



Normative review on mechanisms for Civil Society Participation in the OAS

Sebastián Valencia





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Abbreviations and Acronyms

CIDES.	Inter-American Committee on Social Development
CIDI.	Inter-American committee on Social Development
CISC.	Committee on Inte-American Summits Managment and Civil Society Participation in OAS Activities
OAS.	Organization of American States
OSC.	Civil Society Organizations







1. Introduction

This document presents in a descriptive way a revision of the norms issued by the different organizations and institutions belonging to the Organization of American States (OAS)¹ in order to regulate the participation of Civil Society in its entities, organizations and events.

The document first presents the norms that establish citizen participation as the central axis for the work and the development of the objectives of the OAS, pointing out how citizen participation is considered a founding value of the organization, an ethical and political mandate for member countries and a Fundamental right that can be exercised by the citizens.

The second part describes the mechanisms of participation established in the various norms of the OAS. The norms on participation are divided in two: those that establish general guidelines for participation in the OAS and the specific ones that regulate the types of citizen participation.

At the end of the document, where included some critical reflections on the norms that regulate the participation of Civil Society with the objective of opening a discussion about the approach of participation that underlies in the regulation of the OAS and the necessity of a reform that guarantees a real participation of CSO's different actors acting as "independent political subjects"² that do not depend on the simple will of the States.

¹The main norms that governs the OAS are: General Assembly resolutions, Permanent Council Resolutions and internal regulations that govern the processes of the different agencies within the OAS

²Subjects with clear rights about what they can do and what should do.





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2. General framework (statement of principles) on the promotion of the participation of Civil Society Organizations in the OAS and in the various spaces and activities held under the framework of the OAS

In the founding documents of the OAS, participation is considered as an essential and necessary principle to achieve the objectives that the Member States committed to fulfill in the creation of the organization.



Charter of the Organization of the American States (OAS)



The OAS Charter recognizes “the full participation of their peoples in decisions related to their own development (...), among others, basic objectives of integral development” (OAS Charter, 1948, Art. 34). As a result of this first declaration, Article 45 of the same Charter, declares that States assume a series of more concrete commitments with the aim of “that man can only achieve the full realization of his aspirations within a just social order, along with economic development and true peace”, through the application of a series of principles and mechanisms among which it is emphasized:” f) The incorporation and increasing participation of the marginal sectors of the population, in both rural and urban areas in the Economic, social, civic, cultural and political life of the nation, in order to achieve the full integration of the national community, acceleration of the process of social mobility and the consolidation of the democratic system. The encouragement of any effort of popular promotion and cooperation have as their purpose at the development and progress of the community “(Charter of the OAS, 1948. Art 45).

The same Charter gives the Inter-American Council for Integral Development (CIDI), the obligation to “promote, coordinate and assign responsibility for the execution of development programs and projects to the subsidiary bodies and relevant organizations, on the basis of the priorities identified by the Members States”(Charter of the OAS, 1948. Art 95, c). One of the areas where the Council should focus its efforts is to strengthen the “civic conscience of the American peoples as one of the bases for the effective exercise of democracy and for the observance of the rights and duties of man. These ends shall be furthered by sectoral participation mechanisms and other subsidiary bodies and organizations established by the Charter and by other General Assembly provisions.”(Charter of the OAS, Article 95, c, 3).

The OAS General Secretariat also has a clear obligation to create ties with other organizations. The Article 112 of the Charter stipulates that the General Secretariat must “establish relations of cooperation, in accordance with decisions reached by the General Assembly or the Councils, with the Specialized Organizations as well as other national and international organizations” (Charter of the OAS, Article 112, h).

Inter-American Democratic Charter



But the commitment to participation as a founding value of the OAS and as a right that must be developed and guaranteed is strengthened by the Inter-American Democratic Charter adopted on September 11, 2001. The Democratic Charter, as enunciated by Humberto de la Calle Lombana, “implies a serious political commitment of the rulers to democracy, not in its electoral minimalist version, but with a broad concept that touches all aspects of human dignity as the central axis of its conception.” (Organization of American States (OAS), 2003).

The Charter establishes in its article six the multidimensional nature of participation to consolidate democracy in the region. According to this article, participation is a right and a responsibility of citizens when deciding on their own development, and participation is a necessary condition for the full and effective exercise of democracy. Finally, the article emphasizes the need to promote various forms of participation as the way to strengthen it (Inter-American Democratic Charter, 2001 Art 6).



In its commitment to promote a democratic culture, the Article 26 of the Charter assigns the OAS the mandate to continue developing “programs and activities designed to promote democratic principles and practices and strengthen a democratic culture in the Hemisphere, bearing in mind that democracy is a way of life based on liberty and enhancement of economic, social and cultural conditions of the peoples of the Americas. The OAS will consult and cooperate on an ongoing basis with member states and take into account the contributions of Civil Society Organizations working in those areas”(Inter-American Democratic Charter, 2001, Art. 26).

The previous article is fundamental because of the obligation it imposes on the OAS to promote democratic practices in the hemisphere. But for the purposes of this document, the Article 26 sets out the general form that participation must have in the internal dynamics of the OAS. On one hand, the Charter proposes as a working pattern the commitment to maintain consultations and continuous cooperation with the Member States. This commitment is evident given the intergovernmental nature of the OAS and the need to promote dialogue among countries as the best strategy to avoid crisis and solve problems that arise in the hemisphere. On the other hand, the Charter makes explicit the role that Civil Society should play in its relationship with States within the OAS and with the institutions that integrate the organization.

For the Charter, Civil Society must provide contributions to the States and the OAS, who are the ones who must discuss and take decisions. In addition, Article 27 imposes as one of the central objectives of the programs to reinforce participation in the continent “the strengthening of political institutions and civil society organizations” (Inter-American Democratic Charter 27).

In order to reinforce the essential value of participation as a principle that should guide states and the OAS in their values, the American Convention of Human Rights establishes as one of the political rights that all citizens have the “a) the right to participate in the direction of public affairs, directly or through freely chosen representatives.” (American Convention on Human Rights, Pact of San José, 1969. Article 23).



Social Charter of the Americas



Lastly, the Social Charter of the Americas adopted in 2012 declares a recognition of citizen participation as a central category to promote development in the region and a commitment to ensure participation as a right. In its considerations, the States recall their commitment to “foster full participation by the people in decisions concerning their development and promote and protect human rights”; they also recognize that “the importance for social development of adopting policies to promote good governance, transparency, citizen participation, accountability, just treatment of citizens before the law, and the fight against corruption” (Social Charter of the Americas, 2012. Page 2). As a result of this commitment, the Article 10 declares that, “Member States, in partnership with the private sector and civil society, will promote sustainable development by means of economic growth, social development and conservation and sustainable use of natural resources” (Social Charter of the Americas, 2012. Art. 10).





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3. Mechanisms and spaces for participation within the OAS

This section aims to describe the different types of participation that can be given within the scope of the OAS by Civil Society Organizations based on a review of the resolutions issued by the various organs and institutions that are part of the OAS.

The forms of participation can be divided into three: 1) Registration in the register of Civil Society Organizations of the OAS; 2) Participation in OAS activities (including the Summits of the Americas); and 3) Signatures of cooperation agreements³.

The commitment expressed in the different treaties and mechanisms described in the previous section have been developed in the various meetings and activities carried out by the OAS. All these efforts and experiences led to the issuance of resolution 759 (1217/99) by the Permanent Council on December 15th 1999. This document establishes the guidelines for the participation of Civil Society Organizations in OAS activities. In addition, two other resolutions that seek to increase the participation of civil society must be highlighted: resolution CP / RES. 840 (1361/03), which establishes "Strategies for Increasing and Strengthening Participation by Civil Society Organizations in OAS Activities" and resolution CP / RES. 864 (1413/04), which creates the "Specific Fund to support the Participation of Civil Society Organizations in OAS Activities and in the Summits of the Americas Process." These three norms constitute the general parameters to promote and guarantee participation, in addition to the norms established in the different internal regulations that govern the different OAS organisms and institutions.



³ The Report on the Participation of Civil Society Organizations in OAS Activities (CP / CISC-17/03) considers that "the Organization has five additional ways in which Civil Society Organizations can participate in OAS: 1. To request observer status in General Assembly sessions. In case the Permanent Council approves the participation, the requesting organization will be considered as a special guest. 2. To request observer status at the meetings of the Inter-American Council for Integral Development (CIDI). In case the CIDI Special Commission approves it, the requesting organization will be considered as a special guest. 3. To subscribe cooperation agreements with the General Secretariat. 4. To subscribe cooperation agreements with specific OAS organs, such as CITEI, PAHO and the IIN. 5. Participate in specialized conferences within the framework of the OAS".



Resolution 759

Before going into the description of the rules governing participation, it is necessary to review some definitions and objectives that Resolution 759 proposes and that are necessary to understand how the organizations' participation is ruled, the benefits and the possibilities of action that they acquire, according to each type of participation and the impact that both the States and the organisms of the OAS can have in the level of participation of the organizations in the different spaces of discussion and decision making.

In its first part, the resolution defines its purpose, raises a definition of a Civil Society Organization (CSO), defines the scope of participation of CSOs, sets out the principles that should govern such participation and establishes the main responsibilities within the OAS, in terms of participation. The second part of the document establishes the rules that will govern the registration process of CSOs in the OAS and the general rules to guide its participation in the different OAS activities.

Initially the components of the first part are presented, and later the document will introduce the rules governing the forms of participation already expressed.

Resolution 759 defines CSOs as "any national or international institution, organization or entity made up of natural or juridical persons of a non-governmental nature" (Resolution 759, 1999). This wide definition allows different types of groups of persons to participate in the OAS Activities. As will be mentioned later, it will be the rules that develop more concretely the participation that can put limits and obstacles to the exercise of participation itself.

After the definition, the resolution establishes the scope of CSO participation, presented in two dimensions: describing the types of activities that CSOs can carry out and defining the complementary nature of the parameters for participation in relation to the regulations of the different OAS organizations and institutions.



In establishing the scope of activities that CSOs can develop, the resolution lists the following: (i) assisting OAS activities; (ii) make presentations; (iii) provide information; (iv) at the request of the organs, agencies, and entities of the OAS, provide expert advice, as set forth in these guidelines; and (v) participate in operational activities related to the design, financing and execution of cooperation programs in accordance with applicable rules and specific agreements negotiated for this purpose⁴.

On the other hand, the resolution imposes a key limitation on its normative value and the parameters for participation, at establishing that the "provisions of these guidelines complement but do not modify the Rules of Procedure of the General Assembly and the Inter-American Council for Integral Development (CIDI), the rules governing the inter-American specialized conferences and organizations, and the rules governing the Inter-American Committees of CIDI" (Resolution 759, 1999. Art 3 a).

Therefore, in the case of a possible contradiction between one of the parameters and a specific rule established in the internal regulations of a specific entity, the specific rule will prevail, since the parameter does not have the capacity to modify said situation.

After establishing its scope, the resolution formulates the principles that govern participation. The first principle seeks to define the types of issues in which there may be civil society participation. In this case, the formula used is of a general nature since it refers to matters of the OAS competence, in addition to the requirement that the objectives pursued by CSOs be consistent with "the spirit, aims and principles established in the Charter of the OAS" (Resolution 759, Art. 4 a).

The second principle defines more precisely the purpose of the CSO's participation, which is "to enable the organs, agencies, or entities of the OAS to benefit, in a manner consistent with their operational regulations, from expert advice or specialized information provided to them by organizations on subjects in which those organizations have special competence or interests, and from the cooperation such organizations may provide" (Resolution 759, 1999, Art 4.b). It is interesting to analyze this approach in greater detail because the emphasis is placed on the benefit to OAS entities, of the information or advice provided by Civil Society. It seems to be an instrumental approach to participation that does not proclaim as a central objective the real impact on decision-making by CSOs, but participation as a supplementary exercise in providing materials to benefit decision-making within the OAS.

The third principle is congruent with the previous one, since it speaks of the nature of participation. It is reiterated that such participation must "further the activities of its (OAS) organs, agencies and entities, without prejudice to the regulatory, policy making, and policy implementation functions established by the instruments that govern those organs, agencies and entities" (Resolution 759, 1999 Art 4 c).

To clarify the limits of participation, the fourth principle concludes that participation "shall not be interpreted as a concession of negotiating functions - which are the exclusive preserve of the States - and shall not alter the intergovernmental nature of the organs, agencies and entities of the OAS" (Resolution 759, 1999 Art 4. D)

Finally, the guidelines establish a principle regarding the types of rights that participation gives to CSOs and that in no case may be equated with the rights of Member States, Permanent Observers and entities and bodies of the inter-American system (Resolution 759, 1999 Art 4 d).

After the principles are established, resolution 759 defines the responsibilities that some bodies must assume in relation to participation. The Permanent Council is granted a monitoring function to be implemented through the Commission on Civil Society Participation - CISC⁵. A general mandate is then given to the other organs, agencies and entities of the OAS to regulate their relations with the CSO in accordance with "their own governing provisions and that will best serve their purposes and specific mandates, with due regard to these guidelines" (Resolution 759, 1999 Art 5 b).

Finally, the General Secretariat is entrusted with the obligation to carry out "the duties entrusted to it by the Permanent Council through the Committee, shall implement the mechanisms and procedures detailed below and shall present recommendations as it sees fit to the Committee with a view to improving the system once established" (Resolution 759, 1999 Art 5.c).



⁴Although five types of activities are considered, the present document will describe the forms of participation in three components: registration, participation in events and cooperation agreements. This is because, to cite a single example, the possibility of making presentations is part of the result of attending an event and that presentation is facilitated if the organization is registered.

⁵Currently, this committee is called the "Committee on Inter-American Summits Management and Civil Society Participation in OAS Activities (CISC) of the Permanent Council."

Resolution 840



Resolution 840 of 2004 issued by the Permanent Council - CP / RES. 840 (1361/03) can be considered an exercise that specifies and develops some of the parameters established in Resolution 759. In order to achieve this objective, Resolution 840 entrusts responsibilities to the General Secretariat and to the Committee on Inter-American Summits Management and Participation of Civil Society (CISC)⁶, and urges the States to promote some actions that strengthen Civil Society participation.

Among the most important obligations assigned to the General Secretariat are: to promote the registration of organizations with the OAS and to encourage their participation in the activities; to transmit to registered organizations resolutions adopted for two purposes (listen to their comments and request support for their Implementation); to develop and distribute a consolidated document containing all OAS rules that allow participation; create a process of "virtual consultation" of draft resolutions that allow dialogue between those responsible at OAS bodies and CSO; evaluate periodically the process of "virtual consultations"; promote and use of Internet as a tool for participation; adopt measures so registered CSOs with the OAS have special credentials in the different activities; and prepare a technical study on Relevance and feasibility of "harmonizing existing OAS mechanisms and regulations to promote participation by Civil Society Organizations" (Resolution 840, 2003 Art 1.1.i).

To the CISC entrusted to: consult with organizations on draft conventions; establish a channel for consultation with the United Nations on lessons learned; and to recommend to the Permanent Council the institutionalization of informal dialogues in the calendar of the General Assembly, among others (Resolution 840, 2003 Art 1.2).

On the other hand, it urges to the States to "invite registered Civil Society Organizations according to their areas of endeavor, to attend as guests and contribute to the agenda and preparation of such events", if they host meetings organized in the OAS framework (Resolution 840, 2003 Art 1.3.a). It also calls to the States to "report on existing procedures and regulations at the national level regarding consultation with Civil Society on the formulation of government policies and decision making, to allow for an exchange of experiences and best practices among the member states "(Resolution 840, 2003 Art 1.3 b)

Finally, the resolution asks to the CISC to follow up, implement strategies and propose changes or new tools for " increasing and strengthening participation by Civil Society Organizations in OAS activities"(Resolution 840, 2003 Art 2).



⁶ It is important to highlight the inclusion of the summit process as a central space for participation. The third summit held in Quebec in 2001 was the scenario where the participation of civil society began with greater force and efforts are made to create mechanisms to follow up and monitor the commitments agreed at the summits. It is necessary to note that resolution 759 of 1999 makes no reference to the summit process because at that time the process of articulation of the summits with the work of the OAS had not been developed yet. It is from 2001 Summit that the OAS assumes responsibilities related to the summit (Technical Secretariat).

Resolution 864



Resolution CP / RES. 864 (1413/04) creates the Specific Fund to support the participation of CSOs in OAS activities and in the Summits of the Americas Process. The purpose will be to provide financial support so that CSOs can participate in OAS events. The resolution designates where the resources will come from, designates the Secretary General through the Secretariat of the Summit Process as the administrator of the Fund and create a Board to select the beneficiaries who will participate in OAS activities (Resolution 864, 2004).

The resolution also defines the process through which the resources can be requested and determines that the Selection Board will be composed of three members, one of whom will be a representative of the Civil Society chosen by the registered Civil Society Organizations. Finally, the resolution also defines the administrative processes related to the viability and effectiveness of the Fund, and the audits necessary to ensure transparency.



3.1 Normative framework governing the registration process of Civil Society Organizations before the OAS⁷



The first type of CSO participation found in resolution 759 is the registration with the OAS to participate in OAS activities. Registration appear to have as its first and greatest benefit to open up the participation in the activities; it also offers the opportunity to: issue written opinions on the matters that are discussed in the Permanent Council meetings; to make presentations at the beginning of the meetings with prior authorization from the Permanent Council; access to drafts of resolutions; to issue observations and receive the resolutions adopted at the Assembly, among others (Organization of American States (OAS), 2010. Page 22).

Resolution 759 establishes requirements, procedure for registration, eligibility conditions, registered CSO responsibilities and conditions for registration suspension or cancellation.

The procedure for registering includes the following steps: submission of a request to the Secretary General requesting participation in OAS activities. The Secretary must send the request to the Commission, currently known as the CISC, who will analyze each case and will make comments that will send to the Permanent Council⁷, body responsible for making the final decision (Resolution 759, 1999 Art 6).

When assessing the registration of a Civil Society Organization, resolution 759 establishes that four “conditions-requirements-types of requirements” must be taken into account. First, each application must meet formal requirements: the explanation of what kind of organization is involved, its areas of work and show its interest in supporting the work of the OAS; on the other hand, it must present a series of documents proving the existence of the organization and its financial statements (Resolution 759, 1999. Art 6.).

⁷The Permanent Council is composed of all the Ambassadors, so the acceptance or rejection of a CSO registration goes through the filter of governments, which implies obvious restrictions for opposition CSOs.

Secondly, each organization must meet eligibility conditions related to its reputation and representativeness, institutional structure, financial transparency and “ a level of independence to the requesting organization” (Resolution 759, 1999. Art 8. D). In addition, the resolution states that “shall not process applications to participate from Civil Society Organizations that have their headquarters or conduct their principal activities in any territory over which there exist a sovereignty dispute between an OAS member state and a state Outside the Hemisphere “(Resolution 759, 1999, Art 8).

The third general criterion for accepting or denying a register is related with the geographic origin of CSOs. According to the resolution “The Committee should seek to ensure the registration of civil society organizations from all member states, in order to facilitate just, balanced, effective and genuine participation by all regions of the Hemisphere” (Resolution 759 , 1999. Art. 9). In reviewing this criterion, a question arises: Can any of the OAS authorities that analyze the registration of a CSO deny it to any particular one on the grounds that the country to which it belongs already has many organizations registered and may be affecting the balance in participation in the Hemisphere?

The fourth general criterion for deciding whether or not to accept a registration is in Article 10, which gives Member States the possibility to “make comments and request for reports from the organization in question. These comments and request shall be sent to that Organization for a response” (Resolution 759, 1999. Art. 10). This criterion raises a number of concerns: first, the wide margin that gives the possibility of asking questions may be use by a State as an obstacle for the registration with the object of opposing the participation of an opposing CSO in its country, even if the organization meets all the requirements. In addition, the article leaves a wide space of discretion since it does not offer explanations about the process to be carried out after receiving the answer of the questions asked to the CSO: Who decides on the veracity of the answers? Can the State asking back and the CSO answer new questions? Finally, does the possibility of asking questions imply that the State has the right to request the rejection of the registration of a particular organization?



Another central component of the registration process is the obligations arising from such action. Once the organization has been registered it assumes the following responsibilities: to answer inquiries from OAS organisms and to provide advice when requested; disseminate information received among its members; submit each year an executive report related to the activities carried out within the framework of the OAS, its financial status and a plan of activities for the following year; and keep up-to-date information on their executive officers (Resolution 759, 1999).

Resolution 759 foresees the suspension or cancellation of a registration. Despite being two different figures, the resolution does not establish which are the conditions that must be met to enact suspension or cancellation as the case may be. Despite describing four conditions that would lead to the decision to suspend or cancel⁸, the resolution leaves the Permanent Council in charge to decide what action to take in each specific case without establishing minimum due process conditions that make it possible to know publicly the reasons for which a particular decision could be made. Only article 18 establishes that the organization must be notified before the suspension or cancellation is recommended, so that the organization can send comments, observations or information that it considers pertinent (Resolution 759, 1999 Art. 18).

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Finally, the resolution establishes the creation of an online register at the head of the Secretariat containing all the Civil Society Organizations that have been accepted by the Permanent Council to participate in OAS activities. The General Secretariat will keep this register updated, and will be published on OAS website, on area related to Civil Society Organizations (Resolution 759, 1999, Art. 7). According to information from the OAS itself, 465 organizations are currently registered⁹.

3.2 Participation in Events



The norms governing CSO participation in OAS events can be divided in two: i) general rules that establish standards on the form of assistance and the type of assistance, with Resolution 759 of 1999 being the most relevant document; and ii) rules established in the internal regulations of OAS organs and agencies. It is worth remembering that resolution 759 it has a complementary scope and in any case can it be understood that it modifies the norms established in the internal regulations.



⁸The reasons that supports a recommendation from the Commission to the Permanent Council to cancel or suspend a registration are that the organization: a) Has acted in a manner that is inconsistent with the essential aims and principles of the OAS; b) Has failed to make a positive or effective contribution to the work of the OAS, as reflected in the reports submitted under item 11.c; c). Has failed to submit reports for two consecutive years; or d). Has furnished manifestly false or inaccurate information. (Article 15 of Resolution 759).

⁹http://www.oas.org/es/sre/dai/sociedad_civil/registro.shtml Last access: September 18th 2016. 11:04 am.

3.2.1 General Framework on Participation of Civil Society Organizations at OAS Events



Resolution 759 sets out participation standards for two different types of events: OAS conferences and meetings of the Permanent Council, CIDI and its subsidiary bodies.

The resolution allows the participation organizations registered and those not registered. Those registered may participate “after notifying the General Secretariat of the name(s) of the representative(s) who will attend the conference” (Resolution 759, 1999, Art 12). Regarding unregistered organizations, they must submit an application to the General Secretariat, which shall transmit it to the Committee (CISC). In addition, they must submit the documentation required in article six of resolution 759¹⁰.

Once the request has been submitted, it is a work for the Committee (CISC) to carry out a preliminary review and send its recommendation to “the committee or working group charged with preparing for the conference, which shall take a final decision” (Resolution 759, 1999 Art. 12.c). In this process two aspects must be pointed out: on the one hand, that no regulations establish public and clear criteria that allow to know why an organization could be accepted or not. The discretion granted to the committee that will prepare the conference is quite high. On the other hand, the resolution gives States the right to request information about an organization requesting to participate with the only requirement that the CSO have time to answer their questions, but without any rules that guarantee a minimum due process that leads to an informed and justified decision on participation in OAS events.

Finally, the resolution states that all other aspects of participation will be governed by the rules that specifically govern the activities.



The second type of events that Resolution 759 regulates are the meetings of the Permanent Council, the CIDI and their subsidiary bodies. For these activities registered organizations may send representatives as attendees to the public meetings of the organisms mentioned above. In the case of closed meetings, the decision on the participation of the CSO will be determined by the Chair of the meeting in question, which will consult with the Member States (Resolution 759, 1999, Art 13a). The Resolution does not raise any criteria or procedure that regulates the decision-making process on participation by those chairs of the activities. There is discretion to take decisions.

Registered organizations are given the right to submit written documents, which will be distributed to Member States before the activities. In the case of Permanent Council and CIDI meetings, in addition to presenting documents, the Chair of the event will have the power to approve if the organizations can make a presentation

at the beginning of the deliberations. In any case, the resolution clearly states that “Civil society organizations may not participate in deliberations, negotiations, or decisions adopted by member states” (Resolution 759, 1999, Art. 13d). This possibility of making presentations is also extended to the meetings of the Permanent Council and CIDI groups of experts and working groups if the organization has special competence in the topic to be discussed, with the same limitations as the previously mentioned (Resolution 759, 1999. Art 13.e).

According to OAS Civil Society Relations Section, the request to be invited to a meeting, conference or ministerial level meeting of the OAS must be sent 30 days prior to the event (with the exception of the General Assembly, that demands 45 days in advance). In case the request is approved, the organization would be granted with an observer status and will receive the title of “special guest” (Organization of American States [OAS], s.f. p.5).



¹⁰The required requirements are described on page 10 of this document.

3.2.2 Specific rules and internal regulations governing participation in specific OAS events and bodies



Due to the large number of organisms that are part of the OAS, it is difficult to present or describe of the rules that govern the participation of Civil Society for each of them one by one. For this reason, a characterization of the most important features of the participation promoted in the different organisms will be made and some particularities will be indicated¹¹.

Most regulations rule the participation of external actors at the OAS or the committee under the category of “special guest” or observers. It is evident the idea on inviting experts on issues rather than encouraging the participation of various actors.

The types of actors that may express interest in participating are national and international governmental bodies or entities and persons of recognized competence in the matters to be considered. There is not always explicit reference to CSO as actors who can be invited to participate. One exception is the rules of procedure of the Inter-American Committee on Social Development (CIDES), which explicitly refers to COS participation and quotes resolution 759 as a guide to promote participation¹².

Follow-up mechanisms on specific issues, such as corruption¹³, offer a broader perspective of participation, both in the actors invited as in the type of participation because they encourage organizations to provide knowledge and information to strengthen discussions and the decisions-making process.

On the other hand, there are OAS organisms with more limited visions for participation, such as the inter-American committees that are CIDI’s subsidiary entities¹⁴. In them, each entity produces a list of governmental or non-governmental organisms, of national and international nature, and people of recognized competence in the matter that can be invited to the meetings. These people are called “special guests”, and they should express their interest to participate by making the request before the respective chair of each committee and may speak at meetings. But the main element that limits participation in these Committees is that to be included in the list of guests as well as the invitation must have the consent of the government of the host country¹⁵.

For reasons of this report, it deserves special attention the form of civil society participation developed by the Inter-American Commission on Human Rights (IACHR) through the mechanism of public hearings.

As the IAHR acts when there is a presumption of human rights violations, it is especially important to pay attention to the victims and to make every effort to guarantee their rights. Therefore, access to the petition mechanism is guaranteed to “any person or group of persons, or non-governmental entity legally recognized in one or more member states of the OAS” (Regulations of the Inter-American Commission on Human Rights [IACHR], 2013 Art 23).

In particular, the request for hearings before the IACHR can be made for two reasons: “information from the parties with respect to a petition or case being processed before the Commission, follow-up to recommendations,

precautionary measures, or general or particular information related to human rights in one or more Members States of the OAS”, (Rules of Procedure of the Inter-American Commission on Human Rights [IACHR], 2013. Art. 62).

In particular, the process of general public hearings related to human rights in one or more OAS Member States is described as it follows: any citizen may request a hearing with no less than 50 days before the beginning of the respective session (Rules of Procedure of the Inter-American Commission on Human Rights [IACHR], 2013. Art. 66. 1). The requirements of the petition are simple: to express the purpose of their appearance, to express in a summarized manner the topics they will furnish, the approximate time required for the presentation and the identity of the participants (Rules of Procedure of the Inter-American Commission on Human Rights; 2013. Art 66.2).



In the process it is emphasized that States should not at any time give consent or acceptance to conduct the hearings. It is the exclusive authority of the IACHR to decide whether the hearing is held and, once it is approved, it will convene the State concerned, except if the hearing is private (Rules of Procedure of the Inter-American Commission on Human Rights [IACHR], 2013. Art. 3). The independence of the IACHR is strengthened by its powers to decide everything related to the conduction of the hearing. In addition, the public nature of the hearings promotes that the debate on sensitive human rights issues allows different actors to express their arguments and to have a constructive dialogue with States. Although the general rule is public character, the IACHR has the power to decide whether a hearing can be held in private (Rules of Procedure of the Inter-American Commission on Human Rights, 2013. Art. 68).



¹¹For a detailed consultation of each of the rules for CSO participation in the regulations of OAS organisms see: OAS. Section on Relations with Civil Society. Secretariat for Access to Rights and Equity. Guidelines for the Participation of Civil Society Organizations in OAS Meetings.

¹²CIDES regulations, in its article 17 (special guests), establishes: Civil Society Organizations may attend as special guests under the requirements and procedures for participation in OAS conferences set in the “Guidelines for the Participation of Organizations Civil Society in the Activities of the OAS “[CP / RES. 759 (1217/99)]

¹³Conference of the States Parties to the Mechanism to Follow Up on the Implementation of the Inter-American Convention against Corruption. View document: Guidelines. Pag 17 et seq.

¹⁴The Inter-American Committees referenced in the document on participation guidelines (see quote No. 52) are: Inter-American Committee on Education, Inter-American Committee on Culture, Inter-American Committee on Science and Technology, Inter-American Committee on Social Development, Inter-American Commission on Sustainable Development , Inter-American Committee on Tourism and Inter-American Committee on Ports.

¹⁵To quote an example: Article 21 of the internal rules of procedure of the Inter-American Committee on Tourism.

3.2.3 Regulatory Framework Governing the Participation of Civil Society Organizations at the Summits of the Americas



The Summits of the Americas are a process of political discussion that continues to evolve and has become a place of debate not only among the States but also a space where the strength and capacity of various social actors is evidenced. The commitment of States to further strengthen the Summits and the participation of civil society was expressed in General Assembly resolution 2846/2014. In addition to the political commitments, in this document, a number of responsibilities were assigned to the various entities and bodies responsible for organizing the Summit and to seek implementation of the agreements reached at those events. Stands the mandate given to the Permanent Council and the Summit Implementation Review Group (SIRG) to “continue to promote and facilitate the participation of social actors, including civil society, labor organizations, indigenous groups, the private sector, and youth, in the Summits of the Americas process and in activities related to topics assigned to the OAS by that process, as well as the efforts of member states to foster such participation” (Resolution 2846, Art. 5).

The Summits Secretariat receives the responsibility to “to make efforts, through the Summits Secretariat and member states, to promote and disseminate among the stakeholders in the Summits process the mandates emanating from the Summits of the Americas, so that they may contribute to their implementation” (Resolution 2846, 2014 Art. 12). And that it also “strive to explore and implement methods for promoting and increasing awareness and the participation of social actors in the Summits process, through the use of the Summits of the Americas Virtual Community and other information and communication technologies, among others” (Resolution 2846, 2014. Art 13).

The work of the Summits Secretariat has led to the creation and design of several spaces and activities that seek to make participation effective and real: regional forums / dialogues on the issues on the Summits agenda as well as the presentation of their results to the Member states; resource mobilization to finance projects of social actors in support of the implementation of mandates; Establishment of strategic networks of Civil Society Organizations, governments and inter-American commissions and international organizations; Dialogue among social actors and high-level government officials to exchange views on the topics of the Summit and the implementation and fulfillment of their mandates; And virtual forums and discussion groups in the Summits Virtual Community¹⁶. These virtual forums pretend to be a mechanism that offers a scenario of inclusive dialogue and facilitates the participation of the people of different geographic regions through forums and groups of discussion.

In the different regulations analyzed there are no institutionally established parameters that promote or regulate participation in the Summits of the Americas and in all previous and subsequent moments, similar to those expressed in resolution 759 of the Permanent Council. There is a structure for participation with well determined activities and scenarios, but no progress has been made in institutionalizing a set of guarantees that give stability to participation and protect it from the political discretion that up to now characterizes these processes in relation to the Civil Society. In the face of many obstacles that organizations and individuals may experience in order to mobilize ideas and influence debates, it is essential to have basic rules that guarantee the conditions of participation and give certainty at least to the possibility of accessing the most important events, without the discretion for preventing participation from OAS officials or representatives of member countries.



3.3 Normative framework that regulates cooperation agreements between the OAS and Civil Society Organizations



Resolution AG / RES. 57 (I / O-71) is responsible for regulating cooperation relations between the OAS and various national and international actors such as the United Nations or Civil Society Organizations. This resolution establishes that the OAS can sign cooperation agreements with three types of organizations: intergovernmental or semi-official bodies, governmental agencies and non-governmental organizations.

The general purpose of the cooperation agreements is that CSOs that “wish to contribute technical, administrative or financial cooperation to the General Secretariat or wish to design, finance or execute cooperation projects with the OAS, can do so through the signing of agreements Cooperation with the General Secretariat¹⁷”. To fulfill this purpose, the OAS can establish two different types of agreements: general or special.

General Agreements shall be signed when CSOs are prepared to “provide advisory services to the organs of the Organization and to disseminate information on its programs” (Resolution 57, 1971. Art. 14). A number of obligations emerge for CSOs: to attend the consultations with OAS bodies, to disseminate the information provided by the OAS, to send information to the OAS on its institutional structure and to submit an annual report on its activities (Resolution 57, 1971. Art. 16). OAS responsibilities are associated with: sending information of interest to the CSO, consider the opinions and information provided by the CSO and to invite the CSOs as observers to the events (Resolution 57, 1971. Art 17).

Through a special cooperation agreement, a CSO may execute programs on behalf of the OAS, participate in joint projects or provide technical, administrative or financial resources for an OAS program¹⁸.

The procedure for establishing a cooperation agreement begins with the CSO identifying the technical area within the OAS that develops the topics and activities that the CSO is interested in. Then, the organization interested must submit a project with clear objectives and the type of agreement they wish to subscribe. The proposal should also point out that the CSO has the financial resources and institutional capacity to achieve the purposes of the agreement. If the organization fulfills these conditions, it must send the following documents: constitution and documents certifying its status as CSOs, names of directors and officers of the last three years, and the names of the CSO major contributors (as long as this information will not violate confidentiality agreements)¹⁹. If a preliminary agreement between the General Secretariat and the CSO is reached after all documents have been submitted, a document will be prepared to seek the approval of the Secretary General and his signature²⁰.



¹⁶http://www.summit-americas.org/cs_participation_hemis_sp.html

¹⁷http://www.oas.org/es/sre/dai/sociedad_civil/preguntas.shtml

¹⁸http://www.oas.org/es/sre/dai/sociedad_civil/preguntas.shtml

¹⁹http://www.oas.org/es/sre/dai/sociedad_civil/preguntas.shtml

²⁰http://www.oas.org/es/sre/dai/sociedad_civil/preguntas.shtml



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4. Conclusions

The possibilities for reaching a better civil society participation within the OAS could be enhanced by a debate and proposals for reform in two different areas: a new concept of participation and the reform of resolution 759 that interprets and expresses the results of the discussion about the new concept of participation.



4.1 Importance and definition of Civil Society participation before the OAS



As noted in the present document, the approach to participation that underlies resolution 759 (1217/99) assumes civil society as information providers for a decision-making process that is led by States. It is a formal approach that seeks the presence of non-state actors, but without giving them a real possibility of incidence.

As a result of this limited conception of participation and the limited granting of rights to civil society organizations, OAS rules grant wide discretion to the States and OAS authorities to decide which actors can participate and how they can do so. This discretion becomes more evident in events with greater political impact such as summits.

Understanding that in OAS activities the dynamics of diplomacy rule and the discussion and the constructive debate are the logic that seeks to prevail to fulfill OAS political objectives, the granting of rights of participation for CSOs without the need for guarantees or consent will serve to give the decision-making process greater democratic legitimacy.

On the other hand, it highlights the change that has taken place in the American summits in terms of the actors who can participate in the events. This is reflected in the expansion of the concept of social actors that include social movements.

A discussion on participation includes: to define what a social actor is, to recognize that within OAS dynamics exist rights of social actors' participation that are not subject to the political situation and the discretion of OAS authorities and member countries. These issues depend in part on the recognition that civil society participation, in areas where policies are debated and decisions that can impact the continent are made, do not run low by providing information and points of view that serve the States to decide. It is clear that it is not a matter of granting CSO the right to vote, but raising the power of the speeches and arguments of civil society organizations in the central public debates guarantees better decisions and political legitimacy to achieve their implementation.



4.2 The need for new guidelines or rules on participation



The existence of a resolution such as 759 that establishes guidelines for participation is necessary because it generates certainties about the rights and obligations of citizens and organizations in the exercise of participation in the OAS. Although the resolution is flawed, its existence and improvement could lead to a higher quality participation.

A resolution like 759 would have greater strength if, in addition to providing guidelines to OAS authorities, it clearly states that certain actions within events and activities should be considered as rights of citizens. The excess of discretion sometimes granted to OAS authorities and to member states becomes an obstacle for citizens and jeopardizes the exercise of political rights established both in the Inter-American Charter of Human Rights and in the Constitutions of most States in the Hemisphere. In addition, a mechanism such as the registration of CSOs would be strengthened if the registered organizations are certain that their participation in events will not be subject to the power of the States depending on political situations.





Topics that a new resolution on participation should address:

- Establish a catalog of citizens' rights before the OAS.
- Establish access to OAS meetings and the events of OAS agencies as a general rule. Establish clear exceptions to that rule (eg., discussions on security issues that endanger national security).
- Clearer and transparent procedure for limiting or suspending the participation of a given organization in OAS events.
- Define the presence of members of civil society with voice in some of the commissions responsible for making decisions. (For example, a representative of civil society in the Joint Summit Working Group - (JSWG).





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