

DRAFT RESOLUTION

HUMAN RIGHTS, SEXUAL ORIENTATION,
AND GENDER IDENTITY AND EXPRESSION^{1/ 2/}

(Presented by the Permanent Mission of Brazil and co-sponsored
by the delegations of Argentina, Colombia, United States, and Uruguay)

(Approved by the CAJP on May 24, 2013, *ad referendum* of Ecuador,
and referred to the Permanent Council for consideration)

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

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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 delegation of Saint Vincent and the Grenadines is unable to join consensus on the approval of this
resolution. Saint Vincent and the Grenadines is of the view that the term “gender expression” ...

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 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.

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).

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.

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.