second edition of the monograph, Indigenous Peoples in International Law)

Indigenous Peoples in International Law (Oxford Univ. Press, 1996) (2d ed. 2004) (monograph)

Canada's Fiduciary Obligation to Aboriginal Peoples in the Context of Accession to Sovereignty by Quebec, Volume 1: International Dimensions (with Richard Falk and Donat Pharand) (Canada Communication Group Pub., 1995)

Editor, International Law and Indigenous Peoples (Dartmouth/Ashgate Publishers, 2003) (a compilation of leading articles on the subject with introductory essay by the editor)

United Nations

Documents:

Numerous reports written as UN Special Rapporteur on the rights and fundamental indigenous peoples, including reports on country situations, specific cases of alleged human rights abuse, and cross-cutting issues of concern to indigenous peoples. The reports are available at: <http://unsr.jamesanaya.org/>

Articles in Scholarly

Journals & Book

Chapters:

The Right of Indigenous Peoples to Self-Determination in the Post-Declaration Era, in Claire Chartres and Rodolfo Stavenhagen, eds., *Making the Declaration Work: The United Nations Declaration on the Rights of Indigenous Peoples 184* (IWGIA, 2009)

Por qué no debería de existir la Declaración, en Natalia Álvarez Molinero, J. Daniel Oliva Martínez, Nieves Zuñiga Gacia-Falces, eds., *Declaración sobre los derechos de los pueblos indígenas – hacia un mundo intercultural y sostenible* (Los Libros de Catarata, 2009)

Gaining Legal Recognition of Indigenous Land Rights: The Story of the *Awasi Tingni* Case in Nicaragua, in Deena Hurwitz et al., eds., *Human Rights Advocacy Stories 117* (Foundation Press, 2009)(with Maia Campbell)

The Human Rights of Indigenous Peoples, in Catherine Krause & Martin Scheinin, International Protection of Human Rights: A Textbook (Abo Akedmi Univ. Inst. H.R. 2009)

Reparations for Neglect of Indigenous Land Rights at the Intersection of Domestic and International Law – The Maya Cases in the Supreme Court of Belize, in Federico Lenzerini, ed., Reparations for Indigenous Peoples: International and Comparative Perspectives 567 (Oxford Univ. Press, 2008)

The Case of the Maya Villages of Belize: Reversing the Trend of Government Neglect to Secure Indigenous Land Rights, 8 Human Rights Law Review 377 (2008) (with Maia Campbell)

Keynote Address – Indigenous Peoples and International Law: Lands, Liberties, and Legacies, 31 American Indian Law Review 257 (2007)

Indian Givers: What Indigenous Peoples Have Contributed to International Human Rights Law, 22 Washington Journal of Law & Policy 107 (2006)

Divergent Discourses About International Law, Indigenous Peoples, and Rights over Lands and Natural Resources: Toward a Realist Trend, 16 Colorado Journal of International Environmental Law and Policy 237 (2005)

Indigenous Peoples' Participatory Rights in Relation to Decisions about Natural Resource Extraction: The More Fundamental Issue of What Rights Indigenous Peoples Have in Lands and Resources, 22 Arizona Journal of International and Comparative Law 8 (2005)

Book Review, European Conquest and the Rights of Indigenous Peoples: The Moral Backwardness of International Society, by Paul Keal, 99 American Journal of International Law 306 (2005)

The Emergence of Customary International Law Concerning the Rights of Indigenous Peoples, 12 Law & Anthropology 127 (2005)

International Human Rights and Indigenous Peoples: The Move Toward the Multicultural State, 21 Arizona Journal of International and Comparative Law 13 (2004) (published in Spanish as Derechos humanos internacionales y pueblos indígenas: hacia el estado multicultural, in Chandra Roy, ed., En defensa de la diversidad 1 (Saami Council, 2004))

Pueblos indígenas, comunidad internacional, y derechos humanos en la era de la globalización, in Fernando Marño & Daniel Oliva, eds., Avances en la Protección de los derechos de los pueblos indígenas (Univ. Carlos III de Madrid, 2004)

Los derechos de los Pueblos Indígenas, in Felipe Gómez Isa, ed., La protección de los derechos de los derechos humanos en los albores del siglo XXI (Univ. de Deusto, 2003)

International Law and U.S. Trust Responsibility Toward Native Americans, in Richard Grounds et al., eds., Native Voices: American Indian Identity and Resistance 155 (Univ. of Kansas, 2003)

The Contours of Self-Determination and its Implementation: Implications of Developments Concerning Indigenous Peoples, in Gudmunder Alfredsson & Maria Stravropoulou, eds., *Justice Pending: Indigenous Peoples and Other Good Causes (Essays in Honour of Erica-Irene Daes)* (Kluwer Academic Press, 2002)

The Case of Awas Tingni v. Nicaragua: A New Step in the International Law of Indigenous Peoples, 19 *Arizona Journal of International and Comparative Law* 1 (2002) (with Claudio Grossman)

The Impact of Indigenous Peoples on the Development of International Law, in *The Human Rights of Indigenous Peoples* (Southern Cross University 2001)

The United States Supreme Court and Indigenous Peoples: Still a Long Way to Go Toward a Therapeutic Role, 24 *Seattle Law Review* 229 (2001)

Self-Determination as a Collective Human Right Under Contemporary International Law, in Pekka Aikio & Martin Scheinin, eds., *Operationalizing the Right of Indigenous Peoples to Self-Determination* (Institute for Human Rights, Abo Akademi University, 2000)

The Protection of Indigenous Peoples Land and Resource Rights Under the Inter-American Human Rights System, 14 *Harvard Human Rights Journal* 33 (2001) (with Robert Williams, Jr.)

The Maya Petition to the Inter-American Commission on Human Rights: Indigenous Land and Resource Rights, and the Conflict over Logging and Oil in Southern Belize in Isfahan Merili & Valerie Oosterveld, eds., *Giving Meaning to Economic, Social and Cultural Rights* (Univ. Penn. Press. 2001)

Environmentalism, Human Rights and Indigenous Peoples: A Tale of Converging and Diverging Interests, 7 *Buffalo Environmental Law Journal* 1 (2000)

Indigenous Peoples and Their Demands within the Modern Human Rights Movement, in *The Universal Declaration of Human Rights: Fifty Years and Beyond* 149 (Yael Dineli et al. eds., 1999)

Superpower Attitudes Toward Indigenous Peoples and Group Rights, *American Society of International Law* (93d annual meeting proceedings) 251 (1999)

Contemporary Conceptions about Customary International Law, *American Society of International Law* (92d annual meeting proceedings) 41 (1998)

Maya Aboriginal Land and Resource Rights and the Conflict Over Logging in Southern Belize, 1 *Yale Human Rights & Development L. J.* 1 (1998)

Brief of Lone Wolf, Principal Chief of the Kiowas, to the Supreme Court of American Indian Nations, 7 *Kansas Journal of Law & Public Policy* 117 (1997)

Book Review, International Organizations and Ethnic Conflict, Milton J. Esman and Shibley Telhami (eds.), 91 *American Journal of International Law* 588 (1997).

On Justifying Special Ethnic Group Rights, in *NOMOS XXXIX: Ethnicity and Group Rights* 222 (Will Kymlicka & Ian Shapiro eds., 1997)

Indigenous Peoples, the Environment, and Commercial Forestry in Developing Countries: The Case of Awas Tingni, Nicaragua, 18 Human Rights Quarterly 345 (1996) (with S. Todd Crider)

The Native Hawaiian People and International Human Rights Law: Toward a Remedy for Past and Continuing Wrongs, 311 Georgia Law Rev. 309 (1994)

A Contemporary Definition of the International Norm of Self-Determination, 3 Transnational Law & Contemporary Problems 131 (1993)

Native Land Claims in the United States: The Unatoned for Spirit of Place, in The 1991 Cambridge Lectures (Frank McArdle, ed. 1993), reprinted in Cultural Survival Quarterly (Winter 1994)

Indigenous Rights Norms in Contemporary International Law, 8 Ariz. J. Int'l & Comp. L. 1 (1991); reprinted in substantial part in Getches, Wilkinson & Williams, Federal Indian Law: Cases and Materials 1021 (3d ed. 1993); and in Guruswamy, Palmer & Weston, International Environmental Law (1994); translated into Spanish in América Indígena, Vol. LII, Nos. 1&2, p.9 (1992)

The Capacity of International Law to Advance Ethnic or Nationality Rights Claims, 75 Iowa Law Rev. 837 (1990) and 13 Human Rights Quarterly 403 (1991), reprinted in Will Kymlicka, ed., The Rights of Minority Cultures 321 (Oxford Univ. Press, 1995)

The Rights of Indigenous Peoples and International Law in Historical and Contemporary Perspective, in 1989 Harvard Indian Law Symposium (1990), reprinted in Clinton, Newton & Price, American Indian Law: Cases and Materials 1257 (3d. ed. 1991)

Recent Development, Constitutional Law: Protection Against Illegal Search and Seizure -- Blackie's House of Beef, Inc. v. Castillo, No. 79-2358 (D.C. Cir., July 22, 1981), 22 Harv. Int'l. L. J. 670 (1981)

Other Articles: Parents, Children, and Citizenship by Birth, Huffington Post, Aug. 18, 2010

Nicaragua's Titling of Communal Lands Marks Major Step for Indigenous Rights, Indian Country Today, Jan. 5, 2009

Dereitos dos indios não são ameaça, Folha do Sao Paolo, 9 sep. 2008.

Tribal Law Impact on Civil Actions in New Mexico, N.M. Trial Lawyer, Feb. 1986, p. 1

Demarcating Indigenous Territories in Nicaragua: The Case of Awas Tingni, 19 (No. 3) Cultural Survival Quarterly 69 (Fall 1995) (with Theodore Macdonald)

The Indigenous Are 'Peoples': A Reality and A Challenge, Native Americas, Vol. XIV, No. 1, Spring 1997, at 64

Native Nations Sign Historic Pact, Native Americas, Vol. XII, No. 2, Summer 1996, at 46

Entries on International Law and Indian Hunting and Fishing Rights in Encyclopedia of Native Americans in the 20th Century (Garland Publishers, 1994)

How to End Neglect of Indigenous People, Des Moines Register, March 30, 1989

The CIA with the Honduran Army in the Mosquitia: Taking the Freedom out of the Fight in the Name of Accountability, Akwesasne Notes, Summer 1987, at 20

A Miskito Memoir, Albuquerque Journal Impact Magazine, Sept. 11, 1983, at 4

Brooklyn Rivera: "Peace with Justice . . . the reunification of the Indian Family . . .", Akwesasne Notes, Winter 1984, at 11

Six-part weekly editorial series on Central America, N.M. Daily Lobo, Oct. 7 - Nov. 17, 1983

Desde El Salvador, El Hispano, Dec. 23 (1983), at 2.\

Frequent contributions to NIYC's periodical, Americans Before Columbus

PRESENTATIONS:

Numerous keynote and other presentations worldwide at universities, academic and professional conferences, and at meetings convened by non-governmental organizations, governments, and international institutions. The following is a representative, non-exhaustive list of presentations during recent years:

- Keynote address for Congress: La Plasmación Política de la Diversidad, Univ. Deusto, Bilbao, Spain, May 13, 2010
- Keynote address for Symposium: Indigenous Peoples Rights in the International Human Rights Framework, UCLA School of Law, Jan. 22, 2010
- "Advancing Indigenous Rights in Latin America and the Caribbean," Lecture for World Bank sector managers, sponsored by the Social Development and Agriculture and Rural Development Units of the World Bank, Washington D.C., June 3, 2009
- "What protection does the international human rights system award to indigenous peoples' cultural heritage?" 19th Saami Conference, Rovaniemi, Finland, October 27, 2008
- "Developments in the Recognition of the Rights of Indigenous Peoples within the United Nations System and Opportunities for Ecuador," Lecture for the members and staff of the Constitutional Assembly of Ecuador, Montecristi, Ecuador, May 29, 2008
- "Indigenous Peoples and their Contribution to the International Human Rights System," Organization of American States Lecture Series of the Americas, Washington D.C., April 17, 2008
- Lecture on indigenous peoples and social, economic and cultural rights, Amnesty International Secretariat, London, UK, July 12, 2007
- Keynote: "Indigenous Law and its Contribution to Global Pluralism," Conference: Indigenous Law and Legal Systems: Recognition and Revitalization, The University of Toronto Faculty of Law, Toronto, Canada Jan. 26, 2007
- Lectures on the inter-American human rights system and indigenous peoples for students completing LL.M. on Human Rights and Democratization in Africa,

- University of Pretoria, South Africa, May 2006 and April 2007
- Keynote: “Why There Should not Have to be a Declaration on the Rights of Indigenous Peoples,” 52d Congress of Americanists, Seville, Spain, June 16, 2006.
 - Lectures for European Masters in Human Rights and Democracy program, Venice, Italy, October 2005 and November 2006; Univ. of Deusto, Bilbao Spain May 2002 and May 2003
 - Lectures for human rights/conflict prevention courses for indigenous and minority leaders, sponsored by the United Nations Institute for Training and Research, Geneva, Switzerland, Aug. July 2000, 2001, 2003, 2004, 2005, 2006; Mexico City, Dec. 2002; Chiang Mai, Thailand, April 2003, Arusha, Tanzania, 2004; Rabat, Morocco, 2006; Canberra, Australia 2007; Cairns, Australia 2009
 - Lectures for human rights training courses for indigenous leaders, co-sponsored by the Nordic Saami Council and the European Union, Arusha, Tanzania, Sept. 2000; Baguio, Philippines, Oct. 2001; Chiang Mai, Thailand, May, 2002

**MAJOR
CASES LITIGATED**

Cal et al. (Maya villages) v. Attorney General, Supreme Court of Belize, consolidated claims nos. 171 & 172, Judgment of 18 Sept. 2007 (upholding land and resource rights of Maya communities on the basis of customary land tenure)

The Case of the Mayagna (Sumo) Community of Awas Tingni v. Nicaragua, Inter-Amer. Court H.R., Judgment of Aug. 31, 2001, Ser. C, No. 79, 19 Ariz, J. Int’l Comp. L. 395 (2002) (Affirming indigenous property rights to land the basis of traditional land tenure)

The Case of the Maya Indigenous Communities of the Toledo District (Belize), Case No. 12.053, Inter-Amer. Commission H.R., Report No. 40/04 (October 12, 2004) (affirming Maya traditional land rights)

The Case of Mary and Carrie Dann (United States), Case No. 11.140, Inter-Amer. Commission on H.R., Report No. 75/02 (Dec. 27, 2002) (affirming Western Shoshone land rights against U.S. assertions of extinguishment of those rights)

Nevada v. Hicks, 533U.S. 353 (2001) (United States Supreme Court case on state sovereign immunity and tribal court jurisdiction).

Western Shoshone National Council v. Molini, 951 F.2d 200 (9th Cir. 1991), cert. denied, 113 S. Ct. 74 (1992) (Indian hunting and fishing rights).

Clark v. Holbrook Unified School District, 703 F. Supp. 56 (D. Ariz. 1988) (Pre-hearing orders in voting rights lawsuit on behalf of Native American voters).

Cassuse v. City of Gallup, 106 N.M. 571, 746 P.2d 1103 (N.M. S. Ct. 1987) (applicability of state voter districting statute to home rule municipalities).

United States v. Abeyta, 632 F. Supp. 1301 (D. N.M. 1986) (the right of a Pueblo Indian to take an eagle for religious purposes).

**OTHER PROFESSIONAL
ACTIVITIES**

Member of arbitration tribunal convened under Chapter 11 of North American Free Trade Agreement in Grand River Enterprises v. United States (2004 - 2011)

Associate Justice, Court of Appeals, Yavapai-Prescott Indian Tribe (2003-)

Chair, Committee on the Rights of Indigenous Peoples, International Law Association (2006-2008)

Member, American Law Institute (2004-)

Chairperson of the Board of Directors, Rainforest Foundation-US (2006-2008)

Counsel to Maya organizations and communities of Belize (1996-2008). Developed the legal strategies and led the drafting of all submissions for the Maya parties in proceedings before domestic courts and multiples international institutions, including in the proceedings before Inter-American Commission on Human Rights and the Supreme Court of Belize which resulted in a landmark decisions upholding Maya land rights on the basis of customary land tenure

Counsel to Carrie and Mary Dann and other Western Shoshone parties in successfully advancing land rights and related claims before multiple international institutions (1997-2008)

Of Counsel, Inuit Circumpolar Conference (2003-06) (global warming and human rights issues)

Counsel to Border Action Network in petition to Inter-American Commission on Human Rights denouncing anti-immigrant violence and threats along US.-Mexico border (2003-2008)

Lead counsel for the indigenous parties (1993-2008) and assistant to the Inter-American Commission on Human Rights (1998-2001) in the *Case of Mayagna Community of Awas Tingni against Nicaragua*, a case featuring the landmark judgment by the Inter-American Court of Human Rights upholding indigenous land and resource rights

Expert witness on international law in trial of Office of Native Hawaiian Affairs, et al. v. Housing Finance Development Corp. et al., Nov. 2001 (case before Hawaii state court concerning Native Hawaiian land claims)

Curriculum coordinator and lecturer for human rights training courses for indigenous leaders from throughout the world, sponsored by the International Training Center of Indigenous Peoples with support from the Office of the United Nations High Commissioner for Human Rights, Nuuk, Greenland, July 1998 and 2000, and in Cuzco, Peru, Feb. 2006

Member, Executive Council, American Society of International Law (2000-2003)

Member, Constitutional Law Drafting Committee, National Conference of Bar Examiners (2000-)

Program Affiliate, Program on Non-Violent Sanctions and Cultural Survival, Weatherhead Center for International Affairs, Harvard University (1999-)

Member, Editorial Board, Global Governance: A Review of Multilateralism and International Organizations (a project of the Academic Council on the United Nations System and the United Nations University) (1994-2002)

Member, Advisory Council, Australian Indigenous Law Reporter (a publication of the University of New South Wales, Australia) (1995-)

Member, Advisory Board, Indigenous Law Journal (a publication of the University of Toronto Faculty of Law) (2001-)

Consultant, Harvard Weatherhead Center for International Affairs--Program on Nonviolent Sanctions and Cultural Survival (joint Harvard/Organization of American States mission to Colombia to analyze conflict concerning oil development on indigenous-claimed lands) (1997-98)

Consultant, Corporación Indígena para el Desarrollo Economico, S.A. (joint venture by Indian-held Nicaraguan and Canadian corporations for natural resource development on Indian lands in Nicaragua) (1995-98)

Consultant, Organización Nacional Indígena de Colombia (training in international human rights norms and procedures) (1995)

Consultant, Royal Commission on Aboriginal Peoples (Canada) (study on the rights of aboriginal peoples in the event of Quebec's accession to sovereignty) (1994-95)

Consultant, Native Hawaiian Advisory Council (study on international law grounds for Native Hawaiian claims) (1993)

Counsel, Western Shoshone National Council (hunting and fishing rights litigation in U.S. federal courts) (1987-92)

Counsel, Traditional Circle of Elders and Youth (benefit concert organized in collaboration with Carlos Santana and Bill Graham Presents, Inc.) (1992)

Consultant, Nicaraguan Institute for the Development of the Autonomous Regions (economic development needs assessment) (1990-91)

Board Member, Cultural Survival, Cambridge, Massachusetts (1992-2000)

Chair, Native American Rights Section, American Association of Law Schools (1992)

Board Member, University of New Mexico Alumni Association (1989-92)

LANGUAGES: Fluent in Spanish; conversational and reading abilities in French