

AG/RES. 2057 (XXXIV-O/04)

ACCESS TO PUBLIC INFORMATION: STRENGTHENING DEMOCRACY^{1/}

(Adopted at the fourth plenary session, held on June 8, 2004)

THE GENERAL ASSEMBLY,

HAVING SEEN the Report of the Permanent Council to the General Assembly on the Status of Implementation of Resolution AG/RES. 1932 (XXXIII-O/03), "Access to Public Information: Strengthening Democracy" (AG/doc.4339/04);

CONSIDERING that Article 13 of the American Convention on Human Rights provides that "[e]veryone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice";

CONSIDERING ALSO that Article 19 of the Universal Declaration of Human Rights includes the freedom "to seek, receive and impart information and ideas through any media and regardless of frontiers";

RECALLING that the Plan of Action of the Third Summit of the Americas, held in Quebec City in 2001, indicates that governments will ensure that national legislation is applied equitably to all, respecting freedom of expression and access to information of all citizens;

EMPHASIZING that Article 4 of the Inter-American Democratic Charter states that transparency in government activities, probity, responsible public administration on the part of

^{1.} The Bolivarian Republic of Venezuela considers that access to public information held by the state should be fully consistent with Article 13 of the American Convention on Human Rights, which establishes that "[e]veryone has the right to freedom of thought and expression. This right includes includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice." Venezuela maintains that a democratic system for access to public information should allow all citizens, without exception, to seek, receive, and impart information. A citizen seeking information is consciously and fully exercising the right to access to information, and the state must promote the adoption of legal provisions guaranteeing the exercise thereof. Likewise, on the basis of the principle of equality before the law, the state must guarantee the same right to the poor, the underprivileged, and the socially disadvantaged. Along these lines, in keeping with said principle of equal participation, Venezuela presented the following proposal: "To instruct the Inter-American Commission on Human Rights to conduct a study on how the state can guarantee all citizens the right to receive public information, on the basis of the principle of the transparency of information, when it is disseminated through the mass media, in the full exercise of the right to freedom of expression and as an effective means of (AG/doc.4339/04) participation." Venezuela regrets that a response to the message of the poor has once again been postponed, as dramatically revealed in the study published by the World Bank, *Paying Attention to the Voice of the Poor*. We share the view of those who claim that refusing to grant the poor and the disadvantaged access to information condemns them to continued social and economic ostracism. Venezuela therefore urges the Inter-American Commission on Human Rights to take the initiative and, under the powers granted to it in the Inter-American Convention on Human Rights, to conduct the aforementioned study and report on the results thereof to the General Assembly at its thirty-fifth regular session.

governments, respect for social rights, and freedom of expression and of the press are essential components of the exercise of democracy;

NOTING that, in the Declaration of Nuevo León, the Heads of State and Government affirmed that access to information held by the state, subject to constitutional and legal norms, including those on privacy and confidentiality, is an indispensable condition for citizen participation and promotes effective respect for human rights, and, in that connection, that they are committed to providing the legal and regulatory framework and the structures and conditions required to guarantee the right of access to public information;

BEARING IN MIND the adoption of the Declaration of Santiago on Democracy and Public Trust: A New Commitment to Good Governance for the Americas” [AG/DEC. 31 (XXXIII-O/03)], as well as resolution AG/RES. 1960 (XXXIII-O/03), “Program for Democratic Governance in the Americas”;

CONSIDERING that the Inter-American Agency for Cooperation and Development (IACD) has been identifying and facilitating access by member state governments to e-government practices that facilitate information and communications technology applications in governmental processes;

CONSIDERING ALSO that the Unit for the Promotion of Democracy (UPD) has been providing support to member state governments in dealing with the topic of access to public information;

NOTING the work accomplished by the Inter-American Juridical Committee (CJI) on this issue, in particular, the document “Right to Information: Access to and Protection of Information and Personal Data in Electronic Format,” presented by Dr. Jonathan Fried (CJI/doc.25/00 rev. 1);

RECOGNIZING that the goal of achieving an informed citizenry must be rendered compatible with other societal aims, such as safeguarding national security, public order, and protection of personal privacy, pursuant to laws passed to that effect;

RECOGNIZING ALSO that democracy is strengthened through full respect for freedom of expression, access to public information, and the free dissemination of ideas, and that all sectors of society, including the media, through the public information they disseminate to the citizenry, may contribute to a climate of tolerance of all views, foster a culture of peace, and strengthen democratic governance;

TAKING NOTE of the Declaration of Principles on Freedom of Expression of the Inter-American Commission on Human Rights; and

RECALLING initiatives taken by civil society regarding access to public information, in particular, the Declaration of Chapultepec, the Johannesburg Principles, the Lima Principles, and the Declaration of the SOCIUS Peru 2003: Access to Information,
RESOLVES:

1. To reaffirm that everyone has the freedom to seek, receive, access, and impart information and that access to public information is a requisite for the very exercise of democracy.

2. To reiterate that states are obliged to respect and promote respect for everyone's access to public information and to promote the adoption of any necessary legislative or other types of provisions to ensure its recognition and effective application.

3. To encourage member states, in keeping with the commitment made in the Declaration of Nuevo León and with due respect for constitutional and legal provisions, to prepare and/or adjust their respective legal and regulatory frameworks, as appropriate, so as to provide the citizenry with broad access to public information.

4. To urge member states to take into consideration clear and transparent criteria for exemptions when drafting up and adapting their domestic legislation.

5. To encourage member states to take the necessary measures, through their respective national legislation and other appropriate means, to facilitate the electronic availability of public information.

6. To instruct the Special Rapporteurship for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) and the Unit for the Promotion of Democracy to:

- a. Support the efforts of member states that so request in drafting legislation and developing mechanisms in the area of access to public information and citizen participation; and
- b. Assist the Permanent Council in the preparatory work for the special meeting mentioned in paragraph 9.a.

7. To instruct the Special Rapporteurship for Freedom of Expression to continue to report on the situation regarding access to public information in the region in the annual report of the IACHR.

8. To instruct the Inter-American Agency for Cooperation and Development (IACD) to identify new resources to support member states' efforts to facilitate access to public information.

9. To recommend to the Permanent Council that it:

- a. Convene a special meeting with the participation of experts from the states and civil society representatives to promote, impart, and exchange experiences and knowledge with respect to access to public information and its relationship with citizen participation; and
- b. On the basis of the report of the special meeting, and through the Committee on Juridical and Political Affairs, prepare a basic document on best practices and the development of common approaches or guidelines for increasing access to public information.

10. To request the Permanent Council to report to the General Assembly at its thirty-fifth regular session on the implementation of this resolution, which will be carried out in accordance with the resources allocated in the program-budget of the Organization and other resources.

