

AG/RES.2406 (XXXVIII-O/08)

RIGHT TO THE TRUTH

(Adopted at the fourth plenary session, held on June 3, 2008)

THE GENERAL ASSEMBLY,

HAVING SEEN its resolutions AG/RES. 2175 (XXXVI-O/06) and AG/RES. 2267 (XXXVII-O/07), “Right to the Truth”;

CONSIDERING the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, or “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 due process and judicial guarantees, the right to freedom of expression, and the duty 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 Geneva Conventions of 1949 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;

STRESSING 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, and decision 2/105 of the United Nations Human Rights Council;

RECALLING ALSO its resolution AG/RES. 445 (IX-O/79), on the promotion of human rights, and its 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 its resolution AG/RES. 2134 (XXXV-O/05), on persons who have disappeared, and its resolutions AG/RES. 2231 (XXXVI-O/06) and AG/RES. 2295 (XXXVII-O/07), on persons who have disappeared and assistance to members of their families;

NOTING that the General Assembly has received reports from the Inter-American Commission on Human Rights 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 relatives 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 Inter-American Commission on Human Rights 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;

TAKING NOTE of the oral progress report presented by the IACHR in April 2008 on the preparation of the report requested in resolution AG/RES. 2267 (XXXVII-O/07);

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

ACKNOWLEDGING ALSO the study on the right to the truth prepared by the Office of the United Nations High Commissioner for Human Rights (E7CN.4/2006/91) in fulfillment of Human Rights Commission resolution 2005/66;

RECALLING 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;

STRESSING 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 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;

STRESSING ALSO that it is important for states to provide effective mechanisms for society as a whole and, in particular, for relatives of the victims, 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, as well as 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 the reports and decisions of these bodies.

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, 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. Once again to request the IACHR to continue working on the preparation of a report, for presentation to the Permanent Council in the second half of 2008, on the evolution of the right to the truth in the Hemisphere, which report shall include national mechanisms and experiences in this regard. This with a view to the Permanent Council's holding, in the first half of 2009, a special meeting on the right to the truth to discuss the IACHR report and exchange national experiences.

7. To encourage all states to take appropriate measures to establish mechanisms or institutions for disclosing information on human rights violations, and to ensure 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.

8. To request the Permanent Council to report to the General Assembly at its thirty-ninth regular session on the implementation of this resolution, the execution of which shall be subject to the availability of financial resources in the program-budget of the Organization and other resources.