

**22nd Model of the Permanent Council
for OAS Interns – 22nd MOAS/PC
August 4-5, 2015**

FINAL RESOLUTIONS

(With style revisions by the MOAS Program)



**MOAS PROGRAM COORDINATION
OFFICE OF THE ASSISTANT SECRETARY GENERAL**

MECHANISMS TO DIMINISH RACISM AND DISCRIMINATION TOWARDS AFRO-DESCENDANTS AND INDIGENOUS PEOPLES IN THE HEMISPHERE

THE 22nd MOAS/PC GENERAL ASSEMBLY,

RECOGNIZING the importance of the elimination of all types of racial discrimination, the challenges that this represents to the development of our region, and the principles set forth in the UN Charter and the United Nations Declaration on the Rights of Indigenous Peoples; the International Convention on the Elimination of All Forms of Racial Discrimination; the Inter-American Convention on the Elimination of All Forms of Discrimination and Intolerance; the Convention on the Elimination of all Forms of Discrimination against Women; the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women “Convention of Belem Do Para”, that condemns the discrimination against women in all its forms, and the principles established in the Convention No. 169 of the International Labor Organization (ILO) which states that indigenous peoples have the right to enjoy the full extent of human rights and fundamental freedoms without discrimination;

CONSIDERING that education ought to be an element of social promotion and contribute to the progress of the overall population. It must, without prejudice, serve to produce an educated population that supports the needs and requirements of each country, respectively;

ACKNOWLEDGING that as stated in the Charter of the Organization of the American States, education is a basic right assured to all peoples in the Americas, and that the impact of racism and discrimination is felt amongst indigenous and afro-descendant people as they are often not only denied access to traditional forms of education, but also in that accurate demonstration of their history is often not included in the curriculum offered by the general system;

TAKING NOTE that if the youth of each Member State is not given the information needed to be aware of all past events that have occurred throughout its history, then they and the next generations would be crippled by unintentional ignorance and destined to repeat mistakes of the past;

AWARE of the importance of afro-descendants, indigenous peoples and other communities in the Americas, and conscious of the lack of visibility currently existent in several spheres of public life, and of the forms of prejudice said groups face on various institutional and cultural levels;

NOTING that all indigenous peoples and individuals have the right to identify as members of indigenous communities and the right to develop as part of said groups, without being subjected to any form of discrimination; and

BEARING IN MIND the cultural value of indigenous peoples and afro-descendants, and with due respect and inclusion of their different backgrounds,

RESOLVES:

1. **TO RECOMMEND** that the indigenous and afro-descendant peoples of the Member States be included in all decision-making bodies within all branches of government, in which they should be proportionally represented, and that these groups' concerns are taken into consideration in the policy-making process.

2. **TO SUGGEST** that indigenous and afro-descendant groups have access to justice and the right to choose their traditional/native justice systems, in which native languages are allowed in the legal proceedings, and specialized and adapted legal assistance is provided.

3. **TO URGE** the Member States to freely guarantee in practice the right to free prior informed consultations with indigenous peoples by ensuring that their rights are recognized and their consent or disagreement can be expressed.

4. **TO ENCOURAGE** Member States to take into account the particular problems faced by indigenous and afro-descendant women and girls in order to fully protect and guarantee their human rights.

5. **TO SUGGEST** an adaptation of the curriculums offered within the public school systems of Member States in order to ensure the acknowledgment of the diverse histories and cultures of indigenous and afro-descendant communities and their importance to the national identity.

6. **TO REQUEST** the promotion of national policies that shall increase the accessibility of public school education for local traditional communities, therefore reducing discrimination by generating a more acceptable environment.

7. **TO RECOMMEND** an increase in the accessibility to education in local traditional communities, supplied by Member States' funding, with the possibility to learn other national languages.

8. **TO RECOMMEND** the adoption of the United Nations International Day of the World's Indigenous Peoples on August 9, as a holiday for all OAS Member States during which the OAS Headquarters will promote celebrations that include but are not limited to:

- a) Indigenous cultural heritage celebrations in each Member State including culinary, folkloric and artistic traditions and any other type of cultural expressions, and

- b) Educational activities throughout the Americas that encourage learning and respect for indigenous peoples' cultures.

9. TO STRONGLY URGE that each OAS Member State adopts a program that will be released by the OAS Department for Social Inclusion that focuses on decreasing high levels of bias against afro-descendants in the Americas and other minorities in the justice system, and calls upon Member States for funding. This pilot program will:

- a) Be translated into various languages;
- b) Work through a webinar series that teaches the wrongs of bias in the justice system and ways to prevent it, and
- c) Include anti-bias training for professionals in the judicial systems on all levels including, but not limited to:
 - i. The jury;
 - ii. The judge;
 - iii. Officers involved, and
 - iv. Other parties.

**NEW APPROACHES TO ADDRESS INTOLERANCE AND DISCRIMINATION
TOWARDS LGBTI PERSONS IN THE AMERICAS (^{1 2 3 4 5 6 7 8 9 10 11 12 13})**

¹ Even though the delegation of the Oriental Republic of Uruguay joins the consensus of this resolution, it opposes the rejection of the clause related to the recognition of same-sex marriage and civil unions.

² The United States, having voted in favor of this resolution and concerned about the rights of LGBTI persons, strongly opposes the elimination of the clause encouraging the approval of same-sex marriage or any kind of civil union.

³ Even though the delegation of the Republic of Argentina joins the consensus of this resolution, it opposes the rejection of the clause related to the recognition of same-sex marriage and civil unions.

⁴ Even though the delegation of Saint Lucia joins the consensus of this resolution, it is opposed to the term “gender expression”, because it is not currently defined in the domestic law of the state.

⁵ Even though the delegation of the Republic of Peru joins the consensus on this resolution, it is unable to support clause number 7.

⁶ The Commonwealth of the Bahamas reaffirms its interest in gender equality and its support to suppress all forms of intolerance and discrimination against LGBTI persons. Although it is unable to change domestic legislation, it accepts the resolution with the exception of clauses 7, 9, and 10.

⁷ The Commonwealth of Dominica declares its commitment to human rights and that it does not discriminate for any reason on the grounds of birth, sex, race, language, religious origin, education, political beliefs, economic position or any other status. However, Dominica is unable to join consensus on the approval of this resolution, specifically on the operative clauses 2, 7, 9 and 10, in the context of existing policy and legislation, and due to the lack of national consensus on many of these issues.

⁸ The delegation of Belize wishes to manifest its disagreement with clauses 2, 3, 5, 6, 7, 8, 9, 10, and does not support this resolution.

⁹ Panama will implement this resolution in accordance with the provisions contained in the Political Constitution of the Republic of Panama.

¹⁰ The delegation of Trinidad and Tobago would like to express its commitment to the protection of the principles of equality and non-discrimination. However, the delegation is unable to approve clauses 8 and 9 as these groups are currently not recognized as such.

¹¹ The Government of Jamaica is unable to join the consensus on the approval of clauses 3, 7, 8, 10, given that full legal recognition of educational programs and the adoption of civil pensions will involve proper legislative changes in Jamaica. Jamaica would like to note that we have forwarded gay rights initiatives to the Parliament for discussion, and as a result of the debate, the Parliament has considered that Jamaica’s society is not ready for such a controversial legal change. Also, the Government of Jamaica would like to mention that its Constitution contains a prohibition of discrimination, granting fundamental rights and freedoms to the citizens of Jamaica and the people in its jurisdiction.

¹² The Republic of El Salvador is unable to join the consensus on the approval of this resolution, given that the adoption of such changes has been already discussed. The Salvadorian society is not ready to accept this change in its Constitution and domestic law.

¹³ The Commonwealth of Grenada declares its commitment to human rights and that it does not discriminate on the grounds of birth, sex, race, language, religious origin, education, political beliefs, economic position or any other status. However, Grenada is unable to join consensus on the approval of this resolution, specifically on the operative clauses 2 and 7, in the context of existing policy and legislation, and due to the lack of national consensus on many of these issues.

THE 22nd MOAS/PC GENERAL ASSEMBLY,

TAKING INTO ACCOUNT resolutions AG/RES. 2863 (XLIV-O/14), AG/RES. 2435 (XXXVIII-O/08), AG/RES. 2504 (XXXIX-O/09), AG/RES. 2600 (XL-O/10), AG/RES. 2653 (XLI-O/11), AG/RES. 2721 (XLII-O/12), and AG/RES. 2807 (XLIII-O/13), “Human Rights, Sexual Orientation, and Gender Identity and Expression”;

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;

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, in 2014, by the Inter-American Commission on Human Rights (IACHR), of the Rapporteurship for the Rights of Lesbian, Gay, Bisexual, Trans, and Intersex (LGBTI) Persons, which will continue with the work of the IACHR Unit on those same topics, including the preparation of a hemispheric report on this issue;

Of the signing, on June 5, 2013, of the Inter-American Convention against all Forms of Discrimination and Intolerance;

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 different approach to the investigation of violations committed against them, and discourse calculated to discredit”;

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

Of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, And Cultural Rights “Protocol of San Salvador”;

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;

BEARING IN MIND the importance of economic, cultural, and social rights in the general improvement and empowerment of LGBTI individuals within their communities;

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, “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 of the terminological study “Sexual Orientation, Gender Identity, and Gender Expression: Some Terminology and Relevant Standards,” prepared by the IACHR and published on April 23, 2012, in keeping with resolution AG/RES. 2653 (XLI-O/11), “Human Rights, Sexual Orientation, and Gender Identity,”

RESOLVES:

1. TO CONDEMN the acts of violence, discrimination and other types of human rights violations perpetrated against lesbian, gay, bisexual, trans and intersex persons in the Americas.

2. TO ENCOURAGE the Member States to allow people to freely express their gender identity and sexual orientation.

3. TO INVITE the Member States to take immediate actions to develop formal and informal educational programs appropriate to every level of the educational process, to counteract prejudices, and all other practices based on discrimination and intolerance against the LGBTI persons; and to encourage Member States who already have them to strengthen those programs and enhance public participation and civil society involvement.

4. TO REQUEST the General Secretariat of the OAS to create an Educational and Training Program destined to the police and other law enforcement officers in a joint effort with civil society organizations of the Hemisphere, to raise awareness on the rights of LGBTI persons to prevent and avoid criminalization regarding sexual orientation and gender identity.

5. TO URGE the Member States, in collaboration with the General Secretariat of the OAS, within their institutional capabilities, to investigate and collect statistical information and data about access to rights, violence and discrimination against the LGBTI persons in a transparent and public manner, in order to:

- a) Create indicators of the human rights situation of LGBTI persons, and
- b) Promote public policies and legal mechanisms to ensure effective exercise of their human rights and access to restitutions, reparations and remedies.

6. TO INVITE all Member States to formally acknowledge the existence of the LGBTI community as a vulnerable group throughout the Hemisphere.

7. TO INVITE Member States to provide trans and intersex individuals with a legal framework which is able to recognize their gender identities and bodily diversity.

8. TO URGE Member States to guarantee that sexual orientation, gender identity, and bodily diversity are not obstacles to employment, education, health, and the creation of and active participation in cultural, artistic, and social expressions.

9. TO SUGGEST to Member States that they combat conversion therapies of gender identity and sexual orientation and unnecessary, invasive, and non-consensual “aesthetic” surgeries of intersex persons. And along with this, recommend to Member States, to the Secretary General, and to the Inter-American Commission on Human Rights (IACHR) that they pay special attention to trans and intersex populations in public health policies.

10. TO URGE Member States to grant pensionable rights to all legally recognized civil unions without distinction based on sexual orientation or gender identity.