

**Speech by Commissioner Roberta Clark
during the special meeting of the Permanent Council**

***“Good practices of inclusion and rights recognition
of LGBTI persons in the Americas”***

Tuesday, November 15th, 2022

Speech: 10 min

-
1. Chair of the permanent Council of the Organization of American States Ambassador Marten Schalkwijk Permanent Representative of Suriname General Secretariat, distinguished permanent representatives, distinguished delegations of permanent observers, representatives of civil society.
 2. I would like to thank the permanent Council of the Organization of American States for this opportunity to address you at this special meeting. I appreciate the permanent mission of Mexico and the member states that make up the OAS LGBTI core group for their commitment to the inclusion, dignity and ragged LGBTI persons in the work of the Inter American system.
 3. The Inter-American Commission is aware of the challenges that remain in our region towards the respect guarantee and fulfillment of the rights of gay, lesbian, bisexual, Intersex, trans, non binary , two spirit and gender diverse people in the Americas and the Caribbean .
 4. On a daily basis, we monitor different forms of violence and discrimination that LGBTI persons face the existence of criminalization laws to present the criminal codes of several member states and hampers access to human rights particularly for gay men. And these laws have a negative cultural effect on societal attitudes, even where they have been decriminalization.

5. LGBTI human rights defenders speak of the systems of prejudice and bias expanding expression in the use of other laws to prosecute and harass LGBTI persons. We need to do so much more to root out discrimination not only in laws and policies, but in culture.
6. Notwithstanding the jurisprudence and the legal and advisory opinion of the Inter American court across region there is an equal recognition of the right to gender identity for trans persons. Similarly, even though marriage equality is becoming a reality, in an increasing number of member states, the rights of same sex couples and their families are still undermined.
7. We cannot deny that historically marginalized populations feel the negative impacts of crises disproportionately, whether these are disasters or public health pandemics, such as in COVID. Those populations like LGBTI persons tend to experience higher levels of precarious employment and unemployment are not covered by social protection. They are often ignored by policy measures that fail to take a differentiated approach.
8. The Inter American Commission considers that the recognition of the rights of LGBTI persons is the factor in achieving nondiscrimination, equality and dignity as well as combating violence in order to achieve a more just society founded on the rule of law.
9. So, when we look at problems, what do we look for? What do we mean by progress? First, it is important to talk about the eradication and prevention of discrimination and violence.
10. So, for example, last year, Canada banned who quote conversion practices across their country, these harmful practices lack any scientific foundation and aim of changing people's sexual orientation and gender identity and disproportionately affects vulnerable LGBTI youth and children.
11. The courts in St. Kitts and Nevis and in Antigua and Barbuda have declared the criminalization of same sex consensual sexual activity to be a violation of human rights and unconstitutional. The decisions reflect a growing understanding of the diversity of the human experience and an appreciation of the non-negotiability of equality and non-discrimination, and we expect will contribute to a more equitable inclusion of LGBTI persons.
12. So, nondiscrimination is not just a right in and of itself and very importantly, so but it is also a precondition for the enjoyment of other rights.
13. This was recognized, for example, in 2020, by the Supreme Court of the United States which decided that discrimination on the basis of sexual orientation and gender identity is prohibited under the federal employment non-discrimination law.
14. Another example comes from Mexico recognize where all 32 states now recognize same sex unions. Not only do these laws and policies have a positive cultural effect with the

acceptance of diverse families, but they also better support a host of other rights, such as freedom of movement and equal opportunity in employment and access to services.

15. The Commission also take sort of measures taken towards the recognition of the rights of trans and non-binary and gender diverse persons, who often the most visible and vulnerable face of the LGBTI community. The recognition of gender identity has opened the door for access to many other rights.
16. So far legal gender identity recognition according to human rights standards of the Inter American system that are based on self-determination and simplify procedures, it's possible in Argentina and Brazil and Colombia and Chile and Uruguay. Other states have taken positive measures towards gender recognition but there are still some limitations for example in Bolivia, and Ecuador.
17. Regarding the rights of non-binary persons last year in 2021, in Argentina, the right to non-binary identity and legal documents, most passports and national IDs was advanced and the Colombian Constitutional Court issued a ruling demanding non binary options to be available in ID documents . Similarly, the United States government has implemented steps toward recognizing non valid passports for American citizens. This is a positive trend and consistent with the Inter American court's advisory opinion 24th 2017, which we encourage all states to follow.
18. Scientific, statistical and disaggregated data is essential to guide the design and implementation of law and policy that aims to guarantee the rights of LGBT person and so the Commission has taken notice of progress and good practices regarding data collection.
19. This year, the people Defender's Office in Bolivia announced the virtual survey, aimed at supporting the legal and policy needs LGBTI persons. Similar initiatives were undertaken in Mexico included in 2019 to understand the living conditions of Intersex persons. This was a pioneer project at the global level.
20. In May of this year, the state of Honduras recognize the state's international responsibility in matters involving the death and decay nandus a trans man was murdered in the context of societal prejudice and social unrest. This recognition of international responsibility reflects the state's commitment to take measures to counteract negative societal attitudes and prejudices that exacerbate violence against LGBTI persons and especially trans people.
21. There are many other positive examples but because of time I cannot highlight the point is that the Commission considers important a member states to share and learn from the approaches across the region.

22. In closing, let me say that under international human rights, customary law and under the jurisprudence of the Inter-American rights system, discrimination and all its forms against LGBTI persons is a violation of human rights. There are no ifs, ands or buts about this. We must never have recourse to the narrative of culture or so called traditional values to justify discrimination.
23. In our Americas and the Caribbean. We live the legacy of horrific violence, historical violence, extreme exploitation, and pernicious employment discrimination to justify that violence and exploitation.
24. And so we have the sacred obligation to who taught inequalities and intersectional exclusion. We have responsibility to shape social, economic and political and cultural relations that better short everyone have a decent quality of life, have a life of dignity and a life of freedoms and states have very specific accountabilities, here, given the authority of state actors within the legislature, within the executive or the judiciary, states have the obligation to design and implement laws and policies that guarantee human rights and that guarantee equality of opportunities for LGBTI persons.
25. States must adopt approaches that seek to end harmful and restrictive practices and stereotypes that deny LGBTI persons their rights to be, the right to love and their right to live in freedom.
26. I urge all member states to ratify the Inter American Convention against all forms of discrimination and intolerance, and in ending in the Inter American commission human rights reaffirms its commitment to fulfill its mandate as a provider of technical cooperation to all member states in this area of work. In the sense we appreciate the support of Member States for our work to promote the construction of a culture based on equality, diversity, and inclusion.
27. Thank you very much chair