

FORTY-THIRD REGULAR SESSION  
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La Antigua, Guatemala

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AG/RES. 2807 (XLIII-O/13)  
6 June 2013  
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AG/RES. 2807 (XLIII-O/13)

HUMAN RIGHTS, SEXUAL ORIENTATION,  
AND GENDER IDENTITY AND EXPRESSION<sup>1/ 2/ 3/ 4/ 5/6/ 7/</sup>

(Adopted at the fourth plenary session, held on June 6, 2013)

THE GENERAL ASSEMBLY,

TAKING INTO ACCOUNT resolutions AG/RES. 2435 (XXXVIII-O/08), AG/RES. 2504 (XXXIX-O/09), AG/RES. 2600 (XL-O/10), AG/RES. 2653 (XLI-O/11), and AG/RES. 2721 (XLII-O/12), “Human Rights, Sexual Orientation, and Gender Identity”;

REITERATING:

That the Universal Declaration of Human Rights affirms that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in that instrument, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status; and

That the American Declaration of the Rights and Duties of Man establishes that every human being has the right to life, liberty, and security of his person without distinction as to race, sex, language, creed, or any other factor;

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1. "The Government of Belize is unable to join consensus on this resolution given the fact that several of the issues and principles addressed therein, directly or indirectly, are at present the subject ...
  2. The delegations of Saint Vincent and the Grenadines, San Kitts and Nevis and Dominica are unable to join consensus on the approval of this resolution. Saint Vincent and the Grenadines is of the view that the term “gender expression” ...
  3. The Government of Jamaica is unable to join the consensus on the approval of this resolution, given that the terminology of gender expression, as proposed, is ambiguous and has the potential...
  4. Barbados submitted the following footnote to the General Committee of the General Assembly. At the fourth plenary session it announced that the text would be modified: Barbados, mindful of the diversity of views held by Member States on this subject, will continue to consider these as it promotes a balanced approach to such issues within its national context.
  5. The Republic of Suriname remains committed to promote and defend all human rights for all and based on the principle of equality in which all who are within...
  6. The Government of Guyana is unable to join consensus on this Resolution given the fact that several of the issues addressed herein are currently the subject of deliberation by a special select ...
  7. The delegations of Honduras, Saint Lucia and Trinidad and Tobago announced that they would submit footnotes to this resolution.

CONSIDERING that the Charter of the Organization of American States proclaims that the historic mission of the Americas is to offer to man a land of liberty and a favorable environment for the development of his personality and the realization of his just aspirations;

REAFFIRMING the principles of universality, indivisibility, and interdependence of human rights;

TAKING NOTE:

Of the creation by the Inter-American Commission on Human Rights of the Unit for the Rights of Lesbians, Gays, and Bisexual, Transsexual, and Intersex Persons (LGBTI), and of its work plan, which includes the preparation of a hemispheric report on this issue;

Of the Second Report of the IACHR on the Situation of Human Rights Defenders in the Americas, according to which organizations that promote and defend the human rights of LGBTI persons play a fundamental role in the region in terms of public oversight to ensure compliance with the states' obligations vis-à-vis the rights to privacy, equality, and nondiscrimination, and are faced with obstacles, among them, murder, threats, criminalization of their activities, the failure to take a focused approach to the investigation of crimes committed by both state and non-state actors against them, and discourse calculated to discredit the defenders of the rights of LGBTI persons; and

Of the Declaration on Sexual Orientation and Gender Identity, presented to the United Nations General Assembly on December 18, 2008;

NOTING WITH CONCERN the acts of violence and related human rights violations as well as discrimination practiced against persons because of their sexual orientation and gender identity;

TAKING NOTE of the report of the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/22/53), which states that "Children who are born with atypical sex characteristics are often subject to irreversible sex assignment, involuntary sterilization, involuntary genital normalizing surgery, performed without their informed consent, or that of their parents, 'in an attempt to fix their sex,' leaving them with permanent, irreversible infertility and causing severe mental suffering," and

TAKING NOTE, FINALLY, of the terminological study entitled "Sexual Orientation, Gender Identity, and Gender Expression: Some terminology and relevant standards," prepared by the Inter-American Commission on Human Rights (IACHR) in fulfillment of resolution AG/RES. 2653 (XLI-O/11), Human Rights, Sexual Orientation, and Gender Identity, of April 23, 2012,

RESOLVES:

1. To condemn all forms of discrimination against persons by reason of their sexual orientation and gender identity or expression, and to urge the states within the parameters of the legal institutions of their domestic systems to eliminate, where they exist, barriers faced by lesbians, gays, and bisexual, transsexual, and intersex (LGBTI) persons in equal access to political participation and in other areas of public life, and to avoid interferences in their private life.<sup>8/</sup>

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8. The State of Guatemala declares that it promotes and defends all human rights and, with respect to the provisions of this resolution, does not discriminate on any grounds, ...

2. To encourage member states to consider, within the parameters of the legal institutions of their domestic systems, adopting public policies against discrimination by reason of sexual orientation and gender identity or expression.

3. To condemn acts of violence and human rights violations committed against persons by reason of their sexual orientation and gender identity or expression; and to urge states to strengthen their national institutions with a view to preventing and investigating these acts and violations and ensuring due judicial protection for victims on an equal footing and that the perpetrators are brought to justice.

4. In addition, to encourage states, within their institutional capacities, to produce data on homophobic and transphobic violence, with a view to fostering public policies that protect the human rights of lesbians, gays, and bisexual, transsexual, and intersex people (LGBTI).<sup>6/</sup>

5. To urge member states to ensure adequate protection for human rights defenders who work on the issue of acts of violence, discrimination, and human rights violations committed against individuals on the basis of their sexual orientation and gender identity or expression.

6. To urge member states to afford appropriate protection to intersex people and to implement policies and procedures, as appropriate, to ensure medical practices that are consistent with applicable human rights standards.

7. To request the Inter-American Commission on Human Rights (IACHR) to pay particular attention to its work plan titled "Rights of LGBTI People" and, in keeping with its established practice, to continue with its work to prepare a hemispheric study on the subject; and to urge member states to support the efforts of the Commission in this area.<sup>6/</sup>

8. To request the IACHR to continue preparing a study on legislation and provisions in force in the OAS member states restricting the human rights of individuals by reason of their sexual orientation or gender identity or expression and to prepare, based on that study, a guide aimed at promoting the decriminalization of homosexuality and practices related to gender identity or expression.

9. To urge the member states that have not yet done so to consider signing, ratifying, or acceding to, as the case may be, the inter-American human rights instruments.

10. To request the Permanent Council to report to the General Assembly on the implementation of this resolution. Execution of the activities envisaged in this resolution will be subject to the availability of financial resources in the program-budget of the Organization and other resources.

FOOTNOTES

1. ... of legal proceedings in the Supreme Court of Belize."

2. ... is one that is not thoroughly defined internationally or that has international acceptance. St. Vincent and the Grenadines considers that the terminology is heavily nuanced and moreover, that it is currently not defined in its domestic law. Since the discussion on the human rights of LGBT persons is an ongoing one at the level of the United Nations, St. Vincent and the Grenadines is of the view that the discourse at the OAS should be confined only to language which has been recognized or approved by the United Nations.

3. ...to impose one value system over another. Furthermore, this term and other new terminologies used in the text, have not gained international acceptance nor are they defined in Jamaica's domestic law.

5. ...the territory of Suriname have an equal claim to protection of person and property, does not discriminate on the grounds of birth, sex, race, language, religious origin, education, political beliefs, economic position or any other status.

As a multicultural society, the subject of sexual orientation and gender identity and expression is one that requires a broad based consultation process at the national level, involving all sectors of society, including the civil society, regarding many of the principles that are being brought to this resolution by OAS member states.

The Republic of Suriname would be willing to join consensus, but places on record that it is not in a position to acknowledge some of the elements and principles addressed in the resolution at this time, as these require further national discussion. The Republic of Suriname is in favor of the use of inter-governmentally agreed human rights and fundamental freedoms as enshrined in the various human rights instruments adopted by the United Nations.

6. ... Committee of the National Assembly.

7. ...regardless of race, creed, sex etc.

However, Guatemala considers that not granting legal recognition to marriage between persons of the same sex does not constitute a discriminatory practice.