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Landmark ruling recognizes marriage, trans rights in the Americas

The Inter-American Court of Human Rights on Tuesday issued a landmark ruling that recognizes same-sex marriage and transgender rights in the Western Hemisphere.

The seven judges who issued the ruling stated governments “must recognize and guarantee all the rights that are derived from a family bond between people of the same sex.” Six of the seven judges also agreed that it is necessary for governments “to guarantee access to all existing forms of domestic legal systems, including the right to marriage, in order to ensure the protection of all the rights of families formed by same-sex couples without discrimination.”

The court issued its ruling after the Costa Rican government in 2016 asked for an advisory opinion on whether it has an obligation to extend property rights to same-sex couples and allow transgender people to change their name and gender marker on identity documents.

The ruling says the Costa Rican government must allow trans people to legally change their name and gender marker on official documents.

It does not specifically say how Costa Rica should extend marriage rights to same-sex couples. Costa Rican Vice President [Ana Helena Chacón](#) on Tuesday nevertheless told reporters during a press conference in the Costa Rican capital of San José that her government will do so.

“The Executive Branch will focus on studying the resolution in depth,” she said as La Nación, a Costa Rican newspaper, [reported](#).

The Organization of American States created the Costa Rica-based court in 1979 in order to enforce provisions of the American Convention on Human Rights. Tuesday’s ruling is legally binding in Costa Rica and 19 other countries throughout the Western Hemisphere that currently recognize the convention.

Margarita Salas, a Costa Rican LGBT rights advocate who is a candidate for the country’s National Assembly — described the ruling to the Washington Blade as an “enormous advance in human rights for Costa Rica.”

“Now more than ever it is imperative that the National Assembly pass bills that make access to marriage equality and the recognition of gender identity a reality,” she said.

**Ruling to bolster regional LGBT advocacy efforts**

Jamaica and Trinidad and Tobago are among the countries in the Western Hemisphere in which consensual same-sex sexual relations remain criminalized. The court's ruling nevertheless coincides with the continued expansion of marriage rights for gays and lesbians throughout the region.

Gays and lesbians can legally marry in the U.S., Canada, Mexico City and several Mexican states, Bermuda, Puerto Rico, the U.S. Virgin Islands, Guadeloupe, Martinique, St. Barts, St. Martin, Saba, St. Eustatius, Bonaire, Colombia, Brazil, Uruguay and Argentina. The governments of Aruba, Curaçao and Sint Maarten recognize same-sex marriages that are performed in the Netherlands.

Outgoing Chilean President Michelle Bachelet last August introduced a bill that would extend marriage rights to same-sex couples. The Panamanian Supreme Court in the summer of 2016 heard oral arguments in a case that would allow gays and lesbians to legally marry.

Chacón is among those who spoke at a conference in Costa Rica last November that drew same-sex marriage advocates from the U.S. and across Latin America. Mexican President Enrique Peña Nieto and Mariela Castro, daughter of Cuban President Raúl Castro, are among the prominent politicians and officials in the region who have publicly backed marriage rights for same-sex couples.

Alex Alí Méndez Díaz, a lawyer who has represented same-sex couples who are seeking marriage rights in Mexico, told the Blade on Tuesday the ruling bolsters advocates' efforts across Latin America.

"With this decision we have more elements to start a sustained effort in support of legislative change in favor of marriage equality in all of the countries that comprise the inter-American system," he said.

Bachelet's government in 2016 said it would introduce a same-sex marriage and adoption bill as part of an agreement it reached with the Movement for Homosexual Integration and Liberation, a Chilean advocacy group that filed a lawsuit with the Inter-American Court of Human Rights in 2012 on behalf of three same-sex couples who are seeking marriage rights in the country.

Chilean President-elect Sebastián Piñera takes office in March. The Movement for Homosexual Integration and Liberation on Tuesday said his government is legally bound to Tuesday's decision.

"It means that if the next government does not promote marriage equality as the state promised in the amicable agreement signed by our organization, the state will be sanctioned by the court," said the group in a press release.

### **Ruling 'sets in motion a path towards greater equality'**

Trans rights have also gained traction throughout the region in recent years, even though

violence and discrimination based on gender identity remains pervasive in many countries.

Mexico City, Colombia, Argentina and Uruguay are among the jurisdictions in which trans people can legally change their name and gender without undergoing surgery. Cuba since 2008 has provided free sex-reassignment surgeries through its national health care system, but Mariela Castro last May acknowledged that only a handful of people in her country undergo the procedure each year.

Tamara Adrián, who is a member of the Venezuelan National Assembly, is among the handful of openly trans people in public office throughout the region.

Virginia state Del.-elect Danica Roem on Wednesday will become the first openly trans person seated in a state legislature in the U.S. Tatiana Piñeros, a trans woman who was a member of former Bogotá Mayor Gustavo Petro's cabinet, last month formally registered her candidacy for the Colombian Senate.

Esteban Paulón, a prominent Argentine LGBT rights advocate who works for the Santa Fé province's government, on Tuesday said the ruling "elevates the regional standard for the protection of rights for the LGBTI community." He added it also "sets in motion a path towards greater equality and the guarantee of rights for lesbians, gays, bisexuals, trans and intersex people that cannot be turned back."

"Today the egalitarian American horizon is more firm and stronger than ever," said Paulón.

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