

AG/RES. 2595 (XL-O/10)

RIGHT TO THE TRUTH^{1/ 2/ 3/}

(Adopted at the fourth plenary session, held on June 8, 2010)

THE GENERAL ASSEMBLY,

HAVING SEEN resolutions AG/RES. 2175 (XXXVI-O/06), AG/RES. 2267 (XXXVII-O/07), and AG/RES. 2406 (XXXVIII-O/08), and AG/RES. 2509 (XXXIX-O/09) “Right to the Truth”;

CONSIDERING the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights (Pact of San José, Costa Rica), the Inter-American Convention to Prevent and Punish Torture, and the Inter-American Convention on Forced Disappearance of Persons;

CONSIDERING IN PARTICULAR Articles 25, 8, 13, and 1.1 of the American Convention on Human Rights, related, respectively, to the right to judicial protection, the right to a fair trial and judicial guarantees, the right to freedom of expression, and the obligation of states to respect and guarantee human rights;

CONSIDERING ALSO the provisions of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the 1949 Geneva Conventions and the 1977 Additional Protocols thereto, the 2006 International Convention for the Protection of All Persons from Enforced Disappearance, and other relevant instruments of international human rights law and international humanitarian law, as well as the Vienna Declaration and Programme of Action;

NOTING the universality, interdependence, indivisibility, and interrelatedness of civil, political, economic, social, and cultural rights;

TAKING NOTE of Articles 32 and 33 of Additional Protocol I, adopted on June 8, 1977, to the Geneva Conventions of August 12, 1949, and relating to the protection of victims of international armed conflicts, which recognize the right of families, as soon as circumstances permit, to know the fate of persons who have disappeared in armed conflicts;

^{1.} The Government of the Republic of Nicaragua expresses its support for most of the paragraphs in this resolution on the right to the truth. However, it cannot support references to the truth commissions mentioned in operative paragraphs 2, 3, and 4, given the different international political context that exists as a result of the coup d'état in Honduras and the subsequent establishment of a “Truth Commission” for the purpose of covering up the coup d'état in that country and consequently the numerous violations of human rights that are still being committed and have been denounced by various national and international human rights bodies. Said “Truth Commission” cannot be supported or endorsed by any resolution of the Organization of American States, nor can it be accepted as a precedent for seeking to legitimize its actions aimed at justifying the coup d'état, which is inadmissible.

^{2.} The delegation of the Bolivarian Republic of Venezuela joins the reservation entered by the Government of the Republic of Nicaragua.

^{3.} The delegation of the Republic of Ecuador joins the reservation entered by the Government of the Republic of Nicaragua.

EMPHASIZING that adequate steps to identify victims should also be taken in situations not amounting to armed conflict, especially in cases of severe or systematic violations of human rights;

RECALLING resolution 2005/66 of the United Nations Commission on Human Rights, on the right to the truth, as well as decision 2/105 and resolutions 9/11 and 12/12, both of the United Nations Human Rights Council;

TAKING INTO ACCOUNT resolution 10/26 of the Human Rights Council, on forensic genetics and human rights, which recognizes the importance of using forensic genetics to address the issue of impunity in the context of investigations relating to serious violations of human rights and violations of international humanitarian law;

RECALLING ALSO resolution AG/RES. 445 (IX-O/79), on the promotion of human rights, and resolutions AG/RES. 510 (X-O/80), AG/RES. 618 (XII-O/82), AG/RES. 666 (XIII-O/83), and AG/RES. 742 (XIV-O/84), on forced disappearance;

TAKING INTO ACCOUNT resolution AG/RES. 2134 (XXXV-O/05) on persons who have disappeared and resolutions AG/RES. 2231 (XXXVI-O/06), AG/RES. 2295 (XXXVII-O/07), and AG/RES. 2416 (XXXVIII-O/08), on persons who have disappeared and assistance to members of their families;

TAKING INTO ACCOUNT ALSO the International Convention for the Protection of All Persons from Enforced Disappearance, adopted in 2006 by the United Nations General Assembly through resolution 61/177, which, in its Preamble and in Article 24.2, recognizes the right to the truth in that it states that each victim has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation, and the fate of the disappeared person, and establishes that it is the obligation of each state party to take appropriate measures in this regard;

NOTING that the General Assembly has received the reports of the Inter-American Commission on Human Rights (IACHR) on the human rights situation in certain countries of the region, which refer to the right to the truth and recognize that the disappearance of persons causes suffering and hardship, especially to family members and any other person having a legitimate interest, who are uncertain about their fate and unable to provide them with legal, moral, and material assistance;

NOTING ALSO that the IACHR and the Inter-American Court of Human Rights have recognized the right to the truth in their respective recommendations and judgments in various individual cases of human rights violations;

MINDFUL that the right to the truth may be characterized differently in some legal systems as the right to know or to be informed or as freedom of information;

RECALLING the reports of the Office of the United Nations High Commissioner for Human Rights on right to the truth (E/CN.4/2006/91, A/HRC/5/7) and their conclusions regarding the right to the truth in cases of gross human rights violations and serious violations of international humanitarian law;

RECALLING ALSO the latest report of the Office of the United Nations High Commissioner for Human Rights on the right to the truth (A/HRC/12/19) and its findings on the importance of the protection of witnesses during criminal proceedings related to serious violations of human rights and violations of international humanitarian law, as well as issues relating to the development and management of file systems to ensure the effective fulfillment of the right to truth;

RECALLING FURTHER the conclusions of the regional seminar “Memory, Truth, and Justice: Our Recent Past,” held in the context of the Meeting of Competent High Authorities on Human Rights and Foreign Ministries of MERCOSUR and Associated States, in November 2005, which recognize the collective dimension of the right to the truth;

EMPHASIZING that the regional community should make a commitment to recognize the right of victims of gross violations of human rights and serious violations of international humanitarian law, and of their families and society as a whole, to know the truth regarding such violations to the fullest extent practicable, in particular the identity of the perpetrators, the causes and facts of such violations, and the circumstances under which they occurred;

EMPHASIZING ALSO that it is important for states to provide effective mechanisms for society as a whole and, in particular, for members of the victims’ families to learn the truth regarding gross violations of human rights and serious violations of international humanitarian law; and

CONVINCED that states, within the framework of their own internal legal systems, should preserve records and other evidence concerning gross violations of human rights and serious violations of international humanitarian law, in order to facilitate knowledge of such violations, investigate allegations, and provide victims with access to an effective remedy in accordance with international law, in order to prevent these violations from occurring again in the future, among other reasons,

RESOLVES:

1. To recognize the importance of respecting and ensuring the right to the truth so as to contribute to ending impunity and to promoting and protecting human rights.

2. To welcome the establishment in several states of specific judicial mechanisms, and to respect their decisions; as well as the creation of other non-judicial or ad hoc mechanisms, such as truth and reconciliation commissions, that complement the justice system, to contribute to the investigation of violations of human rights and of international humanitarian law; and to express appreciation for the preparation and publication of their reports.

3. To encourage the states concerned to disseminate and implement the recommendations of national non-judicial or ad hoc mechanisms, such as truth and reconciliation commissions, to monitor the implementation of said recommendations at the domestic level, and to report on compliance with the decisions of judicial mechanisms.

4. To encourage other states to consider the possibility of establishing specific judicial mechanisms and, where appropriate, truth commissions or other similar bodies to complement the justice system in order to contribute to the investigation and

punishment of gross violations of human rights and serious violations of international humanitarian law.

5. To encourage states and the Inter-American Commission on Human Rights (IACHR), within its sphere of competence, to provide the states that so request with necessary and appropriate assistance concerning the right to the truth, through, *inter alia*, technical cooperation and information exchange on national administrative, legislative, and judicial measures applied, as well as experiences and best practices geared toward the protection, promotion, and implementation of this right.

6. To urge those states that have not already done so to consider signing and ratifying the International Convention for the Protection of All Persons from Forced Disappearance.

7. Once again to request the IACHR to continue working on the preparation of a report, for presentation to the Permanent Council prior to the forty-first regular session of the General Assembly of the OAS, on the evolution of the right to the truth in the Hemisphere, which report shall include national mechanisms and experiences in this regard as well as best practices to ensure effective fulfillment of the right to the truth. This will be done with a view to the Permanent Council's holding, in the second half of 2011, a special meeting on the right to the truth to discuss the IACHR report and exchange national experiences.

8. To encourage all states to take appropriate measures to establish mechanisms or institutions for reporting information on human rights violations and ensuring that citizens have appropriate access to said information, in order to further the exercise of the right to the truth, prevent future human rights violations, and establish accountability in this area.

9. To request the Permanent Council to report to the General Assembly at its forty-first regular session on the implementation of this resolution. Execution of its activities shall be subject to the financial resources available in the program-budget of the Organization and other resources.