

Regular Meeting of the Permanent Council of the OAS which includes the Commemoration of Trans Day of Visibility

Intervention of Comisiones Roberta Clarke Rapporteur of the Rights of LGBTI Persons

Wednesday, April 6, 2022
10:00 am

Introduction

List of authorities and participants:

1. Your Excellency Ambassador Elizabeth Darius-Clark, Permanent Representative of St. Lucia to the Organization of American States and Chair of the Permanent Council of the Organization of American States (OAS)
2. Mr. Luis Almagro, OAS Secretary General
3. Ambassador Nestor Mendez, OAS Assistant Secretary General
4. Distinguished Permanent Representatives of OAS Member States
5. Distinguished Permanent Observers to the OAS
6. Ms. Jessica Stern, U.S. Special Envoy to Advance the Human Rights of LGBTQI+ Persons.
7. Representatives of Civil Society organizations: Marie Isabelle Gendron, Fondation Émergence (Canada) and Dayana Hernández, “Asociación Transvida” (Costa Rica).
8. First, I would like to thank the Permanent Council of the Organization of American States for the invitation to speak at this Regular Meeting at the request of the Permanent Mission of Costa Rica and the Member States that make up the OAS LGBTI Core Group for their committed work to the visibility of LGBTI persons in the work of the Inter-American System.

I. Talking points

1. On March 31, 2022, the Inter-American Commission on Human Rights issued a statement celebrating the lives, accomplishments, and resilience of trans, non-binary, and gender-diverse persons in the hemisphere. On that date, the IACHR also published its first-ever Newsletter on the rights of LGBTI persons in the region.
2. This quarterly newsletter will provide periodic and updated information on good practices, specific situations and emerging trends that require special attention.
3. The IACHR aims to assist States in fulfilling their international duties to eradicate discrimination and violence based on sexual orientation, gender identity and sexual characteristics-
4. During my intervention today, I will highlight some of the signs of progress in the recognition and protection of the human rights of trans persons in our region. I will also speak to the challenges that persist. Finally, I will extend an invitation to all Member States to continue to work alongside the Commission in promoting structural change for the benefit of trans, non-binary and gender diverse persons.

II. *Signs of Progress*

5. Despite a history of discrimination and exclusion, IACHR celebrates that trans persons have, recently, received historic appointments and won elections to decision-making spaces. Trans persons have reached achievements in other areas such as the arts, sports, media, and academia.
6. The Inter-American Commission on Human Rights has also noted the transformative work of trans activists and human rights defenders. We have heard the testimonies of courageous children and adolescents who have argued for their human rights before political and judicial bodies.

7. The efforts of human rights advocates, their families and allies, along with the work of public officials have resulted in substantial progress in human rights. This progress has taken the form of landmark judicial decisions, legal reforms, public policies, and administrative modifications.
8. For example, the “Integral Law for Trans Persons” in Uruguay (*Ley Integral Trans*), protects the human rights of trans and non-binary persons including measures to address the impacts of a history of social exclusion and discrimination from employment, housing, and healthcare.
9. Similarly, the Gender Identity Law and the Law for the Promotion of Access to Formal Employment for Trans Persons in Argentina—seek to eliminate the structural barriers faced by this population. Likewise, we celebrate Canada’s amendment of its Criminal Code to prohibit so-called “conversion therapy,” or attempts to modify or suppress an individual’s sexual orientation, gender identity, or gender expression. We also highlight states that protect people from being discriminated based on their gender identity, such as Ecuador, which has a constitutional provision in this regard.
10. Each year, more trans, non-binary, and gender-diverse persons in our region, including children and adolescents, have been able to obtain personal identification documents that reflect their identities and expressions, in accordance with the Inter-American Court’s Advisory Opinion No. 24 of 2017. States like Costa Rica have incorporated the Court’s opinion into their domestic system, resulting in increased protection for the rights of trans persons.
11. Further, during 2022, the Inter-American Commission celebrated administrative and judicial decisions in the region that secure trans persons’ right to personal identity.
12. Earlier this year, the Ministry of Foreign Affairs of Mexico announced that Mexican consulates will be able to issue birth certificates with rectified names and gender markers to trans individuals living abroad. Additionally, the Supreme Court of Mexico struck down a provision of the Civil Code of Puebla that prevented trans individuals under the age of 18 from exercising their right to identity.

13. Meanwhile, in Brazil, government institutions ensure trans persons' right to proper documentation, including the Public Defender's Office of Rio de Janeiro, who helped 65 trans and non-binary persons rectify their documents on February 18.
14. On that same day, the Supreme Court of El Salvador ordered the country's Congress to pass legislation establishing a procedure for changes to official documents in accordance with individuals' gender identities. Finally, on March 1, the Constitutional Court of Colombia urged the Government and the National Registry of Civil Status to include a non-binary gender marker in identification documents. In the United States, citizens will be able to select the gender neutral "X" as a marker on their passport books starting this month.
15. We have also seen progress in the area of economic, social, cultural, and environmental rights. On January 26, for example, the Labor Department of Chile issued a decision that pregnant trans men would be guaranteed the same rights as pregnant women in the context of employment. We also celebrate the entry into force of the Marriage Equality Law, which includes some protections for trans persons.
16. Likewise, we celebrate the Government of the United States of America's condemnation of the proliferation of dangerous anti-transgender legislation at the State-level and its announcement of new actions to support the mental health of trans children, as well as measures to remove barriers that trans persons face accessing government services.
17. Additionally, on March 18, Honduras announced the creation of an educational scholarship for trans women in compliance with one of the reparation measures ordered by the Inter-American Court in the case of Vicky Hernandez v. Honduras, which we celebrate.
18. The Commission has also observed the progress and notes judicial decisions that apply a gender and diversity-perspective when ruling in cases of violence against trans persons and we invite Member States to send us information on best practices to ensuring access to justice in cases concerning the LGBTI community.

Challenges

19. However, even with progress and perhaps because of it, we see regressive positions and backlash.
20. The Inter-American Commission is gravely concerned about legal initiatives and directives that threaten to prosecute families and medical professionals who provide trans children with gender-affirming care, or seek to silence discourse around diversity, inclusion, and comprehensive sexual education.
21. We must work together to end gender and identity-based discrimination against children and adolescents in school, as well as to eliminate risks to families and healthcare providers who support trans children.
22. The Inter-American Commission has also observed the persistence of many forms of violence against trans, non-binary, and gender-diverse persons.
23. We must work together to design and implement projects, including educational programs and media campaigns, that transform cultural patterns in order to guarantee respect and acceptance for people whose gender identity or expression differs from the norm.
24. IACHR has various thematic reports with recommendations aimed at Member States,- We cordially invite all Member States to continue to use our reports when implementing public policies and legislative change.

III. Conclusion

25. Embracing diversity and respect for the dignity of others is essential for our Inter-American region to thrive.
26. The Inter-American Commission reaffirms its commitment to engage in technical cooperation to all Member States. The office that I lead is dedicated to protecting and promoting the human rights of trans, non-binary, and gender-diverse individuals in the

Americas, as well as all LGBTI individuals and communities. We cordially invite the Member States to continue to support our efforts to promote the construction of a culture based on equality, diversity and inclusion.

27. Thank you, Chair.