
**Presentation by Commissioner Roberta Clarke,
Second Vice-President of the IACHR and Rapporteur on the Rights of LGBTI Persons
during the special meeting of the Permanent Council convened at the request of the
Permanent Mission of Mexico.**

*Item 3: "Contributions of member states to counter intolerance and discrimination in the
region"*

Wednesday, March 29, 2023

Presentation

1. Ambassador Anthony PHILLIPS-SPENCER, Chair of the Permanent Council;
2. Mr. Luis Almagro, Secretary General of the Organization of American States (OAS);
3. Mr. Néstor Méndez, Assistant Secretary General of the OAS;
4. Permanent and Alternate Representatives of Member States and Observers;
5. Colleagues from the OAS and friends from civil society.
6. I am grateful for the invitation today to participate in this special meeting of the Permanent Council . My name is Roberta Clarke, I am the second vice-president of the Inter-American Commission on Human Rights and also serve as Rapporteur on the rights of LGBTI persons.
7. My intervention today I will share information about two very important Inter-American instruments to fight against discrimination and intolerance; And I will also urge the ratification of these instruments.
8. The Inter-American Commission's mandate is to the defend and promoting equality and nondiscrimination in the region. We think this is especially important in this hemisphere with our histories, of extreme forms of discrimination, exploitation, and marginalization

of indigenous persons, as well as people of African descent brought to this region through enslavement. The long shadow of racism and discrimination stalks our peoples and we now understand more about discrimination and exclusion against other populations, including persons living with disabilities, and persons of diverse sexual orientations, gender identities and gender expressions.

9. The Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance, and the Inter-American Convention against all forms of Discrimination and Intolerance are novel treaties on the human rights guarantees against discrimination and for the promotion of equality.
10. The Convention Against Racism sets forth important advancements aimed at completely eradicating racism, racial discrimination, as well as hate crimes committed for reasons of ethno-racial background. **This Convention is the first treaty in the Inter-American System that addresses these issues.** It also recognizes that people of African descent, indigenous peoples and other ethnic-racial minorities are victims of such affectations and, therefore, subject to special protection. Not just subject to special protections but entitled to special protections to repair past and continuing harms.
11. In this sense, in order to make visible ethno-racial issues that had not previously been addressed in other Inter-American treaties, **this Convention includes the definitions of racism; racial discrimination; it defines indirect racial discrimination; intolerance; multiple or aggravated discrimination, let's think of that as intersectionality; and it outlines special measures or affirmative actions.**
12. Likewise, the Convention establishes the duties of the State Parties with respect to public or private actors. So, States have obligations to protect respect and to fulfill human rights and the treaty. The Convention also speaks to the mechanisms for monitoring the implementation.
13. With regards to the Inter-American Convention against **all forms** of Discrimination and Intolerance or CIDI, this convention represents the commitment of member States to the

promotion of pluralistic and democratic societies that respect the cultural, linguistic, religious, gender and sexual identity of all persons, whether or not they belong to a minority.

14. This convention prohibits discrimination on multiple grounds, amongst them age; nationality, sex; sexual orientation; gender identity; language; religion; cultural identity; political opinions; social origin; importantly, socioeconomic status; educational level; disability, health conditions, amongst others.
15. Like the Convention Against Racism, the Convention the Convention on discrimination and intolerance protects both against cases of direct and indirect discrimination both in private as well as the public spheres. This is important because we know discrimination is not always overt or public, or explicit, many forms of discrimination are indirect, - In other words, actions that seem on the face equal may have a disproportionate negative impact on historically marginalized populations.
16. Both conventions also encourage affirmative actions or special measures to be adopted for the purpose of ensuring equal enjoyment or exercise of the fundamental freedoms and human rights of groups requiring special protections also entitled to reparations.
17. These measures are not to lead to the maintenance of separate rights for different groups but to recognize and counteract historic, structural and systematic forms of exclusion and discrimination which today persist. We know they persist, because these are groups that experienced poverty disproportionately, experienced violence disproportionately, experienced economic exclusions disproportionately. So these special measures or affirmative actions are intended to achieve substantive and not just formal equality.
18. I must raise concerns over the low rate of ratifications by OAS member states.
19. While both conventions were adopted and open for signature and ratification back in 2013. The convention related to racism and racial discrimination entered into force only in 2017. And has been signed by twelve member States but only ratified by six up to date.(Costa Rica, Uruguay, Antigua and Barbuda, Ecuador, México and Brazil).

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20. Regarding the convention addressing discrimination and intolerance, it was also adopted for ratification 2013, but only entered into force much later in 2020. The Convention has been signed by 12 states, (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Haiti, Panama, Peru, Mexico and Uruguay). Only ratified by two states up to date (Uruguay and Mexico).
 21. So, I want to say as an end that the commission is really open to providing advisory assistance and technical cooperation to support the ratification of these conventions, but also the effective application and implementation.
 22. And so I close by encouraging all member States to ratify both conventions, please ratify them. This is a region that has to be leading on ending discrimination because our history is replete with expressions of discrimination, violence, stigmatization and intolerance. So, we have to lead on and end racist discrimination and all forms of discrimination and intolerance.
 23. And so, I want to thank the permanent council for this invitation to be with you today to really promote the ratification of these instruments and more than the ratification of these instruments to promote their effective application and implementation. I will say this is a moral duty of all of ours.
 24. Thank you very much.