

INTRODUCTION

I. THE ORGANIZATION OF AMERICAN STATES

A. PURPOSES

The Organization of American States (OAS) is an international organization created by the American States to achieve an order of peace and justice, promote their solidarity, and defend their sovereignty, their territorial integrity and their independence (Article 1 of the OAS Charter). The Organization of American States is a regional agency within the meaning of Article 52 of the United Nations Charter.

The Ninth International Conference of American States, held in Bogotá in early 1948, approved the Charter of the Organization of American States. The Charter was first amended by the "Protocol of Buenos Aires," adopted at the Third Special Inter-American Conference that met in Buenos Aires in 1967. In 1985 it was amended a second through the "Protocol of Cartagena de Indias" signed on the occasion of the fourteenth special session of the OAS General Assembly. Additional amendments were introduced through the Protocol of Washington (1992), which provides that one of the OAS' essential purposes is to promote, by cooperative action, the economic, social and cultural development of the member States and to eradicate extreme poverty in the Hemisphere. Further amendments came in 1993 with the Protocol of Managua, which established the Inter-American Council for Integral Development. Upon ratification by two thirds of the member States, the Protocol of Managua entered into force in January 1996.

To realize the ideals upon which it rests and to fulfill its regional obligations under the United Nations Charter, the OAS has established the following as its essential purposes: a) to strengthen the peace and security of the continent; b) to promote and consolidate representative democracy, with due respect for the principle of nonintervention; c) to prevent possible causes of difficulties and to ensure the pacific settlement of disputes that may arise among the member States; d) to provide for common action on the part of those States in the event of aggression; e) to seek the solution of political, juridical, and economic problems that may arise among them; f) to promote, by cooperative action, their economic, social and cultural development; g) to eradicate extreme poverty, which constitutes an obstacle to full democratic development; and h) to achieve an effective limitation of conventional weapons that will make it possible to devote the largest amount of resources to the economic and social development of the member States (Article 2 of the Charter).

In the Charter of the OAS, the American States reaffirm the following principles: international law is the standard of conduct of States in their reciprocal relations; international order consists essentially of respect for the personality, sovereignty, and independence of States, and the faithful fulfillment of their obligations; good faith shall govern the relations between States; the solidarity of the American States and the high aims which are sought through it require the political organization of those States on the basis of the effective exercise of representative democracy; war of aggression is reprehensible and victory does not give rights; every State has the right to choose, without external interference, its political, economic, and social system and to organize itself in the way best suited to it, and has the duty to abstain from intervening in the affairs of another State; the elimination of extreme poverty is an essential part of the promotion and consolidation of representative democracy and is the common and shared responsibility of the American States; an act of aggression against one American State is an act of aggression against all the American States; international controversies shall be settled by peaceful procedures; social justice is the basis of lasting peace; economic cooperation is essential to the common welfare and prosperity of the peoples of the continent; every human being, without distinction as to race, nationality, creed or sex, has fundamental rights; the spiritual unity of the hemisphere is based on respect for the cultural values of the American countries, and the education of peoples should be directed toward justice, freedom and peace (Article 3 of the Charter).

The OAS Charter also contains economic and social norms, and standards on education, science and culture that the American States pledge to do their utmost to fulfill.

B. ORGANS

The Organization of American States accomplishes its purposes through the following organs:

The General Assembly, the supreme organ, decides the general action and policy of the Organization. All member States have the right to be represented in the General Assembly, where each has the right to one vote.

The Meeting of Consultation of Ministers of Foreign Affairs is convened at the request of a member State to consider problems of an urgent nature and of mutual interest. It serves as organ of consultation to consider any threat to peace and security in the Hemisphere, in accordance with the Inter-American Treaty of Reciprocal Assistance, signed in Rio de Janeiro in 1947.

Within the limits prescribed by the Charter and the inter-American treaties and agreements, the Permanent Council takes cognizance of any matter referred to it by the General Assembly or the Meeting of Consultation of Ministers of Foreign Affairs. It may also act provisionally as an organ of consultation. The Permanent Council is composed of one representative of each member State.

The purpose of the Inter-American Council for Integral Development is to promote cooperation among the American States with the objective of achieving their integral development and, in particular, contributing to the elimination of extreme poverty.

The Inter-American Juridical Committee serves the Organization as an advisory body on juridical matters and promotes the progressive development and codification of international law.

The principal function of the Inter-American Commission on Human Rights is to promote the observance and protection of human rights and to serve as a consultative organ of the Organization in these matters.

The General Secretariat is the central and permanent organ of the Organization, headquartered in Washington, D.C.

The Inter-American Specialized Conferences concern themselves with special technical matters and develop specific areas of inter-American cooperation.

The Inter-American Specialized Organizations are multilateral agencies with specific functions in technical matters of common interest to the American States. The following are the Inter-American Specialized Organizations at the

present time: the Inter-American Children's Institute, the Inter-American Commission of Women, the Inter-American Indian Institute, the Inter-American Institute for Cooperation on Agriculture, the Pan American Health Organization and the Pan American Institute of Geography and History.

II. THE INTER-AMERICAN SYSTEM FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

A. THE NINTH INTERNATIONAL CONFERENCE OF AMERICAN STATES AND HUMAN RIGHTS

Exercising their sovereign will, the American States have over the years adopted numerous international instruments that have become the building blocks of a regional system for the promotion and protection of human rights. That system recognizes and defines those rights, establishes binding rules of conduct to promote and protect them, and creates organs to monitor their observance.

The formal beginning of this inter-American system for the promotion and protection of fundamental rights was the American Declaration of the Rights and Duties of Man, approved by the Ninth International Conference of American States (Bogotá, Colombia, 1948), which also created the Organization of American States. The OAS Charter adopted at that Ninth International Conference proclaimed the "fundamental rights of the individual" as one of the basic principles of the Organization. A number of resolutions were approved in the area of human rights, such as those whereby separate conventions were adopted on the granting of political rights and civil rights to women[1], the resolution concerning the "Economic Status of Working Women"[2] and the "Inter-American Charter of Social Guarantees"[3] wherein the governments of the Americas assert "the fundamental principles that must protect workers of all kinds." This Charter of Social Guarantees "sets forth the minimum rights workers must enjoy in the American states, without prejudice to the fact that the laws of each state may extend such rights or recognize others that are more favorable," since "the state attains its goals not only by recognizing the rights of citizens alone, but also by concerning itself with the fortunes of men and women, considered not only as citizens but also as human beings," and as a result must guarantee "respect for political and spiritual freedoms, together with the realization of the postulates of social justice."

B. THE AMERICAN DECLARATION OF THE RIGHTS AND DUTIES OF MAN

The American Declaration, the human rights provisions of the OAS Charter and the above-mentioned resolutions have important precedents adopted at earlier inter-American meetings and conferences.

The first such precedents can be traced to some of the resolutions adopted by the Eighth International Conference of American States (Lima, Peru, 1938), such as the resolution on "Freedom of Association and Freedom of Expression for Workers,"[4] the "Lima Declaration in Favor of Women's Rights,"[5] Resolution XXXVI where the American Republics declared that "any persecution on account of racial or religious motives ... is contrary to the political and juridical systems of America,"[6] and particularly the "Declaration in the Defense of Human Rights," wherein the governments of the Americas expressed concern over the events and possible consequences of the impending armed conflict. In that resolution they resolved that when recourse was had to war "in any other region of the world, respect [should] be given to those human rights not necessarily involved in the conflict, to humanitarian sentiments, and to the spiritual and material inheritance of civilization." [7]

In light of the devastation caused by the Second World War the American States began to examine the problems of the war and to prepare for peace. In February and March of 1945, in Mexico City, the Inter-American Conference on Problems of War and Peace adopted, among others, two important resolutions that had an impact on the development of the inter-American system for the promotion and protection of human rights: Resolution XXVII entitled "Free Access to Information" and Resolution XL on "International Protection of the Essential Rights of Man." In the first of these two resolutions, the American States asserted "their firm desire to assure a peace that [would] defend and protect the fundamental rights of man everywhere."^[8] The second resolution was the immediate predecessor of the American Declaration, as it proclaimed "the adherence of the American Republics to the principles established by international law for safeguarding the essential rights of man" and advocated an international system for their protection. In the preamble to this resolution, the Conference noted that "in order to make such protection effective it is necessary to define these rights, as well as the correlative duties, in a declaration to be adopted as a convention by the States." The Conference therefore requested the Inter-American Juridical Committee to prepare a draft declaration to be submitted to the governments, and asked the Governing Board of the Pan American Union to "convoke the International Conference of American Jurists ... in order that the Declaration may be adopted as a convention by the States of the Continent."^[9]

The last but by no means least precedent is in the Inter-American Treaty of Reciprocal Assistance (TIAR) (Rio de Janeiro, Brazil, 1947).^[10] One paragraph of its preamble states that "peace is founded on justice and moral order and, consequently, on the international recognition and protection of human rights and freedoms."

The draft of the American Declaration of the Rights and Duties of Man, prepared by the Inter-American Juridical Committee, was submitted to the Ninth International Conference of American States. It has the distinction of being the first international instrument of its type, as it was adopted several months prior to the United Nations' Universal Declaration of Human Rights.

The American Declaration constituted "the initial system of protection considered by the American States as being suited to the present social and juridical conditions, not without a recognition on their part that they should increasingly strengthen that system in the international field as conditions become more favorable." Another paragraph in the introduction states that "the essential rights of man are not derived from the fact that he is a national of a certain state, but are based upon attributes of his human personality." The American States thus acknowledge that when the State legislates in this area, it is neither creating nor granting rights. Instead, it is recognizing rights that existed before the State was ever created and that flow from the very nature of the human person.

Both the Inter-American Court and the Inter-American Commission on Human Rights have held that, although originally adopted as a declaration and not as a legally binding treaty, the American Declaration is today a source of international obligations for the OAS member States.^[11]

It is also important to indicate that, in addition to its preamble, the Declaration consists of 38 articles spelling out the protected rights and the corresponding duties. The Declaration is a catalogue of civil and political rights, as well as economic, social and cultural rights.

C. THE CREATION OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, ITS ORIGINAL STATUTE AND THE EXPANSION OF THE COMMISSION'S POWERS

The Fifth Meeting of Consultation of Ministers of Foreign Affairs (Santiago, Chile, 1959) adopted a number of significant resolutions relative to the development and strengthening of the inter-American human rights system. The Declaration of Santiago proclaims that "Harmony among the American republics can be effective only insofar as human rights and fundamental freedoms and the exercise of representative democracy are a reality within each one of them." It further declares that "[t]he governments of the American states should maintain a system of freedom for the individual and of social justice based on respect for fundamental human rights."^[12]

Further, in Resolution III, the Meeting of Consultation entrusted the Inter-American Council of Jurists with "the study of the possible juridical relationship between respect for human rights and the effective exercise of representative democracy."^[13]

However, the most important resolution in this area to come out of the Fifth Meeting of Consultation concerned "Human Rights."^[14] In that resolution, the Fifth Meeting of Consultation declared that given the progress made in the area of human rights in the eleven years since the proclamation of the American Declaration, and the parallel progress achieved in the United Nations and the Council of Europe, "the climate in this hemisphere is favorable to the conclusion of a convention." It was considered essential that "such rights be protected by a juridical system, so that men will not be driven to the extreme expedient of revolt against tyranny and oppression." Accordingly, in Part I of the resolution, the Inter-American Council of Jurists was instructed to "prepare ... a draft Convention on Human Rights ...and ... a draft convention or draft conventions on the Creation of an Inter-American Court for the Protection of Human Rights and of other organizations appropriate for the protection and observance of those rights."

In Part II of the resolution, the Fifth Meeting of Consultation created the Inter-American Commission on Human Rights, thus partly solving the problem that the American States were facing at the time: the lack of any organ specifically charged with monitoring for the observance of those rights. Part II of the resolution reads as follows:

To create an Inter-American Commission on Human Rights, composed of seven members elected, as individuals, by the Council of the Organization of American States from panels of three names presented by the governments. The Commission, which shall be organized by the Council of the Organization and have the specific functions that the Council assigns to it, shall be charged with furthering respect for such rights.

The Council of the Organization approved the Statute of the Commission on May 25, 1960, and elected its first members on June 29 of that year.^[15]

The Eighth Meeting of Consultation (Punta del Este, Uruguay, 1962) considered that "the inadequacy of the faculties and attributions conferred upon [the Commission] by its Statute" had made it difficult "for the Commission to fulfill its assigned mission," and recommended that the OAS Council revise the Statute by "broadening and strengthening the Commission's attributes and faculties to such an extent as to permit it effectively to further respect for these rights in the countries of the hemisphere."^[16]

Nevertheless, the original Statute of the IACHR was in force until 1965, whereupon the Second Special Inter-American Conference, held in Rio de Janeiro, Brazil in November of that year, resolved to amend the Statute and broaden the Commission's functions and authorities.^[17] In particular, the member States resolved the following:

To authorize the Commission to examine communications submitted to it and any other available information, to address to the government of any American State a request for information deemed pertinent by the Commission,

and to make recommendations, when it deems this appropriate, with the objective of bringing about more effective observance of fundamental human rights.

To request the Commission to submit a report annually to the Inter-American Conference or Meeting of Consultation of Ministers of Foreign Affairs. This report should include a statement of progress achieved in realization of the goals set forth in the American Declaration, a statement of areas in which further steps are needed to give effect to the human rights set forth in the American Declaration, and such observations as the Commission may deem appropriate on matters covered in the communications submitted to it and in other information available to the Commission.

At its session held in April 1966, the Commission amended its Statute to conform to the resolution of the Second Special Inter-American Conference. The most important amendment was that the Commission now had the possibility of examining individual petitions and making specific recommendations to the member States relative to those petitions.[18]

D. THE NEW STATUS OF THE COMMISSION UNDER THE OAS CHARTER AS AMENDED BY THE PROTOCOL OF BUENOS AIRES

The IACHR became a principal organ of the OAS with the amendment of then Article 51 of the Charter of the Organization, under the 1967 Protocol of Buenos Aires.

The amended Charter, which entered into force in 1970, also refers to the Commission in what were then Articles 112 and 150. In the first of these, reference is made to an Inter-American Commission on Human Rights whose principal function shall be to “promote the observance and protection of human rights and to serve as a consultative organ of the Organization in these matters,” and states that “an inter-American Convention on Human Rights shall determine the structure, competence, and procedure of this Commission, as well as those of other organs responsible for these matters.” Article 150 of the amended Charter, for its part, provided that the Commission was to “keep vigilance over the observance of human rights” until such time as the American Convention on Human Rights entered into force.

E. THE AMERICAN CONVENTION ON HUMAN RIGHTS

The precursors of the American Convention on Human Rights date back to the Inter-American Conference on Problems of War and Peace, held in Mexico in 1945, which instructed the Inter-American Juridical Committee to draft a declaration. That idea was taken up again at the Fifth Meeting of Consultation of Ministers of Foreign Affairs, in Santiago, Chile, in 1959, which decided to press for preparation of a human rights convention.

The draft prepared by the Inter-American Council of Jurists was presented to the OAS Council to elicit comments from the States and from the Inter-American Commission. In 1967, the Commission submitted another draft of the Convention. To analyze the various drafts, the OAS convened an Inter-American Specialized Conference on Human Rights, which met in San Jose, Costa Rica, November 7 through 22, 1969. On November 21, the Conference adopted the American Convention on Human Rights.

The Convention, which entered into force on July 18, 1978, strengthened the system by making the Commission more effective and creating a Court, as well as by changing the legal nature of the instruments upon which the system's institutional structure is based.

According to the first paragraph of its preamble, the purpose of the Convention is “to consolidate in this hemisphere, within the framework of democratic institutions, a system of personal liberty and social justice based on respect for the essential rights of man.” Part I of the Convention establishes the State’s obligations to respect the rights and freedoms recognized therein, and its duty to adopt such legislative and other measures as may be necessary to give effect to those rights or freedoms.

Part II of the Convention establishes the means of protection, namely the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. These are the organs that have “competence with respect to matters relating to the fulfillment of the commitments made by the States Parties to [the] Convention.”

The functions and powers of the Commission are spelled out in Articles 41 to 43 of the Convention. Articles 44 to 51 set forth the procedure for individual communications.

The Convention goes on to spell out the rights and freedoms it protects, focusing mainly on civil and political rights. In the case of economic, social and cultural rights, the States pledge only to “adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States” (Article 26).

F. THE PROTOCOLS TO THE AMERICAN CONVENTION

At its eighteenth regular session (1988), the General Assembly opened for signature the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador). It was based on a working draft prepared by the Commission. In its Preamble, the States Parties to the American Convention recognize the close relationship that exists between the two sets of rights “in that the different categories of rights constitute an indivisible whole based on the recognition of the dignity of the human person, for which reason both require permanent protection and promotion...” The States Parties also recall that “the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights.”

In ratifying the Protocol, the States Parties “undertake to adopt the necessary measures ... to the extent allowed by their available resources, and taking into account their degree of development, for the purpose of achieving progressively and pursuant to their internal legislation, the full observance of the rights recognized in (the) Protocol.” The latter deals with the rights and conditions of work, trade union rights, rights to social security, health, a healthy environment, food, education, the benefits of culture, family and children’s rights and those of the elderly and the handicapped.

The Protocol to the American Convention on Human Rights to Abolish the Death Penalty was approved by the OAS General Assembly at its twentieth regular session (Asuncion, Paraguay, 1990). In 1969, when the American Convention on Human Rights was being drafted, a concerted effort to include a provision that would have unconditionally proscribed capital punishment was unsuccessful. With ratification by the States Parties, this Protocol would abolish the death penalty the length and breadth of the hemisphere.

G. THE NEW STATUTE AND NEW RULES OF PROCEDURE OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

At its ninth regular session (La Paz, Bolivia, 1979), the General Assembly of the OAS approved the current Statute of the Commission. Article 1 of the Statute, crafted along the lines of what was then Article 112 of the OAS Charter, defines the Commission as “an organ of the Organization of American States, created to promote the observance and defense of human rights and to serve as consultative organ of the Organization in this matter.”

The major innovations that the American Convention introduced where the Commission is concerned are reflected in the current Statute. Whereas under the original Statute, Commission members represented all the member States of the Organization, under the new Statute it is the Commission itself that represents the OAS’ full membership. The institutional status of its members now matches the status to which the Commission itself was elevated (Article 51 of the amended Charter). The seven members of the Commission are elected by the General Assembly to a four-year term (Article 3), while under the original Statute they were elected by the Council of the Organization. It should be noted, however, that under Article 11 of the current Statute, it is the OAS Permanent Council that fills any vacancies that might occur on the Commission. As for the Commission’s internal structure under the new Statute, the Commission has a President, a First Vice-President and a Second Vice-President, each with a one-year term and eligible for re-election only once every four years.

The Statute now in force makes a clear distinction between the Inter-American Commission’s competence vis-à-vis States parties to the American Convention on Human Rights and its competence vis-à-vis member States of the Organization that are not party to the Convention. The Commission’s competence with respect to the latter flows from the provisions of the OAS Charter and from the Commission’s past practice. The Commission’s competence with respect to the States Parties to the Convention follows from that instrument. The powers that the Statute has given to the Commission with respect to member States of the Organization that are not parties to the American Convention are the same as those that the Commission had under the original Statute. Articles 18, 19 and 20 of the Statute spell out the Commission’s functions and powers.

At its 109th special session, held in December 2000, the Commission approved new Rules of Procedure, which took effect on May 1, 2001.

Title I of the Rules has five chapters, containing provisions on the nature and composition of the Commission, its membership, its officers, the Executive Secretariat and the functioning of the Commission.

Title II sets forth the procedure that, under the Commission’s Statute, applies to the States parties to the American Convention on Human Rights and the procedure that applies in the case of member States that are not parties to that instrument. It also contains provisions relating to the on-site investigations the Commission conducts, the Annual Report and general and special reports it prepares, and the hearings it holds.

Title III of the Commission’s Rules concerns its relations with the Inter-American Court of Human Rights. Chapter I contains provisions relating to delegates, advisors, witnesses and experts, while Chapter II sets out the procedure to

be followed when the Commission decides to bring a case to the Court under Article 61 of the American Convention.

Finally, Title IV contains the final provisions of the Rules, which concern their interpretation, amendment and entry into force.

H. THE INTER-AMERICAN COURT OF HUMAN RIGHTS

The idea of a court to protect human rights in the Americas has a long history. In Resolution XXXI, titled “Inter-American Court to Protect the Rights of Man,” the Ninth International Conference of American States (Bogotá, Colombia, 1948) considered that the protection of these rights “should be guaranteed by a juridical organ, inasmuch as no right is genuinely assured unless it is safeguarded by a competent court.” It therefore recommended that the Inter-American Juridical Committee prepare a draft statute providing for the creation of an inter-American court to guarantee the rights of man.[19] In its report to the Inter-American Council of Jurists, dated September 26, 1949, the Inter-American Juridical Committee observed that the lack of substantive positive law on the matter constituted a great obstacle in drafting the statute of the Court and that a convention containing rules of this nature should precede the statute. It was of the view that the Council of Jurists should propose such a solution to the Tenth Inter-America Conference.[20]

In resolution XXIX, “Inter-American Court for the Protection of Human Rights,” the Tenth Inter-American Conference (Caracas, Venezuela, 1954) referred this matter to the Eleventh Inter-American Conference, so that a decision could be made on the basis of studies conducted by the OAS Council on the subject. Accordingly, it instructed the Council to continue its efforts, working from the existing drafts and drawing upon its own experience.[21] The Eleventh Inter-American Conference, however, was never held.

Thereafter, in the first part of the resolution titled “Human Rights,” the Fifth Meeting of Consultation (1959) instructed the Inter-American Council of Jurists to prepare a draft on the creation of an “Inter-American Court of Human Rights” and other organs appropriate for the protection and observance of human rights.[22]

As noted earlier, the Inter-American Council of Jurists prepared a draft Convention on Human Rights, providing for the creation and functioning of an Inter-American Court and Inter-American Commission on Human Rights.[23]

After being presented to the Second Special Inter-American Conference, that draft was referred to the Council of the Organization, which was instructed to update and complete it once it had heard from the Commission on Human Rights and such other organs and entities as it deemed appropriate. After this, the Council was to convene an Inter-American Specialized Conference.[24]

The American Convention on Human Rights was adopted on November 22, 1969, at the Inter-American Specialized Conference on Human Rights, held in San Jose, Costa Rica. With adoption of the Convention, an Inter-American Court of Human Rights was created (Chapter VII of Part II).

The regular session of the OAS General Assembly that convened in La Paz, Bolivia in 1979 approved the Statute of the Court (resolution AG/RES. 448). Article 1 defines the Court as “an autonomous judicial institution whose purpose is the application and interpretation of the American Convention on Human Rights.”

The Court has adjudicatory and advisory jurisdiction. In the case of the adjudicatory jurisdiction, only the Commission and the States parties to the American Convention that have recognized the Court’s binding jurisdiction are authorized to present a case seeking the interpretation or application of the Convention, and then only after exhausting the appropriate procedures prescribed in Articles 48 to 50 thereof concerning the processing of cases before the Commission. In other words, the Court has jurisdiction only when the State party against which a case is brought has accepted the Court’s binding jurisdiction. The declaration whereby the State recognizes the Court’s binding jurisdiction may be made unconditionally, or on condition of reciprocity, for a specified period or for specific cases.

In the case of the Court’s advisory jurisdiction, Article 64 of the Convention provides that any member State of the Organization may consult the Court on the interpretation of the Convention or of other treaties on the protection of human rights in the American States. This right of consultation extends to the organs listed in Chapter X of the OAS Charter, within the area of respective competence of each. At the request of any member State, the Court may also issue an opinion on the compatibility of any of the said State’s domestic laws with the aforementioned international instruments.

At the seventh special session of the OAS General Assembly (May 1979), the States parties to the Convention elected the first seven judges to sit on the Court. On September 3, 1979, the latter was officially installed in San Jose, Costa Rica, the headquarters of the Court.

At its third session, July 30 to August 9, 1980, the Court adopted its Rules of Procedure and finalized the work on the Headquarters Agreement concluded with Costa Rica, setting forth the privileges and immunities of the Court, its judges and its staff, and those persons who appear before it. The Government of Costa Rica ratified that agreement.

The Inter-American Court of Human Rights approved its first Rules of Procedure in July 1980. They were patterned after the Rules of Procedure of the European Court of Human Rights in effect at that time, which were themselves modeled along the lines of the Rules of Procedure of the International Court of Justice (ICJ). Faced with the need to streamline those procedures, the Court approved its second set of Rules of Procedure in 1991, which took effect on August 1 of that year. Five years later, on September 16, 1996, the Court adopted a third set of Rules, which took effect on January 1, 1997. The principal qualitative change that the third version of the Rules of Procedure introduced relates to Article 23, which provides that representatives of the victims or their next of kin may independently submit their own arguments and evidence during the reparations stage. Finally, on November 24, 2000, the Court introduced new Rules of Procedure which will take effect on June 1, 2001. With the most recent amendment of its Rules of Procedure, the Court introduced a series of provisions to grant the alleged victims, their next of kin or their duly accredited representatives direct participation (*locus standi in judicio*) in all stages of the Court’s proceedings once an application has been presented.

I. MORE RECENT INTER-AMERICAN INSTRUMENTS CONCERNING HUMAN RIGHTS

At its 1985 regular session, where the General Assembly approved the Protocol of Cartagena de Indias amending the OAS Charter, the member States opened for signature the Inter-American Convention to Prevent and Punish Torture.

This Convention contains a detailed definition of torture and specifies who will be held guilty of the crime of torture. The States parties not only undertake to severely punish perpetrators of this crime but also to take measures to prevent and punish any other cruel, inhuman, or degrading treatment or punishment within their jurisdiction. Accordingly, under the terms of this Convention, no person charged with torture will be able to elude justice by fleeing to the territory of another State party. This Convention entered into force on February 28, 1987, thirty days after deposit of the second instrument of ratification.

During its twenty-fourth regular session, held in Belém do Pará, Brazil, the OAS General Assembly approved the Inter-American Convention on Forced Disappearance of Persons, which entered into force on March 28, 1996, thirty days after the second instrument of ratification was deposited.

This instrument contains a detailed definition of forced disappearance and of who shall be held guilty of this crime. The States Parties undertake not to practice, permit or tolerate the forced disappearance of persons and pledge to punish those persons within their jurisdictions who commit or attempt to commit the crime of forced disappearance of persons, as well as their accomplices and accessories. They further pledge to take any legislative measures necessary to criminalize forced disappearance and to cooperate with one another to prevent, punish, and eliminate the forced disappearance of persons, taking the measures necessary to comply with the commitments undertaken in the Convention. The Convention makes forced disappearance an extraditable offense. Thus, no one charged with the crime will be able to escape punishment by fleeing to the territory of another State Party.

Another instrument approved on the occasion of the twenty-fourth regular session of the OAS General Assembly held in Belém do Pará, Brazil, was the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, Convention of Belém do Pará. The latter entered into force on March 5, 1995, thirty days after the second instrument of ratification was deposited.

This instrument establishes a detailed definition of violence against women, which includes physical, sexual and psychological harm or suffering. It provides that every woman has the right to be free from violence and to enjoy all human rights and freedoms embodied in regional and international human rights instruments. The States Parties condemn all forms of violence against women and agree to investigate, prosecute and punish such violence with due diligence, and to pursue policies and specific measures to prevent and eradicate it.

The OAS General Assembly adopted the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities at its twenty-ninth regular session, held in Guatemala City.

The objectives of the Convention are to prevent and eliminate all forms of discrimination against persons with disabilities and to promote their full integration into society. To follow up on the commitments undertaken in the Convention, a Committee for the Elimination of All Forms of Discrimination against Persons with Disabilities is to be established, composed of one representative appointed by each State party. To date, the Convention has not entered into force.

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[1] See the texts of both conventions in International Conferences of American States, Second Supplement, 1942-1954, Washington, D.C.: Pan American Union, 1958, pp. 229 and 230, respectively.

[2] Ibid., p. 251.

[3] Ibid., p. 262.

[4] See the text of this resolution in International Conferences of American States, First Supplement, 1933-1940, Washington, D.C.: Carnegie Endowment for International Peace, 1943, pp. 238 and 239.

[5] Ibid., pp. 250 and 251.

[6] Ibid., p. 260.

[7] Ibid., p. 245.

[8] See the complete text in Second Supplement, *supra*, note 1, pp. 93-94.

[9] Ibid., p.102.

[10] Ibid., p. 143-150.

[11] See Inter-American Court of Human Rights, Advisory Opinion OC-10/89, Interpretation of the American Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights, July 14, 1989, Ser. A. No. 10 (1989), paragraphs 35-45; IACHR, James Terry Roach and Jay Pinkerton v. United States, Case 9647, Res. 3/87, September 22, 1987, Annual Report 1986-1987, paragraphs 46-49, Rafael Ferrer-Mazorra et al. v. United States, Report N° 51/01, Case 9903, April 4, 2001. See also Article 20 of the Statute of the Inter-American Commission on Human Rights.

[12] See the complete text of the Declaration at the Fifth Meeting of Consultation of Ministers of Foreign Affairs, Santiago, Chile, August 12 through 18, 1959, Final Act. Document OEA/Ser.C/II.5, pp. 4-6.

[13] Ibid., p. 7.

[14] Ibid., pp. 10-11.

[15] The text of the original Statute appears in doc. OEA/Ser.L/V/II, September 26, 1960.

[16] The complete text appears in the Final Act of the Meeting, OEA/Ser.C/II.8, pp. 16-17.

[17] See the complete text in the Final Act of the Second Special Inter-American Conference. OAS Official Records, OEA/Ser.C/I.13, 1965, pp. 32-34.

[18] OEA/Ser.L/V/II.14, doc.35, June 30 1966, IACHR, Report on the Work Accomplished by the IACHR during its Thirteenth Period of Sessions, from April 18 to 28, 1966, pp. 26-27.

[19] International Conferences of American States, *op. cit.*, Second Supplement, p.270.

[20] Inter-American Juridical Committee, Recomendaciones e Informes. Documentos Oficiales (1949-1953), pp. 105 to 110 (Spanish text only).

[21] International Conferences of American States, *op. cit.* Second Supplement, p. 379.

[22] See note 11.

[23] See the complete text of the draft convention in the Inter-American Council of Jurists, Fourth Meeting, 1959. Final Act (CIJ) 43, especially pages 47-75.

[24] Second Special Inter-American Conference - Rio de Janeiro, 1965. OAS Official Documents, OEA/Ser.C/I.13, pp. 49-50.

II. THE INTER-AMERICAN SYSTEM FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

A. THE NINTH INTERNATIONAL CONFERENCE OF AMERICAN STATES AND HUMAN RIGHTS

Exercising their sovereign will, the American States have over the years adopted numerous international instruments that have become the building blocks of a regional system for the promotion and protection of human rights. That system recognizes and defines those rights, establishes binding rules of conduct to promote and protect them, and creates organs to monitor their observance.

The formal beginning of this inter-American system for the promotion and protection of fundamental rights was the American Declaration of the Rights and Duties of Man, approved by the Ninth International Conference of American States (Bogotá, Colombia, 1948), which also created the Organization of American States. The OAS Charter adopted at that Ninth International Conference proclaimed the “fundamental rights of the individual” as one of the basic principles of the Organization. A number of resolutions were approved in the area of human rights, such as those whereby separate conventions were adopted on the granting of political rights and civil rights to women[1], the resolution concerning the “Economic Status of Working Women”[2] and the “Inter-American Charter of Social Guarantees”[3] wherein the governments of the Americas assert “the fundamental principles that must protect workers of all kinds.” This Charter of Social Guarantees “sets forth the minimum rights workers must enjoy in the American states, without prejudice to the fact that the laws of each state may extend such rights or recognize others that are more favorable,” since “the state attains its goals not only by recognizing the rights of citizens alone, but also by concerning itself with the fortunes of men and women, considered not only as citizens but also as human beings,” and as a result must guarantee “respect for political and spiritual freedoms, together with the realization of the postulates of social justice.”

B. THE AMERICAN DECLARATION OF THE RIGHTS AND DUTIES OF MAN

The American Declaration, the human rights provisions of the OAS Charter and the above-mentioned resolutions have important precedents adopted at earlier inter-American meetings and conferences.

The first such precedents can be traced to some of the resolutions adopted by the Eighth International Conference of American States (Lima, Peru, 1938), such as the resolution on “Freedom of Association and Freedom of Expression for Workers,”[4] the “Lima Declaration in Favor of Women’s Rights,”[5] Resolution XXXVI where the American Republics declared that “any persecution on account of racial or religious motives ... is contrary to the political and juridical systems of America,”[6] and particularly the “Declaration in the Defense of Human Rights,” wherein the governments of the Americas expressed concern over the events and possible consequences of the impending armed conflict. In that resolution they resolved that when recourse was had to war “in any other region of the world, respect [should] be given to those human rights not necessarily involved in the conflict, to humanitarian sentiments, and to the spiritual and material inheritance of civilization.”[7]

In light of the devastation caused by the Second World War the American States began to examine the problems of the war and to prepare for peace. In February and March of 1945, in Mexico City, the Inter-American Conference on Problems of War and Peace adopted, among others, two important resolutions that had an impact on the development of the inter-American system for the promotion and protection of human rights: Resolution XXVII

entitled “Free Access to Information” and Resolution XL on “International Protection of the Essential Rights of Man.” In the first of these two resolutions, the American States asserted “their firm desire to assure a peace that [would] defend and protect the fundamental rights of man everywhere.”[8] The second resolution was the immediate predecessor of the American Declaration, as it proclaimed “the adherence of the American Republics to the principles established by international law for safeguarding the essential rights of man” and advocated an international system for their protection. In the preamble to this resolution, the Conference noted that “in order to make such protection effective it is necessary to define these rights, as well as the correlative duties, in a declaration to be adopted as a convention by the States.” The Conference therefore requested the Inter-American Juridical Committee to prepare a draft declaration to be submitted to the governments, and asked the Governing Board of the Pan American Union to “convoke the International Conference of American Jurists ... in order that the Declaration may be adopted as a convention by the States of the Continent.”[9]

The last but by no means least precedent is in the Inter-American Treaty of Reciprocal Assistance (TIAR) (Rio de Janeiro, Brazil, 1947).[10] One paragraph of its preamble states that “peace is founded on justice and moral order and, consequently, on the international recognition and protection of human rights and freedoms.”

The draft of the American Declaration of the Rights and Duties of Man, prepared by the Inter-American Juridical Committee, was submitted to the Ninth International Conference of American States. It has the distinction of being the first international instrument of its type, as it was adopted several months prior to the United Nations’ Universal Declaration of Human Rights.

The American Declaration constituted “the initial system of protection considered by the American States as being suited to the present social and juridical conditions, not without a recognition on their part that they should increasingly strengthen that system in the international field as conditions become more favorable.” Another paragraph in the introduction states that “the essential rights of man are not derived from the fact that he is a national of a certain state, but are based upon attributes of his human personality.” The American States thus acknowledge that when the State legislates in this area, it is neither creating nor granting rights. Instead, it is recognizing rights that existed before the State was ever created and that flow from the very nature of the human person.

Both the Inter-American Court and the Inter-American Commission on Human Rights have held that, although originally adopted as a declaration and not as a legally binding treaty, the American Declaration is today a source of international obligations for the OAS member States.[11]

It is also important to indicate that, in addition to its preamble, the Declaration consists of 38 articles spelling out the protected rights and the corresponding duties. The Declaration is a catalogue of civil and political rights, as well as economic, social and cultural rights.

C. THE CREATION OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, ITS ORIGINAL STATUTE AND THE EXPANSION OF THE COMMISSION’S POWERS

The Fifth Meeting of Consultation of Ministers of Foreign Affairs (Santiago, Chile, 1959) adopted a number of significant resolutions relative to the development and strengthening of the inter-American human rights system. The Declaration of Santiago proclaims that “Harmony among the American republics can be effective only insofar as human rights and fundamental freedoms and the exercise of representative democracy are a reality within each one of them.” It further declares that “[t]he governments of the American states should maintain a system of freedom for the individual and of social justice based on respect for fundamental human rights.”[12]

Further, in Resolution III, the Meeting of Consultation entrusted the Inter-American Council of Jurists with “the study of the possible juridical relationship between respect for human rights and the effective exercise of representative democracy.”[13]

However, the most important resolution in this area to come out of the Fifth Meeting of Consultation concerned “Human Rights.”[14] In that resolution, the Fifth Meeting of Consultation declared that given the progress made in the area of human rights in the eleven years since the proclamation of the American Declaration, and the parallel progress achieved in the United Nations and the Council of Europe, “the climate in this hemisphere is favorable to the conclusion of a convention.” It was considered essential that “such rights be protected by a juridical system, so that men will not be driven to the extreme expedient of revolt against tyranny and oppression.” Accordingly, in Part I of the resolution, the Inter-American Council of Jurists was instructed to “prepare ... a draft Convention on Human Rights ...and ... a draft convention or draft conventions on the Creation of an Inter-American Court for the Protection of Human Rights and of other organizations appropriate for the protection and observance of those rights.”

In Part II of the resolution, the Fifth Meeting of Consultation created the Inter-American Commission on Human Rights, thus partly solving the problem that the American States were facing at the time: the lack of any organ specifically charged with monitoring for the observance of those rights. Part II of the resolution reads as follows:

To create an Inter-American Commission on Human Rights, composed of seven members elected, as individuals, by the Council of the Organization of American States from panels of three names presented by the governments. The Commission, which shall be organized by the Council of the Organization and have the specific functions that the Council assigns to it, shall be charged with furthering respect for such rights.

The Council of the Organization approved the Statute of the Commission on May 25, 1960, and elected its first members on June 29 of that year.[15]

The Eighth Meeting of Consultation (Punta del Este, Uruguay, 1962) considered that “the inadequacy of the faculties and attributions conferred upon [the Commission] by its Statute” had made it difficult “for the Commission to fulfill its assigned mission,” and recommended that the OAS Council revise the Statute by “broadening and strengthening the Commission’s attributes and faculties to such an extent as to permit it effectively to further respect for these rights in the countries of the hemisphere.”[16]

Nevertheless, the original Statute of the IACHR was in force until 1965, whereupon the Second Special Inter-American Conference, held in Rio de Janeiro, Brazil in November of that year, resolved to amend the Statute and broaden the Commission’s functions and authorities.[17] In particular, the member States resolved the following:

To authorize the Commission to examine communications submitted to it and any other available information, to address to the government of any American State a request for information deemed pertinent by the Commission, and to make recommendations, when it deems this appropriate, with the objective of bringing about more effective observance of fundamental human rights.

To request the Commission to submit a report annually to the Inter-American Conference or Meeting of Consultation of Ministers of Foreign Affairs. This report should include a statement of progress achieved in realization of the goals set forth in the American Declaration, a statement of areas in which further steps are needed to give effect to the human rights set forth in the American Declaration, and such observations as the Commission

may deem appropriate on matters covered in the communications submitted to it and in other information available to the Commission.

At its session held in April 1966, the Commission amended its Statute to conform to the resolution of the Second Special Inter-American Conference. The most important amendment was that the Commission now had the possibility of examining individual petitions and making specific recommendations to the member States relative to those petitions.[18]

D. THE NEW STATUS OF THE COMMISSION UNDER THE OAS CHARTER AS AMENDED BY THE PROTOCOL OF BUENOS AIRES

The IACHR became a principal organ of the OAS with the amendment of then Article 51 of the Charter of the Organization, under the 1967 Protocol of Buenos Aires.

The amended Charter, which entered into force in 1970, also refers to the Commission in what were then Articles 112 and 150. In the first of these, reference is made to an Inter-American Commission on Human Rights whose principal function shall be to “promote the observance and protection of human rights and to serve as a consultative organ of the Organization in these matters,” and states that “an inter-American Convention on Human Rights shall determine the structure, competence, and procedure of this Commission, as well as those of other organs responsible for these matters.” Article 150 of the amended Charter, for its part, provided that the Commission was to “keep vigilance over the observance of human rights” until such time as the American Convention on Human Rights entered into force.

E. THE AMERICAN CONVENTION ON HUMAN RIGHTS

The precursors of the American Convention on Human Rights date back to the Inter-American Conference on Problems of War and Peace, held in Mexico in 1945, which instructed the Inter-American Juridical Committee to draft a declaration. That idea was taken up again at the Fifth Meeting of Consultation of Ministers of Foreign Affairs, in Santiago, Chile, in 1959, which decided to press for preparation of a human rights convention.

The draft prepared by the Inter-American Council of Jurists was presented to the OAS Council to elicit comments from the States and from the Inter-American Commission. In 1967, the Commission submitted another draft of the Convention. To analyze the various drafts, the OAS convened an Inter-American Specialized Conference on Human Rights, which met in San Jose, Costa Rica, November 7 through 22, 1969. On November 21, the Conference adopted the American Convention on Human Rights.

The Convention, which entered into force on July 18, 1978, strengthened the system by making the Commission more effective and creating a Court, as well as by changing the legal nature of the instruments upon which the system's institutional structure is based.

According to the first paragraph of its preamble, the purpose of the Convention is “to consolidate in this hemisphere, within the framework of democratic institutions, a system of personal liberty and social justice based on respect for the essential rights of man.” Part I of the Convention establishes the State’s obligations to respect the rights and freedoms recognized therein, and its duty to adopt such legislative and other measures as may be necessary to give effect to those rights or freedoms.

Part II of the Convention establishes the means of protection, namely the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. These are the organs that have “competence with respect to matters relating to the fulfillment of the commitments made by the States Parties to [the] Convention.”

The functions and powers of the Commission are spelled out in Articles 41 to 43 of the Convention. Articles 44 to 51 set forth the procedure for individual communications.

The Convention goes on to spell out the rights and freedoms it protects, focusing mainly on civil and political rights. In the case of economic, social and cultural rights, the States pledge only to “adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States” (Article 26).

F. THE PROTOCOLS TO THE AMERICAN CONVENTION

At its eighteenth regular session (1988), the General Assembly opened for signature the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador). It was based on a working draft prepared by the Commission. In its Preamble, the States Parties to the American Convention recognize the close relationship that exists between the two sets of rights “in that the different categories of rights constitute an indivisible whole based on the recognition of the dignity of the human person, for which reason both require permanent protection and promotion...” The States Parties also recall that “the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights.”

In ratifying the Protocol, the States Parties “undertake to adopt the necessary measures ... to the extent allowed by their available resources, and taking into account their degree of development, for the purpose of achieving progressively and pursuant to their internal legislation, the full observance of the rights recognized in (the) Protocol.” The latter deals with the rights and conditions of work, trade union rights, rights to social security, health, a healthy environment, food, education, the benefits of culture, family and children’s rights and those of the elderly and the handicapped.

The Protocol to the American Convention on Human Rights to Abolish the Death Penalty was approved by the OAS General Assembly at its twentieth regular session (Asuncion, Paraguay, 1990). In 1969, when the American Convention on Human Rights was being drafted, a concerted effort to include a provision that would have unconditionally proscribed capital punishment was unsuccessful. With ratification by the States Parties, this Protocol would abolish the death penalty the length and breadth of the hemisphere.

G. THE NEW STATUTE AND NEW RULES OF PROCEDURE OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

At its ninth regular session (La Paz, Bolivia, 1979), the General Assembly of the OAS approved the current Statute of the Commission. Article 1 of the Statute, crafted along the lines of what was then Article 112 of the OAS

Charter, defines the Commission as “an organ of the Organization of American States, created to promote the observance and defense of human rights and to serve as consultative organ of the Organization in this matter.”

The major innovations that the American Convention introduced where the Commission is concerned are reflected in the current Statute. Whereas under the original Statute, Commission members represented all the member States of the Organization, under the new Statute it is the Commission itself that represents the OAS’ full membership. The institutional status of its members now matches the status to which the Commission itself was elevated (Article 51 of the amended Charter). The seven members of the Commission are elected by the General Assembly to a four-year term (Article 3), while under the original Statute they were elected by the Council of the Organization. It should be noted, however, that under Article 11 of the current Statute, it is the OAS Permanent Council that fills any vacancies that might occur on the Commission. As for the Commission’s internal structure under the new Statute, the Commission has a President, a First Vice-President and a Second Vice-President, each with a one-year term and eligible for re-election only once every four years.

The Statute now in force makes a clear distinction between the Inter-American Commission’s competence vis-à-vis States parties to the American Convention on Human Rights and its competence vis-à-vis member States of the Organization that are not party to the Convention. The Commission’s competence with respect to the latter flows from the provisions of the OAS Charter and from the Commission’s past practice. The Commission’s competence with respect to the States Parties to the Convention follows from that instrument. The powers that the Statute has given to the Commission with respect to member States of the Organization that are not parties to the American Convention are the same as those that the Commission had under the original Statute. Articles 18, 19 and 20 of the Statute spell out the Commission’s functions and powers.

At its 109th special session, held in December 2000, the Commission approved new Rules of Procedure, which took effect on May 1, 2001.

Title I of the Rules has five chapters, containing provisions on the nature and composition of the Commission, its membership, its officers, the Executive Secretariat and the functioning of the Commission.

Title II sets forth the procedure that, under the Commission’s Statute, applies to the States parties to the American Convention on Human Rights and the procedure that applies in the case of member States that are not parties to that instrument. It also contains provisions relating to the on-site investigations the Commission conducts, the Annual Report and general and special reports it prepares, and the hearings it holds.

Title III of the Commission’s Rules concerns its relations with the Inter-American Court of Human Rights. Chapter I contains provisions relating to delegates, advisors, witnesses and experts, while Chapter II sets out the procedure to be followed when the Commission decides to bring a case to the Court under Article 61 of the American Convention.

Finally, Title IV contains the final provisions of the Rules, which concern their interpretation, amendment and entry into force.

H. THE INTER-AMERICAN COURT OF HUMAN RIGHTS

The idea of a court to protect human rights in the Americas has a long history. In Resolution XXXI, titled “Inter-American Court to Protect the Rights of Man,” the Ninth International Conference of American States (Bogotá, Colombia, 1948) considered that the protection of these rights “should be guaranteed by a juridical organ, inasmuch as no right is genuinely assured unless it is safeguarded by a competent court.” It therefore recommended that the Inter-American Juridical Committee prepare a draft statute providing for the creation of an inter-American court to guarantee the rights of man.[19] In its report to the Inter-American Council of Jurists, dated September 26, 1949, the Inter-American Juridical Committee observed that the lack of substantive positive law on the matter constituted a great obstacle in drafting the statute of the Court and that a convention containing rules of this nature should precede the statute. It was of the view that the Council of Jurists should propose such a solution to the Tenth Inter-American Conference.[20]

In resolution XXIX, “Inter-American Court for the Protection of Human Rights,” the Tenth Inter-American Conference (Caracas, Venezuela, 1954) referred this matter to the Eleventh Inter-American Conference, so that a decision could be made on the basis of studies conducted by the OAS Council on the subject. Accordingly, it instructed the Council to continue its efforts, working from the existing drafts and drawing upon its own experience.[21] The Eleventh Inter-American Conference, however, was never held.

Thereafter, in the first part of the resolution titled “Human Rights,” the Fifth Meeting of Consultation (1959) instructed the Inter-American Council of Jurists to prepare a draft on the creation of an “Inter-American Court of Human Rights” and other organs appropriate for the protection and observance of human rights.[22]

As noted earlier, the Inter-American Council of Jurists prepared a draft Convention on Human Rights, providing for the creation and functioning of an Inter-American Court and Inter-American Commission on Human Rights.[23]

After being presented to the Second Special Inter-American Conference, that draft was referred to the Council of the Organization, which was instructed to update and complete it once it had heard from the Commission on Human Rights and such other organs and entities as it deemed appropriate. After this, the Council was to convene an Inter-American Specialized Conference.[24]

The American Convention on Human Rights was adopted on November 22, 1969, at the Inter-American Specialized Conference on Human Rights, held in San Jose, Costa Rica. With adoption of the Convention, an Inter-American Court of Human Rights was created (Chapter VII of Part II).

The regular session of the OAS General Assembly that convened in La Paz, Bolivia in 1979 approved the Statute of the Court (resolution AG/RES. 448). Article 1 defines the Court as “an autonomous judicial institution whose purpose is the application and interpretation of the American Convention on Human Rights.”

The Court has adjudicatory and advisory jurisdiction. In the case of the adjudicatory jurisdiction, only the Commission and the States parties to the American Convention that have recognized the Court’s binding jurisdiction

are authorized to present a case seeking the interpretation or application of the Convention, and then only after exhausting the appropriate procedures prescribed in Articles 48 to 50 thereof concerning the processing of cases before the Commission. In other words, the Court has jurisdiction only when the State party against which a case is brought has accepted the Court's binding jurisdiction. The declaration whereby the State recognizes the Court's binding jurisdiction may be made unconditionally, or on condition of reciprocity, for a specified period or for specific cases.

In the case of the Court's advisory jurisdiction, Article 64 of the Convention provides that any member State of the Organization may consult the Court on the interpretation of the Convention or of other treaties on the protection of human rights in the American States. This right of consultation extends to the organs listed in Chapter X of the OAS Charter, within the area of respective competence of each. At the request of any member State, the Court may also issue an opinion on the compatibility of any of the said State's domestic laws with the aforementioned international instruments.

At the seventh special session of the OAS General Assembly (May 1979), the States parties to the Convention elected the first seven judges to sit on the Court. On September 3, 1979, the latter was officially installed in San Jose, Costa Rica, the headquarters of the Court.

At its third session, July 30 to August 9, 1980, the Court adopted its Rules of Procedure and finalized the work on the Headquarters Agreement concluded with Costa Rica, setting forth the privileges and immunities of the Court, its judges and its staff, and those persons who appear before it. The Government of Costa Rica ratified that agreement.

The Inter-American Court of Human Rights approved its first Rules of Procedure in July 1980. They were patterned after the Rules of Procedure of the European Court of Human Rights in effect at that time, which were themselves modeled along the lines of the Rules of Procedure of the International Court of Justice (ICJ). Faced with the need to streamline those procedures, the Court approved its second set of Rules of Procedure in 1991, which took effect on August 1 of that year. Five years later, on September 16, 1996, the Court adopted a third set of Rules, which took effect on January 1, 1997. The principal qualitative change that the third version of the Rules of Procedure introduced relates to Article 23, which provides that representatives of the victims or their next of kin may independently submit their own arguments and evidence during the reparations stage. Finally, on November 24, 2000, the Court introduced new Rules of Procedure which will take effect on June 1, 2001. With the most recent amendment of its Rules of Procedure, the Court introduced a series of provisions to grant the alleged victims, their next of kin or their duly accredited representatives direct participation (*locus standi in judicio*) in all stages of the Court's proceedings once an application has been presented.

I. MORE RECENT INTER-AMERICAN INSTRUMENTS CONCERNING HUMAN RIGHTS

At its 1985 regular session, where the General Assembly approved the Protocol of Cartagena de Indias amending the OAS Charter, the member States opened for signature the Inter-American Convention to Prevent and Punish Torture.

This Convention contains a detailed definition of torture and specifies who will be held guilty of the crime of torture. The States parties not only undertake to severely punish perpetrators of this crime but also to take measures to prevent and punish any other cruel, inhuman, or degrading treatment or punishment within their jurisdiction. Accordingly, under the terms of this Convention, no person charged with torture will be able to elude justice by fleeing to the territory of another State party. This Convention entered into force on February 28, 1987, thirty days after deposit of the second instrument of ratification.

During its twenty-fourth regular session, held in Belém do Pará, Brazil, the OAS General Assembly approved the Inter-American Convention on Forced Disappearance of Persons, which entered into force on March 28, 1996, thirty days after the second instrument of ratification was deposited.

This instrument contains a detailed definition of forced disappearance and of who shall be held guilty of this crime. The States Parties undertake not to practice, permit or tolerate the forced disappearance of persons and pledge to punish those persons within their jurisdictions who commit or attempt to commit the crime of forced disappearance of persons, as well as their accomplices and accessories. They further pledge to take any legislative measures necessary to criminalize forced disappearance and to cooperate with one another to prevent, punish, and eliminate the forced disappearance of persons, taking the measures necessary to comply with the commitments undertaken in the Convention. The Convention makes forced disappearance an extraditable offense. Thus, no one charged with the crime will be able to escape punishment by fleeing to the territory of another State Party.

Another instrument approved on the occasion of the twenty-fourth regular session of the OAS General Assembly held in Belém do Pará, Brazil, was the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, Convention of Belém do Pará. The latter entered into force on March 5, 1995, thirty days after the second instrument of ratification was deposited.

This instrument establishes a detailed definition of violence against women, which includes physical, sexual and psychological harm or suffering. It provides that every woman has the right to be free from violence and to enjoy all human rights and freedoms embodied in regional and international human rights instruments. The States Parties condemn all forms of violence against women and agree to investigate, prosecute and punish such violence with due diligence, and to pursue policies and specific measures to prevent and eradicate it.

The OAS General Assembly adopted the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities at its twenty-ninth regular session, held in Guatemala City.

The objectives of the Convention are to prevent and eliminate all forms of discrimination against persons with disabilities and to promote their full integration into society. To follow up on the commitments undertaken in the Convention, a Committee for the Elimination of All Forms of Discrimination against Persons with Disabilities is to be established, composed of one representative appointed by each State party. To date, the Convention has not entered into force.

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[1] See the texts of both conventions in International Conferences of American States, Second Supplement, 1942-1954, Washington, D.C.: Pan American Union, 1958, pp. 229 and 230, respectively.

[2] Ibid., p. 251.

[3] Ibid., p. 262.

[4] See the text of this resolution in International Conferences of American States, First Supplement, 1933-1940, Washington, D.C.: Carnegie Endowment for International Peace, 1943, pp. 238 and 239.

[5] Ibid., pp. 250 and 251.

[6] Ibid., p. 260.

[7] Ibid., p. 245.

[8] See the complete text in Second Supplement, supra, note 1, pp. 93-94.

[9] Ibid., p.102.

[10] Ibid., p. 143-150.

[11] See Inter-American Court of Human Rights, Advisory Opinion OC-10/89, Interpretation of the American Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights, July 14, 1989, Ser. A. No. 10 (1989), paragraphs 35-45; IACHR, James Terry Roach and Jay Pinkerton v. United States, Case 9647, Res. 3/87, September 22, 1987, Annual Report 1986-1987, paragraphs 46-49, Rafael Ferrer-Mazorra et al. v. United States, Report N° 51/01, Case 9903, April 4, 2001. See also Article 20 of the Statute of the Inter-American Commission on Human Rights.

[12] See the complete text of the Declaration at the Fifth Meeting of Consultation of Ministers of Foreign Affairs, Santiago, Chile, August 12 through 18, 1959, Final Act. Document OEA/Ser.C/II.5, pp. 4-6.

[13] Ibid., p. 7.

[14] Ibid., pp. 10-11.

[15] The text of the original Statute appears in doc. OEA/Ser.L/V/II, September 26, 1960.

[16] The complete text appears in the Final Act of the Meeting, OEA/Ser.C/II.8, pp. 16-17.

[17] See the complete text in the Final Act of the Second Special Inter-American Conference. OAS Official Records, OEA/Ser.C/I.13, 1965, pp. 32-34.

[18] OEA/Ser.L/V/II.14, doc.35, June 30 1966, IACHR, Report on the Work Accomplished by the IACHR during its Thirteenth Period of Sessions, from April 18 to 28, 1966, pp. 26-27.

[19] International Conferences of American States, op. cit., Second Supplement, p.270.

[20] Inter-American Juridical Committee, Recomendaciones e Informes. Documentos Oficiales (1949-1953), pp. 105 to 110 (Spanish text only).

[21] International Conferences of American States, op. cit. Second Supplement, p. 379.

[22] See note 11.

[23] See the complete text of the draft convention in the Inter-American Council of Jurists, Fourth Meeting, 1959. Final Act (CIJ) 43, especially pages 47-75.

[24] Second Special Inter-American Conference - Rio de Janeiro, 1965. OAS Official Documents, OEA/Ser.C/I.13, pp. 49-50.

AMERICAN DECLARATION OF THE RIGHTS AND DUTIES OF MAN

(Approved by the Ninth International Conference of American States,
Bogotá, Colombia, 1948)

WHEREAS:

The American peoples have acknowledged the dignity of the individual, and their national constitutions recognize that juridical and political institutions, which regulate life in human society, have as their principal aim the protection of the essential rights of man and the

creation of circumstances that will permit him to achieve spiritual and material progress and attain happiness;

The American States have on repeated occasions recognized that the essential rights of man are not derived from the fact that he is a national of a certain state, but are based upon attributes of his human personality;

The international protection of the rights of man should be the principal guide of an evolving American law;

The affirmation of essential human rights by the American States together with the guarantees given by the internal regimes of the states establish the initial system of protection considered by the American States as being suited to the present social and juridical conditions, not without a recognition on their part that they should increasingly strengthen that system in the international field as conditions become more favorable,

The Ninth International Conference of American States

AGREES:

To adopt the following

AMERICAN DECLARATION OF THE RIGHTS AND DUTIES OF MAN

Preamble

All men are born free and equal, in dignity and in rights, and, being endowed by nature with reason and conscience, they should conduct themselves as brothers one to another.

The fulfillment of duty by each individual is a prerequisite to the rights of all. Rights and duties are interrelated in every social and political activity of man. While rights exalt individual liberty, duties express the dignity of that liberty.

Duties of a juridical nature presuppose others of a moral nature which support them in principle and constitute their basis.

Inasmuch as spiritual development is the supreme end of human existence and the highest expression thereof, it is the duty of man to serve that end with all his strength and resources.

Since culture is the highest social and historical expression of that spiritual development, it is the duty of man to preserve, practice and foster culture by every means within his power. And, since moral conduct constitutes the noblest flowering of culture, it is the duty of every man always to hold it in high respect.

CHAPTER ONE

Rights

Article I. Every human being has the right to life, liberty and the security of his person.

Right to life, liberty and personal security.

Article II. All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor.

Right to equality before law.

Article III. Every person has the right freely to profess a religious faith, and to manifest and practice it both in public and in private.

Right to religious freedom and worship.

Article IV. Every person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever.

Right to freedom of investigation, opinion, expression and dissemination.

Article V. Every person has the right to the protection of the law against abusive attacks upon his honor, his reputation, and his private and family life.

Right to protection of honor, personal reputation, and private and family life.

Article VI. Every person has the right to establish a family, the basic element of society, and to receive protection therefor.

Right to a family and to protection thereof.

Article VII. All women, during pregnancy and the nursing period, and all children have the right to special protection, care and aid.

Right to protection for mothers and children.

Article VIII. Every person has the right to fix his residence within the territory of the state of which he is a national, to move about freely within such territory, and not to leave it except by his own will.

Right to residence and movement.

Article IX. Every person has the right to the inviolability of his home.

Right to inviolability of the home.

Article X. Every person has the right to the inviolability and transmission of his correspondence.

Right to the inviolability and transmission of correspondence

Article XI. Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.

Right to the preservation of health and to well-being.

Article XII. Every person has the right to an education, which should be based on the principles of liberty, morality and human solidarity.

Right to education.

Likewise every person has the right to an education that will prepare him to attain a decent life, to raise his standard of living, and to be a useful member of society.

The right to an education includes the right to equality of opportunity in every case, in accordance with natural talents, merit and the desire to utilize the resources that the state or the community is in a position to provide.

Every person has the right to receive, free, at least a primary education.

Article XIII. Every person has the right to take part in the cultural life of the community, to enjoy the arts, and to participate in the benefits

Right to the benefits of culture.

that result from intellectual progress, especially scientific discoveries.

He likewise has the right to the protection of his moral and material interests as regards his inventions or any literary, scientific or artistic works of which he is the author.

Article XIV. Every person has the right to work, under proper conditions, and to follow his vocation freely, insofar as existing conditions of employment permit.

Every person who works has the right to receive such remuneration as will, in proportion to his capacity and skill, assure him a standard of living suitable for himself and for his family.

Article XV. Every person has the right to leisure time, to wholesome recreation, and to the opportunity for advantageous use of his free time to his spiritual, cultural and physical benefit.

Article XVI. Every person has the right to social security which will protect him from the consequences of unemployment, old age, and any disabilities arising from causes beyond his control that make it physically or mentally impossible for him to earn a living.

Article XVII. Every person has the right to be recognized everywhere as a person having rights and obligations, and to enjoy the basic civil rights.

Article XVIII. Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights.

Article XIX. Every person has the right to the nationality to which he is entitled by law and to change it, if he so wishes, for the nationality of any other country that is willing to grant it to him.

Article XX. Every person having legal capacity is entitled to participate in the government of his country, directly or through his representatives, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free.

Article XXI. Every person has the right to

Right to work and to fair remuneration.

Right to leisure time and to the use thereof.

Right to social security.

Right to recognition of juridical personality and civil rights.

Right to a fair trial.

Right to nationality.

Right to vote and to participate in government.

Right of assembly.

assemble peaceably with others in a formal public meeting or an informal gathering, in connection with matters of common interest of any nature.

Article XXII. Every person has the right to associate with others to promote, exercise and protect his legitimate interests of a political, economic, religious, social, cultural, professional, labor union or other nature.

Right of association.

Article XXIII. Every person has a right to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home.

Right to property.

Article XXIV. Every person has the right to submit respectful petitions to any competent authority, for reasons of either general or private interest, and the right to obtain a prompt decision thereon.

Right of petition.

Article XXV. No person may be deprived of his liberty except in the cases and according to the procedures established by pre-existing law.

Right of protection from arbitrary arrest.

No person may be deprived of liberty for nonfulfillment of obligations of a purely civil character.

Every individual who has been deprived of his liberty has the right to have the legality of his detention ascertained without delay by a court, and the right to be tried without undue delay or, otherwise, to be released. He also has the right to humane treatment during the time he is in custody.

Article XXVI. Every accused person is presumed to be innocent until proved guilty.

Right to due process of law.

Every person accused of an offense has the right to be given an impartial and public hearing, and to be tried by courts previously established in accordance with pre-existing laws, and not to receive cruel, infamous or unusual punishment.

Article XXVII. Every person has the right, in case of pursuit not resulting from ordinary crimes, to seek and receive asylum in foreign territory, in accordance with the laws of each country and with international agreements.

Right of asylum.

Article XXVIII. The rights of man are limited by the rights of others, by the security of all, and by

Scope of the rights of man.

the just demands of the general welfare and the advancement of democracy.

CHAPTER TWO

Duties

Article XXIX. It is the duty of the individual so to conduct himself in relation to others that each and every one may fully form and develop his personality.

Duties to society.

Article XXX. It is the duty of every person to aid, support, educate and protect his minor children, and it is the duty of children to honor their parents always and to aid, support and protect them when they need it.

Duties toward children and parents.

Article XXXI. It is the duty of every person to acquire at least an elementary education.

Duty to receive instruction.

Article XXXII. It is the duty of every person to vote in the popular elections of the country of which he is a national, when he is legally capable of doing so.

Duty to vote.

Article XXXIII. It is the duty of every person to obey the law and other legitimate commands of the authorities of his country and those of the country in which he may be.

Duty to obey the law

Article XXXIV. It is the duty of every able-bodied person to render whatever civil and military service his country may require for its defense and preservation, and, in case of public disaster, to render such services as may be in his power.

Duty to serve the community and the nation.

It is likewise his duty to hold any public office to which he may be elected by popular vote in the state of which he is a national.

Article XXXV. It is the duty of every person to cooperate with the state and the community with respect to social security and welfare, in accordance with his ability and with existing circumstances.

Duties with respect to social security and welfare.

Article XXXVI. It is the duty of every person to pay the taxes established by law for the support of public services.

Duty to pay taxes.

Article XXXVII. It is the duty of every person to work, as far as his capacity and possibilities permit, in order to obtain the means of livelihood or to benefit his community.

Duty to work.

Article XXXVIII. It is the duty of every person to

Duty to refrain from political

refrain from taking part in political activities that, according to law, are reserved exclusively to the citizens of the state in which he is an alien. activities in a foreign country.

AMERICAN CONVENTION ON HUMAN RIGHTS

(Adopted at the Inter-American Specialized Conference on Human Rights,
San José, Costa Rica, 22 November 1969)

Preamble

The American states signatory to the present Convention, Reaffirming their intention to consolidate in this hemisphere, within the framework of democratic institutions, a system of personal liberty and social justice based on respect for the essential rights of man; Recognizing that the essential rights of man are not derived from one's being a national of a certain state, but are based upon attributes of the human personality, and that they therefore justify international protection in the form of a convention reinforcing or complementing the protection provided by the domestic law of the American states; Considering that these principles have been set forth in the Charter of the Organization of American States, in the American Declaration of the Rights and Duties of Man, and in the Universal Declaration of Human Rights, and that they have been reaffirmed and refined in other international instruments, worldwide as well as regional in scope; Reiterating that, in accordance with the Universal Declaration of Human Rights, the ideal of free men enjoying freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his economic, social, and cultural rights, as well as his civil and political rights; and Considering that the Third Special Inter-American Conference (Buenos Aires, 1967) approved the incorporation into the Charter of the Organization itself of broader standards with respect to economic, social, and educational rights and resolved that an inter-American convention on human rights should determine the structure, competence, and procedure of the organs responsible for these matters, Have agreed upon the following:

PART I - STATE OBLIGATIONS AND RIGHTS PROTECTED

CHAPTER I - GENERAL OBLIGATIONS

Article 1. Obligation to Respect Rights

1. The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.
2. For the purposes of this Convention, "person" means every human being.

Article 2. Domestic Legal Effects

Where the exercise of any of the rights or freedoms referred to in Article 1 is not already ensured by legislative or other provisions, the States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms.

CHAPTER II - CIVIL AND POLITICAL RIGHTS

Article 3. Right to Juridical Personality

Every person has the right to recognition as a person before the law.

Article 4. Right to Life

1. Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.
2. In countries that have not abolished the death penalty, it may be imposed only for the most serious crimes and pursuant to a final judgment rendered by a competent court and in accordance with a law establishing such punishment, enacted prior to the commission of the crime. The application of such punishment shall not be extended to crimes to which it does not presently apply.
3. The death penalty shall not be reestablished in states that have abolished it.
4. In no case shall capital punishment be inflicted for political offenses or related common crimes.
5. Capital punishment shall not be imposed upon persons who, at the time the crime was committed, were under 18 years of age or over 70 years of age; nor shall it be applied to pregnant women.
6. Every person condemned to death shall have the right to apply for amnesty, pardon, or commutation of sentence, which may be granted in all cases. Capital punishment shall not be imposed while such a petition is pending decision by the competent authority.

Article 5. Right to Humane Treatment

1. Every person has the right to have his physical, mental, and moral integrity respected.
2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.
3. Punishment shall not be extended to any person other than the criminal.
4. Accused persons shall, save in exceptional circumstances, be segregated from convicted persons, and shall be subject to separate treatment appropriate to their status as unconvicted persons.
5. Minors while subject to criminal proceedings shall be separated from adults and brought before specialized tribunals, as speedily as possible, so that they may be treated in accordance with their status as minors.
6. Punishments consisting of deprivation of liberty shall have as an essential aim the reform and social readaptation of the prisoners.

Article 6. Freedom from Slavery

1. No one shall be subject to slavery or to involuntary servitude, which are prohibited in all their forms, as are the slave trade and traffic in women.
2. No one shall be required to perform forced or compulsory labor. This provision shall not be interpreted to mean that, in those countries in which the penalty established for certain crimes is deprivation of liberty at forced labor, the carrying out of such a sentence imposed by a competent court is prohibited. Forced labor shall not adversely affect the dignity or the physical or intellectual capacity of the prisoner.
3. For the purposes of this article, the following do not constitute forced or compulsory labor:
 - a. work or service normally required of a person imprisoned in execution of a sentence or formal decision passed by the competent judicial authority. Such work or service shall be carried out under the supervision and control of public authorities, and any persons performing such work or service shall not be placed at the disposal of any private party, company, or juridical person;
 - b. military service and, in countries in which conscientious objectors are recognized, national service that the law may provide for in lieu of military service;
 - c. service exacted in time of danger or calamity that threatens the existence or the well-being of the community; or

- d. work or service that forms part of normal civic obligations.

Article 7. Right to Personal Liberty

1. Every person has the right to personal liberty and security.
2. No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or by a law established pursuant thereto.
3. No one shall be subject to arbitrary arrest or imprisonment.
4. Anyone who is detained shall be informed of the reasons for his detention and shall be promptly notified of the charge or charges against him.
5. Any person detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to be released without prejudice to the continuation of the proceedings. His release may be subject to guarantees to assure his appearance for trial.
6. Anyone who is deprived of his liberty shall be entitled to recourse to a competent court, in order that the court may decide without delay on the lawfulness of his arrest or detention and order his release if the arrest or detention is unlawful. In States Parties whose laws provide that anyone who believes himself to be threatened with deprivation of his liberty is entitled to recourse to a competent court in order that it may decide on the lawfulness of such threat, this remedy may not be restricted or abolished. The interested party or another person in his behalf is entitled to seek these remedies.
7. No one shall be detained for debt. This principle shall not limit the orders of a competent judicial authority issued for nonfulfillment of duties of support.

Article 8. Right to a Fair Trial

1. Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.
2. Every person accused of a criminal offense has the right to be presumed innocent so long as his guilt has not been proven according to law. During the proceedings, every person is entitled, with full equality, to the following minimum guarantees:
 - a. the right of the accused to be assisted without charge by a translator or interpreter, if he does not understand or does not speak the language of the tribunal or court;
 - b. prior notification in detail to the accused of the charges against him;
 - c. adequate time and means for the preparation of his defense;
 - d. the right of the accused to defend himself personally or to be assisted by legal counsel of his own choosing, and to communicate freely and privately with his counsel;
 - e. the inalienable right to be assisted by counsel provided by the state, paid or not as the domestic law provides, if the accused does not defend himself personally or engage his own counsel within the time period established by law;
 - f. the right of the defense to examine witnesses present in the court and to obtain the appearance, as witnesses, of experts or other persons who may throw light on the facts;
 - g. the right not to be compelled to be a witness against himself or to plead guilty; and

- h. the right to appeal the judgment to a higher court.
3. A confession of guilt by the accused shall be valid only if it is made without coercion of any kind.
4. An accused person acquitted by a nonappealable judgment shall not be subjected to a new trial for the same cause.
5. Criminal proceedings shall be public, except insofar as may be necessary to protect the interests of justice.

Article 9. Freedom from Ex Post Facto Laws

No one shall be convicted of any act or omission that did not constitute a criminal offense, under the applicable law, at the time it was committed. A heavier penalty shall not be imposed than the one that was applicable at the time the criminal offense was committed. If subsequent to the commission of the offense the law provides for the imposition of a lighter punishment, the guilty person shall benefit therefrom.

Article 10. Right to Compensation

Every person has the right to be compensated in accordance with the law in the event he has been sentenced by a final judgment through a miscarriage of justice.

Article 11. Right to Privacy

1. Everyone has the right to have his honor respected and his dignity recognized.
2. No one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honor or reputation.
3. Everyone has the right to the protection of the law against such interference or attacks.

Article 12. Freedom of Conscience and Religion

1. Everyone has the right to freedom of conscience and of religion. This right includes freedom to maintain or to change one's religion or beliefs, and freedom to profess or disseminate one's religion or beliefs, either individually or together with others, in public or in private.
2. No one shall be subject to restrictions that might impair his freedom to maintain or to change his religion or beliefs.
3. Freedom to manifest one's religion and beliefs may be subject only to the limitations prescribed by law that are necessary to protect public safety, order, health, or morals, or the rights or freedoms of others.
4. Parents or guardians, as the case may be, have the right to provide for the religious and moral education of their children or wards that is in accord with their own convictions.

Article 13. Freedom of Thought and Expression

1. Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.
2. The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure:

- a. respect for the rights or reputations of others; or

- b. the protection of national security, public order, or public health or morals.

3. The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.
4. Notwithstanding the provisions of paragraph 2 above, public entertainments may be subject by law to prior censorship for the sole purpose of regulating access to them for the moral protection of childhood and adolescence.
5. Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person

or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law.

Article 14. Right of Reply

1. Anyone injured by inaccurate or offensive statements or ideas disseminated to the public in general by a legally regulated medium of communication has the right to reply or to make a correction using the same communications outlet, under such conditions as the law may establish.
2. The correction or reply shall not in any case remit other legal liabilities that may have been incurred.
3. For the effective protection of honor and reputation, every publisher, and every newspaper, motion picture, radio, and television company, shall have a person responsible who is not protected by immunities or special privileges.

Article 15. Right of Assembly

The right of peaceful assembly, without arms, is recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and necessary in a democratic society in the interest of national security, public safety or public order, or to protect public health or morals or the rights or freedom of others.

Article 16. Freedom of Association

1. Everyone has the right to associate freely for ideological, religious, political, economic, labor, social, cultural, sports, or other purposes.
2. The exercise of this right shall be subject only to such restrictions established by law as may be necessary in a democratic society, in the interest of national security, public safety or public order, or to protect public health or morals or the rights and freedoms of others.
3. The provisions of this article do not bar the imposition of legal restrictions, including even deprivation of the exercise of the right of association, on members of the armed forces and the police.

Article 17. Rights of the Family

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.
2. The right of men and women of marriageable age to marry and to raise a family shall be recognized, if they meet the conditions required by domestic laws, insofar as such conditions do not affect the principle of nondiscrimination established in this Convention.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. The States Parties shall take appropriate steps to ensure the equality of rights and the adequate balancing of responsibilities of the spouses as to marriage, during marriage, and in the event of its dissolution. In case of dissolution, provision shall be made for the necessary protection of any children solely on the basis of their own best interests.
5. The law shall recognize equal rights for children born out of wedlock and those born in wedlock.

Article 18. Right to a Name

Every person has the right to a given name and to the surnames of his parents or that of one of them. The law shall regulate the manner in which this right shall be ensured for all, by the use of assumed names if necessary.

Article 19. Rights of the Child

Every minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state.

Article 20. Right to Nationality

1. Every person has the right to a nationality.
2. Every person has the right to the nationality of the state in whose territory he was born if he does not have the right to any other nationality.
3. No one shall be arbitrarily deprived of his nationality or of the right to change it.

Article 21. Right to Property

1. Everyone has the right to the use and enjoyment of his property. The law may subordinate such use and enjoyment to the interest of society.
2. No one shall be deprived of his property except upon payment of just compensation, for reasons of public utility or social interest, and in the cases and according to the forms established by law.
3. Usury and any other form of exploitation of man by man shall be prohibited by law.

Article 22. Freedom of Movement and Residence

1. Every person lawfully in the territory of a State Party has the right to move about in it, and to reside in it subject to the provisions of the law.
2. Every person has the right to leave any country freely, including his own.
3. The exercise of the foregoing rights may be restricted only pursuant to a law to the extent necessary in a democratic society to prevent crime or to protect national security, public safety, public order, public morals, public health, or the rights or freedoms of others.
4. The exercise of the rights recognized in paragraph 1 may also be restricted by law in designated zones for reasons of public interest.
5. No one can be expelled from the territory of the state of which he is a national or be deprived of the right to enter it.
6. An alien lawfully in the territory of a State Party to this Convention may be expelled from it only pursuant to a decision reached in accordance with law.
7. Every person has the right to seek and be granted asylum in a foreign territory, in accordance with the legislation of the state and international conventions, in the event he is being pursued for political offenses or related common crimes.
8. In no case may an alien be deported or returned to a country, regardless of whether or not it is his country of origin, if in that country his right to life or personal freedom is in danger of being violated because of his race, nationality, religion, social status, or political opinions.
9. The collective expulsion of aliens is prohibited.

Article 23. Right to Participate in Government

1. Every citizen shall enjoy the following rights and opportunities:
 - a. to take part in the conduct of public affairs, directly or through freely chosen representatives;
 - b. to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters; and
 - c. to have access, under general conditions of equality, to the public service of his country.
2. The law may regulate the exercise of the rights and opportunities referred to in the preceding paragraph only on the basis of age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings.

Article 24. Right to Equal Protection

All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law.

Article 25. Right to Judicial Protection

1. Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.
2. The States Parties undertake:

- a. to ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the state;
- b. to develop the possibilities of judicial remedy; and
- c. to ensure that the competent authorities shall enforce such remedies when granted.

CHAPTER III - ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

Article 26. Progressive Development

The States Parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires.

CHAPTER IV - SUSPENSION OF GUARANTEES, INTERPRETATION, AND APPLICATION

Article 27. Suspension of Guarantees

1. In time of war, public danger, or other emergency that threatens the independence or security of a State Party, it may take measures derogating from its obligations under the present Convention to the extent and for the period of time strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law and do not involve discrimination on the ground of race, color, sex, language, religion, or social origin.
2. The foregoing provision does not authorize any suspension of the following articles: Article 3 (Right to Juridical Personality), Article 4 (Right to Life), Article 5 (Right to Humane Treatment), Article 6 (Freedom from Slavery), Article 9 (Freedom from Ex Post Facto Laws), Article 12 (Freedom of Conscience and Religion), Article 17 (Rights of the Family), Article 18 (Right to a Name), Article 19 (Rights of the Child), Article 20 (Right to Nationality), and Article 23 (Right to Participate in Government), or of the judicial guarantees essential for the protection of such rights.
3. Any State Party availing itself of the right of suspension shall immediately inform the other States Parties, through the Secretary General of the Organization of American States, of the provisions the application of which it has suspended, the reasons that gave rise to the suspension, and the date set for the termination of such suspension.

Article 28. Federal Clause

1. Where a State Party is constituted as a federal state, the national government of such State Party shall implement all the provisions of the Convention over whose subject matter it exercises legislative and judicial jurisdiction.
2. With respect to the provisions over whose subject matter the constituent units of the federal state have jurisdiction, the national government shall immediately take suitable measures, in accordance with its constitution and its laws, to the end that the competent authorities of the constituent units may adopt appropriate provisions for the fulfillment of this Convention.
3. Whenever two or more States Parties agree to form a federation or other type of association, they shall take care that the resulting federal or other compact contains the provisions necessary for continuing and rendering effective the standards of this Convention in the new state that is organized.

Article 29. Restrictions Regarding Interpretation

No provision of this Convention shall be interpreted as:

- a. permitting any State Party, group, or person to suppress the enjoyment or exercise of the rights and freedoms recognized in this Convention or to restrict them to a greater extent than is provided for herein;
- b. restricting the enjoyment or exercise of any right or freedom recognized by virtue of the laws of any State Party or by virtue of another convention to which one of the said states is a party;
- c. precluding other rights or guarantees that are inherent in the human personality or derived from representative democracy as a form of government; or
- d. excluding or limiting the effect that the American Declaration of the Rights and Duties of Man and other international acts of the same nature may have.

Article 30. Scope of Restrictions

The restrictions that, pursuant to this Convention, may be placed on the enjoyment or exercise of the rights or freedoms recognized herein may not be applied except in accordance with laws enacted for reasons of general interest and in accordance with the purpose for which such restrictions have been established.

Article 31. Recognition of Other Rights

Other rights and freedoms recognized in accordance with the procedures established in Articles 76 and 77 may be included in the system of protection of this Convention.

CHAPTER V - PERSONAL RESPONSIBILITIES

Article 32. Relationship between Duties and Rights

1. Every person has responsibilities to his family, his community, and mankind.
2. The rights of each person are limited by the rights of others, by the security of all, and by the just demands of the general welfare, in a democratic society.

PART II - MEANS OF PROTECTION CHAPTER VI - COMPETENT ORGANS

Article 33

The following organs shall have competence with respect to matters relating to the fulfillment of the commitments made by the States Parties to this Convention:

- a. the Inter-American Commission on Human Rights, referred to as "The Commission;" and
- b. the Inter-American Court of Human Rights, referred to as "The Court."

CHAPTER VII - INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

Section 1. Organization

Article 34

The Inter-American Commission on Human Rights shall be composed of seven members, who shall be persons of high moral character and recognized competence in the field of human rights.

Article 35

The Commission shall represent all the member countries of the Organization of American States.

Article 36

1. The members of the Commission shall be elected in a personal capacity by the General Assembly of the Organization from a list of candidates proposed by the governments of the member states.

2. Each of those governments may propose up to three candidates, who may be nationals of the states proposing them or of any other member state of the Organization of American States. When a slate of three is proposed, at least one of the candidates shall be a national of a state other than the one proposing the slate.

Article 37

1. The members of the Commission shall be elected for a term of four years and may be reelected only once, but the terms of three of the members chosen in the first election shall expire at the end of two years. Immediately following that election the General Assembly shall determine the names of those three members by lot.

2. No two nationals of the same state may be members of the Commission.

Article 38

Vacancies that may occur on the Commission for reasons other than the normal expiration of a term shall be filled by the Permanent Council of the Organization in accordance with the provisions of the Statute of the Commission.

Article 39

The Commission shall prepare its Statute, which it shall submit to the General Assembly for approval. It shall establish its own Regulations.

Article 40

Secretariat services for the Commission shall be furnished by the appropriate specialized unit of the General Secretariat of the Organization. This unit shall be provided with the resources required to accomplish the tasks assigned to it by the Commission.

Section 2. Functions

Article 41

The main function of the Commission shall be to promote respect for and defense of human rights. In the exercise of its mandate, it shall have the following functions and powers:

- a. to develop an awareness of human rights among the peoples of America;
- b. to make recommendations to the governments of the member states, when it considers such action advisable, for the adoption of progressive measures in favor of human rights within the framework of their domestic law and constitutional provisions as well as appropriate measures to further the observance of those rights;
- c. to prepare such studies or reports as it considers advisable in the performance of its duties;
- d. to request the governments of the member states to supply it with information on the measures adopted by them in matters of human rights;
- e. to respond, through the General Secretariat of the Organization of American States, to inquiries made by the member states on matters related to human rights and, within the limits of its possibilities, to provide those states with the advisory services they request;

f. to take action on petitions and other communications pursuant to its authority under the provisions of Articles 44 through 51 of this Convention; and

g. to submit an annual report to the General Assembly of the Organization of American States.

Article 42

The States Parties shall transmit to the Commission a copy of each of the reports and studies that they submit annually to the Executive Committees of the Inter-American Economic and Social Council and the Inter-American Council for Education, Science, and Culture, in their respective fields, so that the Commission may watch over the promotion of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires.

Article 43

The States Parties undertake to provide the Commission with such information as it may request of them as to the manner in which their domestic law ensures the effective application of any provisions of this Convention.

Section 3. Competence

Article 44

Any person or group of persons, or any nongovernmental entity legally recognized in one or more member states of the Organization, may lodge petitions with the Commission containing denunciations or complaints of violation of this Convention by a State Party.

Article 45

1. Any State Party may, when it deposits its instrument of ratification of or adherence to this Convention, or at any later time, declare that it recognizes the competence of the Commission to receive and examine communications in which a State Party alleges that another State Party has committed a violation of a human right set forth in this Convention.
2. Communications presented by virtue of this article may be admitted and examined only if they are presented by a State Party that has made a declaration recognizing the aforementioned competence of the Commission. The Commission shall not admit any communication against a State Party that has not made such a declaration.
3. A declaration concerning recognition of competence may be made to be valid for an indefinite time, for a specified period, or for a specific case.
4. Declarations shall be deposited with the General Secretariat of the Organization of American States, which shall transmit copies thereof to the member states of that Organization.

Article 46

1. Admission by the Commission of a petition or communication lodged in accordance with Articles 44 or 45 shall be subject to the following requirements:
 - a. that the remedies under domestic law have been pursued and exhausted in accordance with generally recognized principles of international law;
 - b. that the petition or communication is lodged within a period of six months from the date on which the party alleging violation of his rights was notified of the final judgment;
 - c. that the subject of the petition or communication is not pending in another international proceeding for settlement; and

- d. that, in the case of Article 44, the petition contains the name, nationality, profession, domicile, and signature of the person or persons or of the legal representative of the entity lodging the petition.
2. The provisions of paragraphs 1.a and 1.b of this article shall not be applicable when:
 - a. the domestic legislation of the state concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated;
 - b. the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them; or
 - c. there has been unwarranted delay in rendering a final judgment under the aforementioned remedies.

Article 47

The Commission shall consider inadmissible any petition or communication submitted under Articles 44 or 45 if:

- a. any of the requirements indicated in Article 46 has not been met;
- b. the petition or communication does not state facts that tend to establish a violation of the rights guaranteed by this Convention;
- c. the statements of the petitioner or of the state indicate that the petition or communication is manifestly groundless or obviously out of order; or
- d. the petition or communication is substantially the same as one previously studied by the Commission or by another international organization.

Section 4. Procedure

Article 48

1. When the Commission receives a petition or communication alleging violation of any of the rights protected by this Convention, it shall proceed as follows:
 - a. If it considers the petition or communication admissible, it shall request information from the government of the state indicated as being responsible for the alleged violations and shall furnish that government a transcript of the pertinent portions of the petition or communication. This information shall be submitted within a reasonable period to be determined by the Commission in accordance with the circumstances of each case.
 - b. After the information has been received, or after the period established has elapsed and the information has not been received, the Commission shall ascertain whether the grounds for the petition or communication still exist. If they do not, the Commission shall order the record to be closed.
 - c. The Commission may also declare the petition or communication inadmissible or out of order on the basis of information or evidence subsequently received.
 - d. If the record has not been closed, the Commission shall, with the knowledge of the parties, examine the matter set forth in the petition or communication in order to verify the facts. If necessary and advisable, the Commission shall carry out an investigation, for the effective conduct of which

it shall request, and the states concerned shall furnish to it, all necessary facilities.

e. The Commission may request the states concerned to furnish any pertinent information and, if so requested, shall hear oral statements or receive written statements from the parties concerned.

f. The Commission shall place itself at the disposal of the parties concerned with a view to reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in this Convention.

2. However, in serious and urgent cases, only the presentation of a petition or communication that fulfills all the formal requirements of admissibility shall be necessary in order for the Commission to conduct an investigation with the prior consent of the state in whose territory a violation has allegedly been committed.

Article 49

If a friendly settlement has been reached in accordance with paragraph 1.f of Article 48, the Commission shall draw up a report, which shall be transmitted to the petitioner and to the States Parties to this Convention, and shall then be communicated to the Secretary General of the Organization of American States for publication. This report shall contain a brief statement of the facts and of the solution reached. If any party in the case so requests, the fullest possible information shall be provided to it.

Article 50

1. If a settlement is not reached, the Commission shall, within the time limit established by its Statute, draw up a report setting forth the facts and stating its conclusions. If the report, in whole or in part, does not represent the unanimous agreement of the members of the Commission, any member may attach to it a separate opinion. The written and oral statements made by the parties in accordance with paragraph 1.e of Article 48 shall also be attached to the report.

2. The report shall be transmitted to the states concerned, which shall not be at liberty to publish it.

3. In transmitting the report, the Commission may make such proposals and recommendations as it sees fit.

Article 51

1. If, within a period of three months from the date of the transmittal of the report of the Commission to the states concerned, the matter has not either been settled or submitted by the Commission or by the state concerned to the Court and its jurisdiction accepted, the Commission may, by the vote of an absolute majority of its members, set forth its opinion and conclusions concerning the question submitted for its consideration.

2. Where appropriate, the Commission shall make pertinent recommendations and shall prescribe a period within which the state is to take the measures that are incumbent upon it to remedy the situation examined.

3. When the prescribed period has expired, the Commission shall decide by the vote of an absolute majority of its members whether the state has taken adequate measures and whether to publish its report.

CHAPTER VIII - INTER-AMERICAN COURT OF HUMAN RIGHTS

Section 1. Organization

Article 52

1. The Court shall consist of seven judges, nationals of the member states of the Organization, elected in an individual capacity from among jurists of the highest moral authority and of recognized competence in the field of human rights, who possess the qualifications required for the exercise of the highest judicial functions in conformity with

the law of the state of which they are nationals or of the state that proposes them as candidates.

2. No two judges may be nationals of the same state.

Article 53

1. The judges of the Court shall be elected by secret ballot by an absolute majority vote of the States Parties to the Convention, in the General Assembly of the Organization, from a panel of candidates proposed by those states.

2. Each of the States Parties may propose up to three candidates, nationals of the state that proposes them or of any other member state of the Organization of American States. When a slate of three is proposed, at least one of the candidates shall be a national of a state other than the one proposing the slate.

Article 54

1. The judges of the Court shall be elected for a term of six years and may be reelected only once. The term of three of the judges chosen in the first election shall expire at the end of three years. Immediately after the election, the names of the three judges shall be determined by lot in the General Assembly.

2. A judge elected to replace a judge whose term has not expired shall complete the term of the latter.

3. The judges shall continue in office until the expiration of their term. However, they shall continue to serve with regard to cases that they have begun to hear and that are still pending, for which purposes they shall not be replaced by the newly elected judges.

Article 55

1. If a judge is a national of any of the States Parties to a case submitted to the Court, he shall retain his right to hear that case.

2. If one of the judges called upon to hear a case should be a national of one of the States Parties to the case, any other State Party in the case may appoint a person of its choice to serve on the Court as an ad hoc judge.

3. If among the judges called upon to hear a case none is a national of any of the States Parties to the case, each of the latter may appoint an ad hoc judge.

4. An ad hoc judge shall possess the qualifications indicated in Article 52.

5. If several States Parties to the Convention should have the same interest in a case, they shall be considered as a single party for purposes of the above provisions. In case of doubt, the Court shall decide.

Article 56

Five judges shall constitute a quorum for the transaction of business by the Court.

Article 57

The Commission shall appear in all cases before the Court.

Article 58

1. The Court shall have its seat at the place determined by the States Parties to the Convention in the General Assembly of the Organization; however, it may convene in the territory of any member state of the Organization of American States when a majority of the Court considers it desirable, and with the prior consent of the state concerned. The seat of the Court may be changed by the States Parties to the Convention in the General Assembly by a two-thirds vote.

2. The Court shall appoint its own Secretary.

3. The Secretary shall have his office at the place where the Court has its seat and shall attend the meetings that the Court may hold away from its seat.

Article 59

The Court shall establish its Secretariat, which shall function under the direction of the Secretary of the Court, in accordance with the administrative standards of the General Secretariat of the Organization in all respects not incompatible with the independence of the Court. The staff of the Court's Secretariat shall be appointed by the Secretary General of the Organization, in consultation with the Secretary of the Court.

Article 60

The Court shall draw up its Statute which it shall submit to the General Assembly for approval. It shall adopt its own Rules of Procedure.

Section 2. Jurisdiction and Functions

Article 61

1. Only the States Parties and the Commission shall have the right to submit a case to the Court.
2. In order for the Court to hear a case, it is necessary that the procedures set forth in Articles 48 and 50 shall have been completed.

Article 62

1. A State Party may, upon depositing its instrument of ratification or adherence to this Convention, or at any subsequent time, declare that it recognizes as binding, *ipso facto*, and not requiring special agreement, the jurisdiction of the Court on all matters relating to the interpretation or application of this Convention.
2. Such declaration may be made unconditionally, on the condition of reciprocity, for a specified period, or for specific cases. It shall be presented to the Secretary General of the Organization, who shall transmit copies thereof to the other member states of the Organization and to the Secretary of the Court.
3. The jurisdiction of the Court shall comprise all cases concerning the interpretation and application of the provisions of this Convention that are submitted to it, provided that the States Parties to the case recognize or have recognized such jurisdiction, whether by special declaration pursuant to the preceding paragraphs, or by a special agreement.

Article 63

1. If the Court finds that there has been a violation of a right or freedom protected by this Convention, the Court shall rule that the injured party be ensured the enjoyment of his right or freedom that was violated. It shall also rule, if appropriate, that the consequences of the measure or situation that constituted the breach of such right or freedom be remedied and that fair compensation be paid to the injured party.
2. In cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission.

Article 64

1. The member states of the Organization may consult the Court regarding the interpretation of this Convention or of other treaties concerning the protection of human rights in the American states. Within their spheres of competence, the organs listed in Chapter X of the Charter of the Organization of American States, as amended by the Protocol of Buenos Aires, may in like manner consult the Court.
2. The Court, at the request of a member state of the Organization, may provide that state with opinions regarding the compatibility of any of its domestic laws with the aforesaid international instruments.

Article 65

To each regular session of the General Assembly of the Organization of American States the Court shall submit, for the Assembly's consideration, a report on its work during the previous year. It shall specify, in particular, the cases in which a state has not complied with its judgments, making any pertinent recommendations.

Section 3. Procedure

Article 66

1. Reasons shall be given for the judgment of the Court.
2. If the judgment does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to have his dissenting or separate opinion attached to the judgment.

Article 67

The judgment of the Court shall be final and not subject to appeal. In case of disagreement as to the meaning or scope of the judgment, the Court shall interpret it at the request of any of the parties, provided the request is made within ninety days from the date of notification of the judgment.

Article 68

1. The States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties.
2. That part of a judgment that stipulates compensatory damages may be executed in the country concerned in accordance with domestic procedure governing the execution of judgments against the state.

Article 69

The parties to the case shall be notified of the judgment of the Court and it shall be transmitted to the States Parties to the Convention.

CHAPTER IX - COMMON PROVISIONS

Article 70

1. The judges of the Court and the members of the Commission shall enjoy, from the moment of their election and throughout their term of office, the immunities extended to diplomatic agents in accordance with international law. During the exercise of their official function they shall, in addition, enjoy the diplomatic privileges necessary for the performance of their duties.
2. At no time shall the judges of the Court or the members of the Commission be held liable for any decisions or opinions issued in the exercise of their functions.

Article 71

The position of judge of the Court or member of the Commission is incompatible with any other activity that might affect the independence or impartiality of such judge or member, as determined in the respective statutes.

Article 72

The judges of the Court and the members of the Commission shall receive emoluments and travel allowances in the form and under the conditions set forth in their statutes, with due regard for the importance and independence of their office. Such emoluments and travel allowances shall be determined in the budget of the Organization of American States, which shall also include the expenses of the Court and its Secretariat. To this end, the Court shall draw up its own budget and submit it for approval to the General Assembly through the General Secretariat. The latter may not introduce any changes in it.

Article 73

The General Assembly may, only at the request of the Commission or the Court, as the case may be, determine sanctions to be applied against members of the Commission or judges of the Court when there are justifiable grounds for such action as set forth in the respective statutes. A vote of a two-thirds majority of the member states of the Organization shall be required for a decision in the case of members of the Commission and, in the case of judges of the Court, a two-thirds majority vote of the States Parties to the Convention shall also be required.

**PART III - GENERAL AND TRANSITORY PROVISIONS
CHAPTER X - SIGNATURE, RATIFICATION, RESERVATIONS,
AMENDMENTS, PROTOCOLS, AND DENUNCIATION**

Article 74

1. This Convention shall be open for signature and ratification by or adherence of any member state of the Organization of American States.
2. Ratification of or adherence to this Convention shall be made by the deposit of an instrument of ratification or adherence with the General Secretariat of the Organization of American States. As soon as eleven states have deposited their instruments of ratification or

adherence, the Convention shall enter into force. With respect to any state that ratifies or adheres thereafter, the Convention shall enter into force on the date of the deposit of its instrument of ratification or adherence.

3. The Secretary General shall inform all member states of the Organization of the entry into force of the Convention.

Article 75

This Convention shall be subject to reservations only in conformity with the provisions of the Vienna Convention on the Law of Treaties signed on May 23, 1969.

Article 76

1. Proposals to amend this Convention may be submitted to the General Assembly for the action it deems appropriate by any State Party directly, and by the Commission or the Court through the Secretary General.

2. Amendments shall enter into force for the States ratifying them on the date when two-thirds of the States Parties to this Convention have deposited their respective instruments of ratification. With respect to the other States Parties, the amendments shall enter into force on the dates on which they deposit their respective instruments of ratification.

Article 77

1. In accordance with Article 31, any State Party and the Commission may submit proposed protocols to this Convention for consideration by the States Parties at the General Assembly with a view to gradually including other rights and freedoms within its system of protection.

2. Each protocol shall determine the manner of its entry into force and shall be applied only among the States Parties to it.

Article 78

1. The States Parties may denounce this Convention at the expiration of a five-year period from the date of its entry into force and by means of notice given one year in advance. Notice of the denunciation shall be addressed to the Secretary General of the Organization, who shall inform the other States Parties.

2. Such a denunciation shall not have the effect of releasing the State Party concerned from the obligations contained in this Convention with respect to any act that may constitute a violation of those obligations and that has been taken by that state prior to the effective date of denunciation.

CHAPTER XI - TRANSITORY PROVISIONS

Section 1. Inter-American Commission on Human Rights

Article 79

Upon the entry into force of this Convention, the Secretary General shall, in writing, request each member state of the Organization to present, within ninety days, its candidates for membership on the Inter-American Commission on Human Rights. The Secretary General shall prepare a list in alphabetical order of the candidates presented, and transmit it to the member states of the Organization at least thirty days prior to the next session of the General Assembly.

Article 80

The members of the Commission shall be elected by secret ballot of the General Assembly from the list of candidates referred to in Article 79. The candidates who obtain the largest number of votes and an absolute majority of the votes of the representatives of the member states shall be declared elected. Should it become necessary to have several ballots in order to elect all the members of the Commission, the candidates who receive the smallest number of votes shall be eliminated successively, in the manner determined by the General Assembly.

Section 2. Inter-American Court of Human Rights

Article 81

Upon the entry into force of this Convention, the Secretary General shall, in writing, request each State Party to present, within ninety days, its candidates for membership on the Inter-American Court of Human Rights. The Secretary General shall prepare a list in alphabetical order of the candidates presented and transmit it to the States Parties at least thirty days prior to the next session of the General Assembly.

Article 82

The judges of the Court shall be elected from the list of candidates referred to in Article 81, by secret ballot of the States Parties to the Convention in the General Assembly. The candidates who obtain the largest number of votes and an absolute majority of the votes of the representatives of the States Parties shall be declared elected. Should it become necessary to have several ballots in order to elect all the judges of the Court, the candidates who receive the smallest number of votes shall be eliminated successively, in the manner determined by the States Parties.

SIGNATURES AND CURRENT STATUS OF RATIFICATIONS

**AMERICAN CONVENTION ON HUMAN RIGHTS
"PACT OF SAN JOSE, COSTA RICA"**

(Adopted at the Inter-American Specialized Conference on Human Rights, San José, Costa Rica, 22 November 1969)

ENTRY INTO FORCE: 18 July 1978, in accordance with Article 74.2 of the Convention.

DEPOSITORY: OAS General Secretariat (Original instrument and ratifications).

TEXT: OAS, Treaty Series, N° 36.

UN REGISTRATION: 27 August 1979, N° 17955

SIGNATORY COUNTRIES	DATE RATIFICATION OR ACCESSION	DEPOSIT	DATE OF ACCEPTANCE OF THE JURISDICTION OF THE COURT
<u>1</u> /Argentina*	5 September 1984 <u>a</u> /		5 September 1984
<u>2</u> /Barbados	27 November 1982 <u>b</u> /		4 June 2000
Bolivia	19 July 1979 <u>c</u> , <u>w</u>		27 July 1993
Brazil	25 September 1992 <u>t</u> /		10 December 1998
<u>3</u> /Chile*	21 August 1990 <u>q</u> /		21 August 1990
Colombia*	31 July 1973 <u>n</u> /		21 June 1985
Costa Rica*	8 April 1970 <u>d</u> /		2 July 1980
Dominica	3 June 1993		
<u>9</u> /Dominican Republic	19 April 1978 <u>z</u> /		25 March 1999
<u>4</u> /Ecuador*	28 December 1977 <u>e</u> /		13 August 1984
El Salvador	23 June 1978 <u>f</u> , <u>x</u> /		6 June 1995
<u>6</u> /Grenada	18 July 1978		
Guatemala	25 May 1978 <u>g</u> /		9 March 1987
Haiti	27 September 1977 <u>c</u> /, <u>y</u> /		20 March 1998
Honduras	8 September 1977 <u>h</u> /		9 September 1981
<u>7</u> /Jamaica*	7 August 1978 <u>i</u> /		
Mexico	3 April 1982 <u>c</u> , <u>j</u> /		16 December 1998
Nicaragua	25 September 1979 <u>r</u> /		12 February 1991
Panama	22 June 1978 <u>p</u> /		3 May 1990
Paraguay	24 August 1989 <u>u</u> /		26 March 1993
<u>8</u> /Peru*	28 July 1978 <u>k</u> /		21 January 1981
Suriname	12 November 1987 <u>o</u> /		12 November 1987
Trinidad y Tobago	28 May 1991 <u>s</u> /		28 May 1991
<u>5</u> /United States			

10/Uruguay*	19 April 1985 l/	19 April	1985
Venezuela*	9 August 1977 m/	24 June	1981

* States that have accepted the competence of the Inter-American Court on Human Rights to receive and examine communications in which a State Party alleges that another State Party has violated the human rights set forth in the American Convention: Argentina (September 5, 1984); Chile (August 21, 1990); Colombia (June 21, 1985); Costa Rica (July 2, 1980); Ecuador (August 13, 1984); Jamaica (August 7, 1978); Peru (January 21, 1981); Uruguay (April 19, 1985) and Venezuela (August 9, 1977).

All States listed herein signed the Convention on 22 November 1969, with the exception of those indicated in the notes.

1. [Argentina](#)

Signed 2 February 1984 at the OAS General Secretariat.

2. [Barbados](#)

Signed 20 June 1978 at the OAS General Secretariat.

3. [Chile:](#)

(Declaration made at the time of signature)

The Delegation of Chile signs this Convention, subject to its subsequent parliamentary approval and ratification, in accordance with the constitutional rules in force. Such parliamentary approval was later granted and the instrument of ratification was deposited with the General Secretariat of the OAS.

4. [Dominican Republic:](#)

Signed 7 September 1977 at the OAS General Secretariat with the following declaration:

The Dominican Republic, upon signing the American Convention on Human Rights, aspires that the principle pertaining to the abolition of the death penalty shall become purely and simply that, with general application throughout the states of the American region, and likewise maintains the observations and comments made on the aforementioned Draft Convention which it distributed to the delegations to the Council of the Organization of American States on 20 June 1969.

5. [Ecuador:](#)

(Declaration made at the time of signature)

The Delegation of Ecuador has the honor of signing the American Convention on Human Rights. It does not believe that it is necessary to make any specific reservation at this time, without prejudice to the general power set forth in the Convention itself that leaves the governments free to ratify it or not.

6. [Grenada](#)

Signed 14 July 1978 at the OAS General Secretariat.

7. [Jamaica](#)

Signed 16 September 1977 at the OAS General Secretariat.

8. [Peru](#)

Signed 27 July 1977 at the OAS General Secretariat.

9. [United States](#)

Signed 1 June 1977 at the OAS General Secretariat.

10. [Uruguay:](#)

(Reservation made at the time of signature)

Article 80.2 of the Constitution of Uruguay provides that a person's citizenship is suspended if the person is "under indictment on a criminal charge which may result in a penitentiary sentence." Such a restriction on the exercise of the rights recognized in Article 23 of the Convention is not envisaged among the circumstances provided for in Article 23, paragraph 2, for which reason the Delegation of Uruguay expresses a reservation on this matter.

a. **Argentina**:

(Reservation and interpretative declarations made at the time of ratification)

The instrument of ratification was received at the General Secretariat of the OAS on 5 September 1984 with a reservation and interpretative declarations. The notification procedure of the reservation was taken in conformity with the Vienna Convention on the Law of Treaties signed on 23 May 1969.

The texts of the above-mentioned reservation and of the interpretative declarations are the following:

I. Reservation:

Article 21 is subject to the following reservation: "The Argentine Government establishes that questions relating to the Government's economic policy shall not be subject to review by an international tribunal. Neither shall it consider reviewable anything the national courts may determine to be matters of 'public utility' and 'social interest', nor anything they may understand to be 'fair compensation'".

II. Interpretative Statements:

Article 5, paragraph 3, shall be interpreted to mean that a punishment shall not be applied to any person other than the criminal, that is, that there shall be no vicarious criminal punishment.

Article 7, paragraph 7, shall be interpreted to mean that the prohibition against "detention for debt" does not involve prohibiting the state from basing punishment on default of certain debts, when the punishment is not imposed for default itself but rather for a prior independent, illegal, punishable act.

Article 10 shall be interpreted to mean that the "miscarriage of justice" has been established by a national court.

Recognition of Competence:

In the instrument of ratification dated 14 August 1984 and deposited with the General Secretariat of the OAS on 5 September 1984, the Government of Argentina recognizes the competence of the Inter-American Commission on Human Rights and of the jurisdiction of the Inter-American Court of Human Rights. This recognition is for an indeterminate period and on condition of reciprocity on all cases related to the interpretation or application of the Convention cited, with the partial reservation and bearing in mind the interpretative statements contained in the Instrument of Ratification.

b. **Barbados**:

(Reservations made at the time of ratification)

The instrument of ratification was received at the General Secretariat of the OAS on 5 November 1981, with reservations. Notification of the reservations submitted was given in conformity with the Vienna Convention on the Law of Treaties, signed on 23 May 1969. The twelve-month period from the notification of said reservations expired on 26 November 1982, without any objection being raised to the reservations.

The text of the reservations with respect to Articles 4(4), 4(5) and 8(2)(e), is the following:

In respect of 4(4) the Criminal Code of Barbados provides for death by hanging as a penalty for murder and treason. The Government is at present reviewing the whole matter of the death penalty which is only rarely inflicted but wishes to enter a reservation on this point in as much as treason in certain circumstances might be regarded as a political offence and falling within the terms of section 4(4).

In respect of 4(5) while the youth or old age of an offender may be matters which the Privy Council, the highest Court of Appeal, might take into account in considering whether the sentence of death should be carried out, persons of 16 years and over, or over 70 years of age, may be executed under Barbadian law.

In respect of 8(2)(e) Barbadian law does not provide, as a minimum guarantee in criminal proceeding, any inalienable right to be assisted by counsel provided by the state. Legal aid is provided for certain scheduled offences such as homicide and rape.

c. **Bolivia, Haiti and Mexico:**

Accession.

d. **Costa Rica:**

Recognition of Competence:

Deposited on 2 July 1980 at the General Secretariat of the OAS an instrument recognizing the competence of the Inter-American Commission on Human Rights and the jurisdiction of the Inter-American Court of Human Rights, in accordance with Articles 45 and 62 of the Convention.

e. **Ecuador:**

Recognition of Competence:

On 24 July 1984 recognized the applicability of Articles 45 and 62 of the American Convention on Human Rights, by Decree N° 2768 of 24 July 1984, published in the Registro Oficial N° 795 of said month and year. In addition, the Minister of Foreign Affairs of Ecuador made the following declaration on 30 July 1984, in conformity with Articles 45(4) and 62(2) of the above-mentioned Convention:

In keeping with the provisions of Article 45, paragraph 1, of the American Convention on Human Rights--Pact of San José, Costa Rica--(ratified by Ecuador on 21 October 1977, and in force since 27 October 1977), the Government of Ecuador recognizes the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a state party alleges that another state party has committed a violation

of the human rights set forth in the Convention, under the terms provided for in paragraph 2 of that Article.

This recognition of competence is to be valid for an indefinite time and on condition of reciprocity.

As provided in Article 62, paragraph 1, of the Convention in reference, the Government of Ecuador declares that it recognizes as binding, ipso facto, and not requiring special agreement, the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of the Convention.

This recognition of jurisdiction is for an indeterminate period and on condition of reciprocity. The Ecuadorian State reserves the right to withdraw its recognition of this competence and this jurisdiction whenever it may deem it advisable to do so.

f. **El Salvador:**

(Declaration and reservations made at the time of ratification)

The present Convention is ratified, its provisions being interpreted to mean that the Inter-American Court of Human Rights shall have jurisdiction to hear any case that can be submitted to it, either by the Inter-American Commission on Human Rights or by any state party, provided that the State of El Salvador, as a party to the case, recognizes or has recognized such jurisdiction, by any of the means and under the arrangements indicated in the Convention.

The American Convention on Human Rights, known as the "Pact of San José, Costa Rica", signed at San José, Costa Rica, on 22 November 1969, composed of a preamble and eighty-two articles, approved by the Executive Branch in the Field of Foreign Affairs by Agreement 405, dated June 14 of the current year, is hereby ratified, with the reservation that such ratification is understood without prejudice to those provisions of the Convention that might be in conflict with express precepts of the Political Constitution of the Republic.

The instrument of ratification was received at the General Secretariat of the OAS on 23 June 1978 with a reservation and a declaration. The notification procedure of the reservation was taken in conformity with the Vienna Convention on the Law of Treaties signed on 23 May 1969.

g. **Guatemala:**

(Reservation made at the time of ratification)

The Government of the Republic of Guatemala ratifies the American Convention on Human Rights, signed at San José, Costa Rica, on 22 November 1969, with a reservation as to Article 4, paragraph 4 thereof, since the Constitution of the Republic of Guatemala, in its Article 54, only excludes the application of the death penalty to political crimes, but not to common crimes related to political crimes.

The instrument of ratification was received at the General Secretariat of the OAS on 25 May 1978 with a reservation. The notification procedure of the

reservation was taken in conformity with the Vienna Convention on the Law of Treaties signed on 23 May 1969.

Withdrawal of Guatemala's reservation:

The Government of Guatemala, by Government Agreement N° 281-86, dated 20 May 1986, has withdrawn the above-mentioned reservation, which was included in its instrument of ratification dated 27 April 1978, considering that it is no longer supported by the Constitution in the light of the new legal system in force. The withdrawal of the reservation will become effective as of 12 August 1986, in conformity with Article 22 of the Vienna Convention on the Law of Treaties of 1969, in application of Article 75 of the American Convention on Human Rights.

Recognition of Competence:

On 9 March 1987, presented at the General Secretariat of the OAS, the Government Agreement N° 123-87, dated 20 February 1987, of the Republic of Guatemala, by which it recognizes the jurisdiction of the Inter-American Court of Human Rights, in the following terms:

"(Article 1) To declare that it recognizes as binding, ipso facto, and not requiring special agreement, the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of the American Convention on Human Rights."

"(Article 2) To accept the competence of the Inter-American Court of Human Rights for an indefinite period of time, such competence being general in nature, under terms of reciprocity and with the reservation that cases in which the competence of the Court is recognized are exclusively those that shall have taken place after the date that this declaration is presented to the Secretary General of the Organization of American States."

h. Honduras:

Recognition of Competence:

On 9 September 1981, presented at the General Secretariat of the OAS, an instrument recognizing the jurisdiction of the Inter-American Court of Human Rights in accordance with Article 62 of the Convention.

i. Jamaica:

Recognition of Competence:

The instrument of ratification, dated 19 July 1978, states, in conformity with Article 45, paragraph 1 of the Convention, that the Government of Jamaica recognizes the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a State Party alleges that another State Party has committed a violation of a human right set forth in this Convention.

j. Mexico:

(Declarations and reservation made at the time of ratification)

The instrument of accession was received at the General Secretariat of the OAS on 24 March 1981, with two interpretative declarations and one

reservation. Notification of the reservation submitted was given in conformity with the provisions of the Vienna Convention on the Law of Treaties, signed on 23 May 1969. The twelve-month period from the notification of said reservation expired on 2 April 1982, without any objection being raised to the reservation.

The texts of the interpretative declarations and the reservation are the following:

Interpretative Declarations:

With respect to Article 4, paragraph 1, the Government of Mexico considers that the expression "in general" does not constitute an obligation to adopt, or keep in force, legislation to protect life "from the moment of conception," since this matter falls within the domain reserved to the States.

Furthermore, the Government of Mexico believes that the limitation established by the Mexican Constitution to the effect that all public acts of religious worship must be performed inside places of public worship, conforms to the limitations set forth in Article 12, paragraph 3.

Reservation:

The Government of Mexico makes express reservation to Article 23, paragraph 2, since the Mexican Constitution provides, in Article 130, that ministers of denominations shall not have an active or passive vote, nor the right to associate for political purposes.

DECLARATION FOR RECOGNITION OF THE JURISDICTION OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS

1. The United States of Mexico recognizes as binding ipso facto the adjudicatory jurisdiction of the Inter-American Court of Human Rights on matters relating to the interpretation or application of the American Convention on Human Rights, in accordance with article 62.1 of the same, with the exception of cases derived from application of article 33 of the Political Constitution of the United States of Mexico

2. Acceptance of the adjudicatory jurisdiction of the Inter-American Court of Human Rights shall only be applicable to facts or juridical acts subsequent to the date of deposit of this declaration, and shall not therefore apply retroactively.

3. Acceptance of the adjudicatory jurisdiction of the Inter-American Court of Human Rights is of a general nature and shall continue in force for one year after the date of which the United States of Mexico gives notice it has denounced it.

k. **Peru:**

Recognition of Competence:

On 21 January 1981, presented at the General Secretariat of the OAS an instrument recognizing the competence of the Inter-American Commission on Human Rights and the jurisdiction of the Inter-American Court of Human Rights, in accordance with Articles 45 and 62 of the Convention.

I. Uruguay:

(Reservation made at the time of ratification)

With the reservation made at the time of signature. Notification of this reservation was given in conformity with the Vienna Convention on the Law of Treaties, signed on 23 May 1969.

Recognition of Competence:

In the instrument of ratification dated 26 March 1985 and deposited with the General Secretariat of the OAS on 19 April 1985, the Government of the Oriental Republic of Uruguay declares that it recognizes the competence of the Inter-American Commission on Human Rights for an indefinite period and of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of this Convention, on the condition of reciprocity, in accordance with Articles 45.3 and 62.2 of the Convention.

m. Venezuela:

(Reservation and declaration made at the time of ratification)

Article 60, paragraph 5 of the Constitution of the Republic of Venezuela establishes that: No one may be convicted in a criminal trial without first having been personally notified of the charges and heard in the manner prescribed by law. Persons accused of an offense against the res publica may be tried in absentia, with the guarantees and in the manner prescribed by law. Such a possibility is not provided for in Article 8, paragraph 1 of the Convention, and for this reason Venezuela formulates the corresponding reservations, and,

DECLARES: That, in accordance with the provisions of Article 45, paragraph 1 of the Convention, the Government of the Republic of Venezuela recognizes the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a State Party alleges that another State Party has committed violations of human rights set forth in that Convention, in the terms stipulated in paragraph 2 of that article. This recognition of competence is made for an indefinite period of time.

The instrument of ratification was received at the General Secretariat of the OAS on 9 August 1977 with a reservation and a declaration. The notification procedure of the reservation was taken in conformity with the Vienna Convention on the Law of Treaties signed on 23 May 1969.

Recognition of Competence:

On 9 August 1977 recognized the competence of the Inter-American Commission on Human Rights and on 24 June 1981 recognized the jurisdiction of the Inter-American Court of Human Rights, in accordance with Articles 45 and 62 of the Convention, respectively.

n. Colombia:

Recognition of Competence:

On 21 June 1985 presented an instrument of acceptance by which recognizes the competence of the Inter-American Commission on Human Rights for an

indefinite time, on the condition of strict reciprocity and nonretroactivity, for cases involving the interpretation or application of the Convention, and reserves the right to withdraw its recognition of competence should it deem this advisable. The same instrument recognizes the jurisdiction of the Inter-American Court of Human Rights, for an indefinite time, on the condition of reciprocity and nonretroactivity, for cases involving the interpretation or application of the Convention, and reserves the right to withdraw its recognition of competence should it deem this advisable.

o. **Suriname:**

Accession.

Recognition of Competence:

On 12 November 1987, presented at the General Secretariat of the OAS, an instrument recognizing the jurisdiction of the Inter-American Court of Human Rights in accordance with Article 62 of the Convention.

p. **Panama:**

On May 9, 1990, presented at the General Secretariat of the OAS, an instrument, dated February 20, 1990, by which it declares that the Government of the Republic of Panama recognizes as binding, *ipso facto*, the jurisdiction of the Court on all matters relating to the interpretation or application of the American Convention on Human Rights.

q. **Chile:**

(Reservations made at the time of ratification)

a. The Government of Chile declares that it recognizes, for an indefinite period of time and on the condition of reciprocity, the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a State Party alleges that another State Party has committed a violation of the human rights established in the American Convention on Human Rights, as provided for in Article 45 of the Convention.

b. The Government of Chile declares that it recognizes as legally binding the obligatory jurisdiction of the Inter-American Court of Human Rights in cases dealing with the interpretation and application of this Convention pursuant to Article 62.

On formulating said declarations, the Government of Chile notes that the recognition of jurisdiction it has accepted refers to situations occurring subsequent to the date of deposit of this instrument of ratification, or, in any event, to circumstances which arose after March 11, 1990. Likewise the Government of Chile, on accepting the competence of the Inter-American Commission and the Inter-American Court of Human Rights declares that these organs, in applying Article 21(2) of the Convention, shall refrain from judgments concerning the concept of public use or social interest cited in cases involving the expropriation of an individual's property.

r. **Nicaragua:**

Recognition of Competence:

On February 12, 1991, presented at the General Secretariat of the OAS, an instrument dated January 15, 1991, by which the Government of Nicaragua declares:

I. The Government of Nicaragua recognizes as binding as of right with no special convention the competence of the Inter-American Court of Human Rights in all cases involving interpretation and application of the Inter-American Convention on Human Rights, "Pact of San Jose, Costa Rica," by virtue of Article 62(1) thereof.

II. The foregoing notwithstanding, the Government of Nicaragua states for the record that its acceptance of the competence of the Inter-American Court of Human Rights is given for an indefinite period, is general in character and grounded in reciprocity, and is subject to the reservation that this recognition of competence applies only to cases arising solely out of events subsequent to, and out of acts which began to be committed after, the date of deposit of this declaration with the Secretary General of the Organization of American States.

s. **Trinidad and Tobago:**

(Reservations made at the time of accession)

1. As regards Article 4(5) of the Convention the Government of The Republic of Trinidad and Tobago makes reservation in that under the laws of Trinidad and Tobago there is no prohibition against the carrying out a sentence of death on a person over seventy (70) years of age.

2. As regards Article 62 of the Convention, the Government of the Republic of Trinidad and Tobago recognizes the compulsory jurisdiction of the Inter-American Court of Human Rights as stated in said article only to such extent that recognition is consistent with the relevant sections of the Constitution of the Republic of Trinidad and Tobago; and provided that any judgment of the Court does not infringe, create or abolish any existing rights or duties of any private citizen.

On May 26, 1998, the Republic of Trinidad and Tobago notified the Secretary General of the OAS of its denunciation of the American Convention. In accordance with Article 78(1) of the American Convention, the denunciation came into effect one year from the date of notification.

t. **Brazil:**

(Interpretative declaration made at the time of adhesion)

The Government of Brazil understands that Articles 43 and 48, (d) do not include the automatic right of on site visits and inspections by the Inter-American Commission on Human Rights, which will depend on the express consent of the State.

Recognition of Competence:

The Government of the Federative Republic of Brazil declares its recognition as binding, for an indefinite period of time, *ipso jure*, of the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of the American Convention on Human Rights,

according to Article 62 of that Convention, on the condition of reciprocity, and for matters arising after the time of this declaration.

u. **Paraguay**

Recognition of Competence:

On March 11, 1993, Paraguay presented to the General Secretariat of the OAS an instrument recognizing the jurisdiction of the Inter-American Court of Human Rights, "for an indefinite period of time and which should be interpreted in accordance with the principles of International Law in the sense that this recognition refers expressly to acts that occurred after the deposit of this instrument and only for cases in which there exists reciprocity."

v. **Dominica**

On June 3, 1993, during the twenty-third regular session, held in Managua, Nicaragua, the Commonwealth of Dominica ratified the American Convention on Human Rights, with the following reservations:

- 1) Article 5. This should not be read as prohibiting corporal punishment administered in accordance with the Corporal Punishment Act of Dominica or the Juvenile Offenders Punishment Act.
- 2) Article 4.4. Reservation is made in respect of the words "or related common crimes".
- 3) Article 8.21 (e). This Article shall not apply in respect of Dominica.
- 4) Article 21.2. This must be interpreted in the light of the provisions of the Constitution of Dominica and is not to be deemed to extend or limit the rights declared in the Constitution.
- 5) Article 27.1. This must also be read in the light of our Constitution and is not to be deemed to extend or limit the rights declared by the Constitution.
- 6) Article 62. The Commonwealth of Dominica does not recognize the jurisdiction of the Court.

w. **Bolivia**

Recognition of competence:

On July 27, 1993 the instrument of recognition of the competence of the Inter-American Court of Human Rights was deposited with the OAS General Secretariat, in accordance with Article 62 of the American Convention on Human Rights, with the following declaration:

I. The constitutional Government of the Republic, in accordance with Article 59, paragraph 12 of the Political Constitution of the State, by law No. 1430 of February 11, provided for adoption and ratification of the American Convention on Human Rights "Pact of San Jose de Costa Rica," signed in San José, Costa Rica, on November 22, 1969 and also provided for recognition of the competence of the Inter-American Court of Human Rights, in accordance with Articles 45 and 62 of the Convention.

II. In exercise of the powers conferred upon it by Article 96, paragraph 2 of the Political Constitution of the State, this Instrument of Ratification of the

American Convention on Human Rights "Pact of San Jose" is issued along with the recognition of the jurisdiction and competence of the Inter-American Court of Human Rights as unconditionally binding by law for an indefinite period, in accordance with article 62 of the Convention."

The Government of Bolivia in letter OAS/262/93, of July 22, 1993, made an interpretative declaration at the time of deposit of the instrument of recognition of the competence of the Inter-American Court of Human Rights. The text of the declaration is as follows:

"The Government of Bolivia declares that the norms of unconditionally and indeterminacy shall apply with strict observance to the Constitution of Bolivia, especially with respect to the principles of reciprocity, non retroactivity and judicial autonomy."

x. **El Salvador**

I. The Government of El Salvador declares as binding, ipso facto, and not requiring special agreement, the jurisdiction of the Inter-American Court on Human Rights, pursuant to the provisions of Article 62 of the American Convention on Human Rights or "Pact of San Jose."

II. The Government of El Salvador, in recognizing that jurisdiction, notes that its acceptance applies to an undetermined period, under the condition of reciprocity and with the reservation that the cases for which the jurisdiction is recognized comprise solely and exclusively legal events or acts that are subsequent, or legal events or acts whose start of execution were subsequent, to the deposit of this Declaration of Acceptance, and reserves the right to nullify the jurisdiction at whatever moment it considers opportune.

III. The Government of El Salvador recognizes the jurisdiction of the Court insofar as this recognition is compatible with the provisions of the Constitution of the Republic of El Salvador.

y. **Haiti**

Recognition of Competence:

Having seen the Constitution of the Republic of 1987; and

Having seen the law dated August 18, 1979, whereby the Republic of Haiti ratified the American Convention on Human Rights.

Hereby declare that we recognize as binding, ipso facto, and not requiring special agreement, the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of the Convention. This declaration has been issued for presentation to the General Secretariat of the Organization of American States, which shall transmit copies thereof to the other member states of the Organization and to the Secretary of the Court, pursuant to Article 62 of the Convention.

Attached to the present declaration is the law of August 18, 1979, whereby the Republic of Haiti ratified the American Convention on Human Rights, which was promulgated in the Official Journal of the Republic.

Done in the National Palace, in Port-au-Prince, on march 3, 1998, the 195th year of independence.

z. **Dominican Republic**

Recognition of Competence:

The Government of the Dominican Republic presented at the General Secretariat of the OAS an instrument by which it declares that the Dominican Republic recognizes as binding ipso facto, the Jurisdiction of the Inter-American Court on Human Rights on all matters relating to the interpretation of the American Convention on Human Rights.

**ADDITIONAL PROTOCOL TO THE AMERICAN CONVENTION
ON HUMAN RIGHTS IN THE AREA OF ECONOMIC, SOCIAL
AND CULTURAL RIGHTS "PROTOCOL OF SAN SALVADOR"**

(Adopted at San Salvador, El Salvador on November 17, 1988, at
the eighteenth regular session of the General Assembly)

Preamble

The States Parties to the American Convention on Human Rights "Pact San José, Costa Rica,"
Reaffirming their intention to consolidate in this hemisphere, within the framework of democratic institutions, a system of personal liberty and social justice based on respect for the essential rights of man;
Recognizing that the essential rights of man are not derived from one's being a national of a certain State, but are based upon attributes of the human person, for which reason they merit international protection in the form of a convention reinforcing or complementing the protection provided by the domestic law of the American States;
Considering the close relationship that exists between economic, social and cultural rights, and civil and political rights, in that the different categories of rights constitute an indivisible whole based on the recognition of the dignity of the human person, for which reason both require permanent protection and promotion if they are to be fully realized, and the violation of some rights in favor of the realization of others can never be justified;
Recognizing the benefits that stem from the promotion and development of cooperation among States and international relations;
Recalling that, in accordance with the Universal Declaration of Human Rights and the American Convention on Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights as well as his civil and political rights;
Bearing in mind that, although fundamental economic, social and cultural rights have been recognized in earlier international instruments of both world and regional scope, it is essential that those rights be reaffirmed, developed, perfected and protected in order to consolidate in America, on the basis of full respect for the rights of the individual, the democratic representative form of government as well as the right of its peoples to development, self-determination, and the free disposal of their wealth and natural resources; and
Considering that the American Convention on Human Rights provides that draft additional protocols to that Convention may be submitted for consideration to the States Parties, meeting together on the occasion of the General Assembly of the Organization of American States, for the purpose of gradually incorporating other rights and freedoms into the protective system thereof,
Have agreed upon the following Additional Protocol to the American Convention on Human Rights "Protocol of San Salvador:"

Article 1

Obligation to Adopt Measures

The States Parties to this Additional Protocol to the American Convention on Human Rights undertake to adopt the necessary measures, both domestically and through international cooperation, especially economic and technical, to the extent allowed by their available resources, and taking into account their degree of development, for the purpose of achieving progressively and pursuant to their internal legislations, the full observance of the rights recognized in this Protocol.

Article 2

Obligation to Enact Domestic Legislation

If the exercise of the rights set forth in this Protocol is not already guaranteed by legislative or other provisions, the States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Protocol, such legislative or other measures as may be necessary for making those rights a reality.

Article 3

Obligation of nondiscrimination

The State Parties to this Protocol undertake to guarantee the exercise of the rights set forth herein without discrimination of any kind for reasons related to race, color, sex, language, religion, political or other opinions, national or social origin, economic status, birth or any other social condition.

Article 4

Inadmissibility of Restrictions

A right which is recognized or in effect in a State by virtue of its internal legislation or international conventions may not be restricted or curtailed on the pretext that this Protocol does not recognize the right or recognizes it to a lesser degree.

Article 5

Scope of Restrictions and Limitations

The State Parties may establish restrictions and limitations on the enjoyment and exercise of the rights established herein by means of laws promulgated for the purpose of preserving the general welfare in a democratic society only to the extent that they are not incompatible with the purpose and reason underlying those rights.

Article 6

Right to Work

1. Everyone has the right to work, which includes the opportunity to secure the means for living a dignified and decent existence by performing a freely elected or accepted lawful activity.
2. The State Parties undertake to adopt measures that will make the right to work fully effective, especially with regard to the achievement of full employment, vocational guidance, and the development of technical and vocational training projects, in particular those directed to the disabled. The States Parties also undertake to implement and strengthen programs that help to ensure suitable family care, so that women may enjoy a real opportunity to exercise the right to work.

Article 7

Just, Equitable, and Satisfactory Conditions of Work

The States Parties to this Protocol recognize that the right to work to which the foregoing article refers presupposes that everyone shall enjoy that right under just, equitable, and satisfactory conditions, which the States Parties undertake to guarantee in their internal legislation, particularly with respect to:

- a. Remuneration which guarantees, as a minimum, to all workers dignified and decent living conditions for them and their families and fair and equal wages for equal work, without distinction;

b. The right of every worker to follow his vocation and to devote himself to the activity that best fulfills his expectations and to change employment in accordance with the pertinent national regulations;

c. The right of every worker to promotion or upward mobility in his employment, for which purpose account shall be taken of his qualifications, competence, integrity and seniority;

d. Stability of employment, subject to the nature of each industry and occupation and the causes for just separation. In cases of unjustified dismissal, the worker shall have the right to indemnity or to reinstatement on the job or any other benefits provided by domestic legislation;

e. Safety and hygiene at work;

f. The prohibition of night work or unhealthy or dangerous working conditions and, in general, of all work which jeopardizes health, safety, or morals, for persons under 18 years of age. As regards minors under the age of 16, the work day shall be subordinated to the provisions regarding compulsory education and in no case shall work constitute an impediment to school attendance or a limitation on benefiting from education received;

g. A reasonable limitation of working hours, both daily and weekly. The days shall be shorter in the case of dangerous or unhealthy work or of night work;

h. Rest, leisure and paid vacations as well as remuneration for national holidays.

Article 8

Trade Union Rights

1. The States Parties shall ensure:

a. The right of workers to organize trade unions and to join the union of their choice for the purpose of protecting and promoting their interests. As an extension of that right, the States Parties shall permit trade unions to establish national federations or confederations, or to affiliate with those that already exist, as well as to form international trade union organizations and to affiliate with that of their choice. The States Parties shall also permit trade unions, federations and confederations to function freely;

b. The right to strike.

2. The exercise of the rights set forth above may be subject only to restrictions established by law, provided that such restrictions are characteristic of a democratic society and necessary for safeguarding public order or for protecting public health or morals or the

rights and freedoms of others. Members of the armed forces and the police and of other essential public services shall be subject to limitations and restrictions established by law.
3. No one may be compelled to belong to a trade union.

Article 9

Right to Social Security

1. Everyone shall have the right to social security protecting him from the consequences of old age and of disability which prevents him, physically or mentally, from securing the means for a dignified and decent existence. In the event of the death of a beneficiary, social security benefits shall be applied to his dependents.
2. In the case of persons who are employed, the right to social security shall cover at least medical care and an allowance or retirement benefit in the case of work accidents or occupational disease and, in the case of women, paid maternity leave before and after childbirth.

Article 10

Right to Health

1. Everyone shall have the right to health, understood to mean the enjoyment of the highest level of physical, mental and social well-being.
2. In order to ensure the exercise of the right to health, the States Parties agree to recognize health as a public good and, particularly, to adopt the following measures to ensure that right:
 - a. Primary health care, that is, essential health care made available to all individuals and families in the community;
 - b. Extension of the benefits of health services to all individuals subject to the State's jurisdiction;
 - c. Universal immunization against the principal infectious diseases;
 - d. Prevention and treatment of endemic, occupational and other diseases;
 - e. Education of the population on the prevention and treatment of health problems, and
 - f. Satisfaction of the health needs of the highest risk groups and of those whose poverty makes them the most vulnerable.

Article 11

Right to a Healthy Environment

1. Everyone shall have the right to live in a healthy environment and to have access to basic public services.
2. The States Parties shall promote the protection, preservation, and improvement of the environment.

Article 12

Right to Food

1. Everyone has the right to adequate nutrition which guarantees the possibility of enjoying the highest level of physical, emotional and intellectual development.
2. In order to promote the exercise of this right and eradicate malnutrition, the States Parties undertake to improve methods of production, supply and distribution of food, and to this end, agree to promote greater international cooperation in support of the relevant national policies.

Article 13

Right to Education

1. Everyone has the right to education.
2. The States Parties to this Protocol agree that education should be directed towards the full development of the human personality and human dignity and should strengthen respect for human rights, ideological pluralism, fundamental freedoms, justice and peace. They further agree that education ought to enable everyone to participate effectively in a democratic and pluralistic society and achieve a decent existence and should foster understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups and promote activities for the maintenance of peace.
3. The States Parties to this Protocol recognize that in order to achieve the full exercise of the right to education:
 - a. Primary education should be compulsory and accessible to all without cost;
 - b. Secondary education in its different forms, including technical and vocational secondary education, should be made generally available and accessible to all by every appropriate means, and in particular, by the progressive introduction of free education;
 - c. Higher education should be made equally accessible to all, on the basis of individual capacity, by every appropriate means, and in particular, by the progressive introduction of free education;
 - d. Basic education should be encouraged or intensified as far as possible for those persons who have not received or completed the whole cycle of primary instruction;
 - e. Programs of special education should be established for the handicapped, so as to provide special instruction and training to persons with physical disabilities or mental deficiencies.
4. In conformity with the domestic legislation of the States Parties, parents should have the right to select the type of education to be given to their children, provided that it conforms to the principles set forth above.
5. Nothing in this Protocol shall be interpreted as a restriction of the freedom of individuals and entities to establish and direct educational institutions in accordance with the domestic legislation of the States Parties.

Article 14

Right to the Benefits of Culture

1. The States Parties to this Protocol recognize the right of everyone:
 - a. To take part in the cultural and artistic life of the community;
 - b. To enjoy the benefits of scientific and technological progress;
 - c. To benefit from the protection of moral and material interests deriving from any scientific, literary or artistic production of which he is the author.
2. The steps to be taken by the States Parties to this Protocol to ensure the full exercise of this right shall include those necessary for the conservation, development and dissemination of science, culture and art.
3. The States Parties to this Protocol undertake to respect the freedom indispensable for scientific research and creative activity.
4. The States Parties to this Protocol recognize the benefits to be derived from the encouragement and development of international cooperation and relations in the fields of science, arts and culture, and accordingly agree to foster greater international cooperation in these fields.

Article 15

Right to the Formation and the Protection of Families

1. The family is the natural and fundamental element of society and ought to be protected by the State, which should see to the improvement of its spiritual and material conditions.
2. Everyone has the right to form a family, which shall be exercised in accordance with the provisions of the pertinent domestic legislation.
3. The States Parties hereby undertake to accord adequate protection to the family unit and in particular:
 - a. To provide special care and assistance to mothers during a reasonable period before and after childbirth;
 - b. To guarantee adequate nutrition for children at the nursing stage and during school attendance years;
 - c. To adopt special measures for the protection of adolescents in order to ensure the full development of their physical, intellectual and moral capacities;
 - d. To undertake special programs of family training so as to help create a stable and positive environment in which children will receive and develop the values of understanding, solidarity, respect and responsibility.

Article 16

Rights of Children

Every child, whatever his parentage, has the right to the protection that his status as a minor requires from his family, society and the State. Every child has the right to grow under the protection and responsibility of his parents; save in exceptional, judicially-recognized circumstances, a child of young age ought not to be separated from his mother. Every child has the right to free and compulsory education, at least in the elementary phase, and to continue his training at higher levels of the educational system.

Article 17

Protection of the Elderly

Everyone has the right to special protection in old age. With this in view the States Parties agree to take progressively the necessary steps to make this right a reality and, particularly, to:

- a. Provide suitable facilities, as well as food and specialized medical care, for elderly individuals who lack them and are unable to provide them for themselves;
- b. Undertake work programs specifically designed to give the elderly the opportunity to engage in a productive activity suited to their abilities and consistent with their vocations or desires;
- c. Foster the establishment of social organizations aimed at improving the quality of life for the elderly.

Article 18

Protection of the Handicapped

Everyone affected by a diminution of his physical or mental capacities is entitled to receive special attention designed to help him achieve the greatest possible development of his personality. The States Parties agree to adopt such measures as may be necessary for this purpose and, especially, to:

- a. Undertake programs specifically aimed at providing the handicapped with the resources and environment needed for attaining this goal, including work

programs consistent with their possibilities and freely accepted by them or their legal representatives, as the case may be;

b. Provide special training to the families of the handicapped in order to help them solve the problems of coexistence and convert them into active agents in the physical, mental and emotional development of the latter;

c. Include the consideration of solutions to specific requirements arising from needs of this group as a priority component of their urban development plans;

d. Encourage the establishment of social groups in which the handicapped can be helped to enjoy a fuller life.

Article 19 **Means of Protection**

1. Pursuant to the provisions of this article and the corresponding rules to be formulated for this purpose by the General Assembly of the Organization of American States, the States Parties to this Protocol undertake to submit periodic reports on the progressive measures they have taken to ensure due respect for the rights set forth in this Protocol.

2. All reports shall be submitted to the Secretary General of the OAS, who shall transmit them to the Inter-American Economic and Social Council and the Inter-American Council for Education, Science and Culture so that they may examine them in accordance with the provisions of this article. The Secretary General shall send a copy of such reports to the Inter-American Commission on Human Rights.

3. The Secretary General of the Organization of American States shall also transmit to the specialized organizations of the inter-American system of which the States Parties to the present Protocol are members, copies or pertinent portions of the reports submitted, insofar as they relate to matters within the purview of those organizations, as established by their constituent instruments.

4. The specialized organizations of the inter-American system may submit reports to the Inter-American Economic and Social Council and the Inter-American Council for Education, Science and Culture relative to compliance with the provisions of the present Protocol in their fields of activity.

5. The annual reports submitted to the General Assembly by the Inter-American Economic and Social Council and the Inter-American Council for Education, Science and Culture shall contain a summary of the information received from the States Parties to the present Protocol and the specialized organizations concerning the progressive measures adopted in order to ensure respect for the rights acknowledged in the Protocol itself and the general recommendations they consider to be appropriate in this respect.

6. Any instance in which the rights established in paragraph a) of Article 8 and in Article 13 are violated by action directly attributable to a State Party to this Protocol may give rise, through participation of the Inter-American Commission on Human Rights and, when applicable, of the Inter-American Court of Human Rights, to application of the system of individual petitions governed by Article 44 through 51 and 61 through 69 of the American Convention on Human Rights.

7. Without prejudice to the provisions of the preceding paragraph, the Inter-American Commission on Human Rights may formulate such observations and recommendations as it deems pertinent concerning the status of the economic, social and cultural rights established in the present Protocol in all or some of the States Parties, which it may include in its Annual Report to the General Assembly or in a special report, whichever it considers more appropriate.

8. The Councils and the Inter-American Commission on Human Rights, in discharging the functions conferred upon them in this article, shall take into account the progressive nature of the observance of the rights subject to protection by this Protocol.

Article 20
Reservations

The States Parties may, at the time of approval, signature, ratification or accession, make reservations to one or more specific provisions of this Protocol, provided that such reservations are not incompatible with the object and purpose of the Protocol.

Article 21
Signature, Ratification or Accession.
Entry into Effect

1. This Protocol shall remain open to signature and ratification or accession by any State Party to the American Convention on Human Rights.
2. Ratification of or accession to this Protocol shall be effected by depositing an instrument of ratification or accession with the General Secretariat of the Organization of American States.
3. The Protocol shall enter into effect when eleven States have deposited their respective instruments of ratification or accession.
4. The Secretary General shall notify all the member states of the Organization of American States of the entry of the Protocol into effect.

Article 22
Inclusion of other Rights and Expansion of those Recognized

1. Any State Party and the Inter-American Commission on Human Rights may submit for the consideration of the States Parties meeting on the occasion of the General Assembly proposed amendments to include the recognition of other rights or freedoms or to extend or expand rights or freedoms recognized in this Protocol.
2. Such amendments shall enter into effect for the States that ratify them on the date of deposit of the instrument of ratification corresponding to the number representing two thirds of the States Parties to this Protocol. For all other States Parties they shall enter into effect on the date on which they deposit their respective instrument of ratification.

ADDITIONAL PROTOCOL TO THE AMERICAN CONVENTION ON HUMAN RIGHTS
IN THE AREA OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS
"PROTOCOL OF SAN SALVADOR"

(Adopted at San Salvador, El Salvador on November 17, 1988, at
the eighteenth regular session of the General Assembly)

ENTRY INTO FORCE: November 16, 1999

DEPOSITORY: OAS General Secretariat (Original instrument and ratifications).

TEXT: OAS. Treaty Series, N° 69.

UN REGISTRATION:

SIGNATORY COUNTRIES	DEPOSIT OF RATIFICATION
Argentina	
Bolivia	
Brazil	21 August 1996 ^{a/}
Colombia	23 December 1997 ^{a/}
Costa Rica	16 November 1999

^{3/} Chile	
Dominican Republic	
Ecuador	25 March 1993
El Salvador	6 June 1995
Guatemala	5 October 2000
Haiti	
Mexico	16 April 1999 ^{b/}
Nicaragua	
Panama	18 February 1993
^{2/} Paraguay	3 June 1997
Peru	4 June 1995
Suriname	10 July 1990 ^{a/}
Uruguay	2 April 1996
^{1/} Venezuela	

All States listed herein signed the Protocol on November 17, 1988, with exception of those indicated in the notes.

1. Signed 27 January 1989 at the OAS General Secretariat.
 - a. Accession.
2. Signed 26 August 1996 at the OAS General Secretariat.
3. Signed June 5, 2001 at the OAS thirty-first General Assembly held in San José, Costa Rica
 - b. Mexico

The Government of Mexico ratifies the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights on the understanding that Article 8 of that Protocol shall be applied in the Mexican Republic in the ways and according to the procedures contemplated in applicable provisions of the Political Constitution of the United Mexican States and its enabling regulations.

**PROTOCOL TO THE AMERICAN CONVENTION ON HUMAN RIGHTS TO
ABOLISH THE DEATH PENALTY**

(Adopted at Asunción, Paraguay, on June 8, 1990, at the
twentieth regular session of the General Assembly)

PREAMBLE

THE STATES PARTIES TO THIS PROTOCOL,

CONSIDERING:

That Article 4 of the American Convention on Human Rights recognizes the right to life and restricts the application of the death penalty;

That everyone has the inalienable right to respect for his life, a right that cannot be suspended for any reason;

That the tendency among the American States is to be in favor of abolition of the death penalty;

That application of the death penalty has irrevocable consequences, forecloses the correction of judicial error, and precludes any possibility of changing or rehabilitating those convicted;

That the abolition of the death penalty helps to ensure more effective protection of the right to life;

That an international agreement must be arrived at that will entail a progressive development of the American Convention on Human Rights, and

That States Parties to the American Convention on Human Rights have expressed their intention to adopt an international agreement with a view to consolidating the practice of not applying the death penalty in the Americas,

**HAVE AGREED TO SIGN THE FOLLOWING PROTOCOL TO THE AMERICAN
CONVENTION
ON HUMAN RIGHTS TO ABOLISH THE DEATH PENALTY**

Article 1

The States Parties to this Protocol shall not apply the death penalty in their territory to any person subject to their jurisdiction.

Article 2

1. No reservations may be made to this Protocol. However, at the time of ratification or accession, the States Parties to this instrument may declare that they reserve the right to apply the death penalty in wartime in accordance with international law, for extremely serious crimes of a military nature.

2. The State Party making this reservation shall, upon ratification or accession, inform the Secretary General of the Organization of American States of the pertinent provisions of its national legislation applicable in wartime, as referred to in the preceding paragraph.

3. Said State Party shall notify the Secretary General of the Organization of American States of the beginning or end of any state of war in effect in its territory.

Article 3

1. This Protocol shall be open for signature and ratification or accession by any State Party to the American Convention on Human Rights.

2. Ratification of this Protocol or accession thereto shall be made through the deposit of an instrument of ratification or accession with the General Secretariat of the Organization of American States.

Article 4

This Protocol shall enter into force among the States that ratify or accede to it when they deposit their respective instruments of ratification or accession with the General Secretariat of the Organization of American States.

**PROTOCOL TO THE AMERICAN CONVENTION ON HUMAN RIGHTS
TO ABOLISH THE DEATH PENALTY**

(Adopted at Asunción, Paraguay, on June 8, 1990, at the
twentieth regular session of the General Assembly)

ENTRY INTO FORCE:

DEPOSITORY: OAS General Secretariat (Original instrument and ratifications).

TEXT: OAS, Treaty Series, No. 73

UN REGISTRATION:

SIGNATORY COUNTRIES	DEPOSIT OF RATIFICATION
7/ Brazil	13 August 1996 a/
8/ Chile	
6/ Costa Rica	26 May 1998
1/ Ecuador	15 April 1998
2/ Nicaragua	9 November 1999

⁵ /Panama	28 August 1991
⁹ /Paraguay	7 December 2000
⁴ /Uruguay	4 April 1994
³ /Venezuela	6 October 1993

1. Signed 27 August 1990 at the OAS General Secretariat.
2. Signed 30 August 1990 at the OAS General Secretariat.
3. Signed 25 September 1990 at the OAS General Secretariat.
4. Signed 2 October 1990 at the OAS General Secretariat.
5. Signed 26 November 1990 at the OAS General Secretariat.
6. Signed 28 August 1991 at the OAS General Secretariat.
7. Signed 6 June 1994 at the twenty-fourth regular session of the General Assembly.
8. Signed 7 December 2000 at the OAS General Secretariat.
9. Signed on 8 June 1999 at the OAS twenty-ninth regular session held in Guatemala City, Guatemala.

a. **Brazil**

In ratifying the Protocol to Abolish the Death Penalty, adopted in Asunción on June 8, 1990, make hereby, in compliance with constitutional requirements, a reservation under the terms of Article 2 of the said Protocol, which guarantees states parties the right to apply the death penalty in wartime in accordance with international law, for extremely serious crimes of a military nature.

INTER-AMERICAN CONVENTION TO PREVENT AND PUNISH TORTURE

(Adopted at Cartagena de Indias, Colombia, on December 9, 1985, at the fifteenth regular session of the General Assembly)

The American States signatory to the present Convention,
 Aware of the provision of the American Convention on Human Rights that no one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment;
 Reaffirming that all acts of torture or any other cruel, inhuman, or degrading treatment or punishment constitute an offense against human dignity and a denial of the principles set forth in the Charter of the Organization of American States and in the Charter of the United Nations and are violations of the fundamental human rights and freedoms proclaimed in the American Declaration of the Rights and Duties of Man and the Universal Declaration of Human Rights;
 Noting that, in order for the pertinent rules contained in the aforementioned global and regional instruments to take effect, it is necessary to draft an Inter-American Convention that prevents and punishes torture;
 Reaffirming their purpose of consolidating in this hemisphere the conditions that make for recognition of and respect for the inherent dignity of man, and ensure the full exercise of his fundamental rights and freedoms,
 Have agreed upon the following:

Article 1

The State Parties undertake to prevent and punish torture in accordance with the terms of this Convention.

Article 2

For the purposes of this Convention, torture shall be understood to be any act intentionally performed whereby physical or mental pain or suffering is inflicted on a person for purposes of criminal investigation, as a means of intimidation, as personal punishment, as a preventive measure, as a penalty, or for any other purpose. Torture shall also be understood to be the use of methods upon a person intended to obliterate the personality of the victim or to diminish his physical or mental capacities, even if they do not cause physical pain or mental anguish.

The concept of torture shall not include physical or mental pain or suffering that is inherent in or solely the consequence of lawful measures, provided that they do not include the performance of the acts or use of the methods referred to in this article.

Article 3

The following shall be held guilty of the crime of torture:

- a. A public servant or employee who acting in that capacity orders, instigates or induces the use of torture, or who directly commits it or who, being able to prevent it, fails to do so.
- b. A person who at the instigation of a public servant or employee mentioned in subparagraph (a) orders, instigates or induces the use of torture, directly commits it or is an accomplice thereto.

Article 4

The fact of having acted under orders of a superior shall not provide exemption from the corresponding criminal liability.

Article 5

The existence of circumstances such as a state of war, threat of war, state of siege or of emergency, domestic disturbance or strife, suspension of constitutional guarantees, domestic political instability, or other public emergencies or disasters shall not be invoked or admitted as justification for the crime of torture.

Neither the dangerous character of the detainee or prisoner, nor the lack of security of the prison establishment or penitentiary shall justify torture.

Article 6

In accordance with the terms of Article 1, the States Parties shall take effective measures to prevent and punish torture within their jurisdiction.

The States Parties shall ensure that all acts of torture and attempts to commit torture are offenses under their criminal law and shall make such acts punishable by severe penalties that take into account their serious nature.

The States Parties likewise shall take effective measures to prevent and punish other cruel, inhuman, or degrading treatment or punishment within their jurisdiction.

Article 7

The States Parties shall take measures so that, in the training of police officers and other public officials responsible for the custody of persons temporarily or definitively deprived of their freedom, special emphasis shall be put on the prohibition of the use of torture in interrogation, detention, or arrest.

The States Parties likewise shall take similar measures to prevent other cruel, inhuman, or degrading treatment or punishment.

Article 8

The States Parties shall guarantee that any person making an accusation of having been subjected to torture within their jurisdiction shall have the right to an impartial examination of his case.

Likewise, if there is an accusation or well-grounded reason to believe that an act of torture has been committed within their jurisdiction, the States Parties shall guarantee that their respective authorities will proceed properly and immediately to conduct an investigation into the case and to initiate, whenever appropriate, the corresponding criminal process.

After all the domestic legal procedures of the respective State and the corresponding appeals have been exhausted, the case may be submitted to the international fora whose competence has been recognized by that State.

Article 9

The States Parties undertake to incorporate into their national laws regulations guaranteeing suitable compensation for victims of torture.

None of the provisions of this article shall affect the right to receive compensation that the victim or other persons may have by virtue of existing national legislation.

Article 10

No statement that is verified as having been obtained through torture shall be admissible as evidence in a legal proceeding, except in a legal action taken against a person or persons accused of having elicited it through acts of torture, and only as evidence that the accused obtained such statement by such means.

Article 11

The States Parties shall take the necessary steps to extradite anyone accused of having committed the crime of torture or sentenced for commission of that crime, in accordance with their respective national laws on extradition and their international commitments on this matter.

Article 12

Every State Party shall take the necessary measures to establish its jurisdiction over the crime described in this Convention in the following cases:

- a. When torture has been committed within its jurisdiction;
- b. When the alleged criminal is a national of that State; or
- c. When the victim is a national of that State and it so deems appropriate.

Every State Party shall also take the necessary measures to establish its jurisdiction over the crime described in this Convention when the alleged criminal is within the area under its jurisdiction and it is not appropriate to extradite him in accordance with Article 11.

This Convention does not exclude criminal jurisdiction exercised in accordance with domestic law.

Article 13

The crime referred to in Article 2 shall be deemed to be included among the extraditable crimes in every extradition treaty entered into between States Parties. The States Parties undertake to include the crime of torture as an extraditable offence in every extradition treaty to be concluded between them.

Every State Party that makes extradition conditional on the existence of a treaty may, if it receives a request for extradition from another State Party with which it has no extradition treaty, consider this Convention as the legal basis for extradition in respect of the crime of torture. Extradition shall be subject to the other conditions that may be required by the law of the requested State.

States Parties which do not make extradition conditional on the existence of a treaty shall recognize such crimes as extraditable offences between themselves, subject to the conditions required by the law of the requested State.

Extradition shall not be granted nor shall the person sought be returned when there are grounds to believe that his life is in danger, that he will be subjected to torture or to cruel, inhuman or degrading treatment, or that he will be tried by special or ad hoc courts in the requesting State.

Article 14

When a State Party does not grant the extradition, the case shall be submitted to its competent authorities as if the crime had been committed within its jurisdiction, for the purposes of investigation, and when appropriate, for criminal action, in accordance with its national law. Any decision adopted by these authorities shall be communicated to the State that has requested the extradition.

Article 15

No provision of this Convention may be interpreted as limiting the right of asylum, when appropriate, nor as altering the obligations of the States Parties in the matter of extradition.

Article 16

This Convention shall not limit the provisions of the American Convention on Human Rights, other conventions on the subject, or the Statutes of the Inter-American Commission on Human Rights, with respect to the crime of torture.

Article 17

The States Parties undertake to inform the Inter-American Commission on Human Rights of any legislative, judicial, administrative, or other measures they adopt in application of this Convention.

In keeping with its duties and responsibilities, the Inter-American Commission on Human Rights will endeavor in its annual report to analyze the existing situation in the member states of the Organization of American States in regard to the prevention and elimination of torture.

Article 18

This Convention is open to signature by the member states of the Organization of American States.

Article 19

This Convention is subject to ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

Article 20

This Convention is open to accession by any other American state. The instruments of accession shall be deposited with the General Secretariat of the Organization of American States.

Article 21

The States Parties may, at the time of approval, signature, ratification, or accession, make reservations to this Convention, provided that such reservations are not incompatible with the object and purpose of the Convention and concern one or more specific provisions.

Article 22

This Convention shall enter into force on the thirtieth day following the date on which the second instrument of ratification is deposited. For each State ratifying or acceding to the Convention after the second instrument of ratification has been deposited, the Convention shall enter into force on the thirtieth day following the date on which that State deposits its instrument of ratification or accession.

Article 23

This Convention shall remain in force indefinitely, but may be denounced by any State Party. The instrument of denunciation shall be deposited with the General Secretariat of the Organization of American States. After one year from the date of deposit of the instrument of denunciation, this Convention shall cease to be in effect for the denouncing State but shall remain in force for the remaining States Parties.

Article 24

The original instrument of this Convention, the English, French, Portuguese, and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall send a certified copy to the Secretariat of the United Nations for registration and publication, in accordance with the provisions of Article 102 of the United Nations Charter. The General Secretariat of the Organization of American States shall notify the member states of the Organization and the States that have acceded to the Convention of signatures and of deposits of instruments of ratification, accession, and denunciation, as well as reservations, if any.

INTER-AMERICAN CONVENTION TO PREVENT AND PUNISH TORTURE

(Adopted at Cartagena de Indias, Colombia, on December 9, 1985, at
the fifteenth regular session of the General Assembly)

ENTRY INTO FORCE: 28 February 1987, in accordance with Article 22 of the Convention.

DEPOSITARY: OAS General Secretariat (Original instrument and ratifications).

TEXT: OAS, Treaty Series, No. 67.

UN REGISTRATION:

SIGNATORY COUNTRIES	DEPOSIT OF RATIFICATION
4 /Argentina	31 March 1989
1 /Bolivia	
3 /Brazil	20 July 1989
11 /Chile	30 September 1988 b /
1 /Colombia	19 January 1999
9 /Costa Rica	8 February 2000
6 /Dominican Republic	29 January 1987
7 /Ecuador	9 November 1999
13 /El Salvador	5 December 1994
10 /Guatemala	29 January 1987 a /
8 /Haiti	
5 /Honduras	
4 /Mexico	22 June 1987
12 /Nicaragua	
4 /Panama	28 August 1991
15 /Paraguay	9 March 1990
2 /Peru	28 March 1991
14 /Suriname	12 November 1987
1 /Uruguay	10 November 1992
1 /Venezuela	26 August 1991

1. Signed 9 December 1985 at the Fifteenth Regular Session of the General Assembly.
 2. Signed 10 January 1986 at the OAS General Secretariat.
 3. Signed 24 January 1986 at the OAS General Secretariat.
 4. Signed 10 February 1986 at the OAS General Secretariat.
 5. Signed 11 March 1986 at the OAS General Secretariat.
 6. Signed 31 March 1986 at the OAS General Secretariat.
 7. Signed 30 May 1986 at the OAS General Secretariat.
 8. Signed 13 June 1986 at the OAS General Secretariat.
 9. Signed 31 July 1986 at the OAS General Secretariat.
 10. Signed 27 October 1986 at the OAS General Secretariat, with the following reservation:

(Reservation made at the time of signature)

The Republic of Guatemala does not accept the application nor shall it apply the third paragraph of Article 8, because in conformance with its domestic legal procedures, when the appeals have been exhausted, the decision acquitting a defendant charged with the crime of torture becomes final and may not be submitted to any international fora.

11. Chile:

Signed 24 September 1987 at the OAS General Secretariat.

12. Nicaragua:

Signed 29 September 1987 at the OAS General Secretariat.

13. El Salvador:

Signed 16 October 1987 at the OAS General Secretariat.

14. Suriname:

Signed 12 November 1987 at the OAS General Secretariat.

15. Paraguay:

Signed 25 October 1989 at the OAS General Secretariat.

a. **Guatemala**:

(Reservation made at the time of ratification)

With the reservation made at the time of the signature.

Withdrawal of Reservations:

On October 1, 1990, deposited at the General Secretariat, an instrument dated August 6, 1990, withdrawing the reservation made by the Government of Guatemala at the time of signing the Convention and reiterated at the time of ratifying it on December 10, 1986.

b. **Chile**:

(Reservations made at the time of ratification)

a) To Article 4, to the effect that, inasmuch as it alters the principle of "automatic obedience" established in Chile's domestic law, the Government of Chile will enforce the provisions of that international rule in respect of subordinate personnel subject to the jurisdiction of the Code of Military Justice, provided that execution of an order whose obvious intent is the perpetration of the acts stipulated in Article 2, is not demanded by the superior over the subordinate's representation.

b) With regard to the final paragraph of Article 13, because of the discretionary and subjective way in which the rule is drafted.

c) The Government of Chile states that in its relations with the countries of the Americas that are Parties to the present Convention, it will apply this Convention in those cases where there is incompatibility between its provisions and those of the Convention against torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, adopted by the United Nations in 1984.

d) With regard to the third paragraph of Article 8, since a case may only be submitted to the international fora whose competence has been recognized by the State of Chile.

Withdrawal of Reservations:

On August 21, 1990 deposited an instrument dated May 18, 1990, withdrawing the reservations formulated by the Government of Chile to Article 4 and to the final paragraph of Article 13 of the Convention.

a) To Article 4, to the effect that, inasmuch as it alters the principle of "automatic obedience" established in Chile's domestic law, the Government of Chile will enforce the provisions of that international rule in respect of subordinate personnel subject to the jurisdiction of the Code of Military Justice, provided that execution of an order whose obvious intent is the perpetration of the acts stipulated in Article 2, is not demanded by the superior over the subordinate's representation.

b) With regard to the final paragraph of Article 13, because of the discretionary and subjective way in which the rule is drafted.

c) The Government of Chile states that in its relations with the countries of the Americas that are Parties to the present Convention, it will apply this Convention in those cases where there is incompatibility between its provisions and those of the Convention against torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, adopted by the United Nations in 1984.

d) With regard to the third paragraph of Article 8, since a case may only be submitted to the international fora whose competence has been recognized by the State of Chile.

Withdrawal of Reservations:

On August 21, 1990 deposited an instrument dated May 18, 1990, withdrawing the reservations formulated by the Government of Chile to Article 4 and to the final paragraph of Article 13 of the Convention

INTER-AMERICAN CONVENTION TO PREVENT AND PUNISH TORTURE

(Adopted at Cartagena de Indias, Colombia, on December 9, 1985, at the fifteenth regular session of the General Assembly)

ENTRY INTO FORCE: 28 February 1987, in accordance with Article 22 of the Convention.

DEPOSITARY: OAS General Secretariat (Original instrument and ratifications).

TEXT: OAS, Treaty Series, No. 67.

UN REGISTRATION:

SIGNATORY COUNTRIES	DEPOSIT OF RATIFICATION
4 /Argentina	31 March 1989
1 /Bolivia	
3 /Brazil	20 July 1989
11 /Chile	30 September 1988 b /
1 /Colombia	19 January 1999
9 /Costa Rica	8 February 2000
6 /Dominican Republic	29 January 1987
7 /Ecuador	9 November 1999
13 /El Salvador	5 December 1994
10 /Guatemala	29 January 1987 a /
8 /Haiti	
5 /Honduras	
4 /Mexico	22 June 1987

12 /Nicaragua	
4 /Panama	28 August 1991
15 /Paraguay	9 March 1990
2 /Peru	28 March 1991
14 /Suriname	12 November 1987
1 /Uruguay	10 November 1992
1 /Venezuela	26 August 1991

1. Signed 9 December 1985 at the Fifteenth Regular Session of the General Assembly.
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 4. Signed 10 February 1986 at the OAS General Secretariat.
 5. Signed 11 March 1986 at the OAS General Secretariat.
 6. Signed 31 March 1986 at the OAS General Secretariat.
 7. Signed 30 May 1986 at the OAS General Secretariat.
 8. Signed 13 June 1986 at the OAS General Secretariat.
 9. Signed 31 July 1986 at the OAS General Secretariat.
 10. Signed 27 October 1986 at the OAS General Secretariat,
- with the following reservation:

(Reservation made at the time of signature)

The Republic of Guatemala does not accept the application nor shall it apply the third paragraph of Article 8, because in conformance with its domestic legal procedures, when the appeals have been exhausted, the decision acquitting a defendant charged with the crime of torture becomes final and may not be submitted to any international fora.

11. Chile:

Signed 24 September 1987 at the OAS General Secretariat.

12. Nicaragua:

Signed 29 September 1987 at the OAS General Secretariat.

13. El Salvador:

Signed 16 October 1987 at the OAS General Secretariat.

14. Suriname:

Signed 12 November 1987 at the OAS General Secretariat.

15. Paraguay:

Signed 25 October 1989 at the OAS General Secretariat.

a. Guatemala:

(Reservation made at the time of ratification)

With the reservation made at the time of the signature.

Withdrawal of Reservations:

On October 1, 1990, deposited at the General Secretariat, an instrument dated August 6, 1990, withdrawing the reservation made by the Government of Guatemala at the time of signing the Convention and reiterated at the time of ratifying it on December 10, 1986.

b. Chile:

(Reservations made at the time of ratification)

a) To Article 4, to the effect that, inasmuch as it alters the principle of "automatic obedience" established in Chile's domestic law, the Government of Chile will enforce the provisions of that international rule in respect of subordinate personnel subject to the jurisdiction of the Code of Military Justice, provided that execution of an order whose obvious intent is the perpetration of the acts stipulated in Article 2, is not demanded by the superior over the subordinate's representation.

b) With regard to the final paragraph of Article 13, because of the discretionary and subjective way in which the rule is drafted.

c) The Government of Chile states that in its relations with the countries of the Americas that are Parties to the present Convention, it will apply this Convention in those cases where there is incompatibility between its provisions and those of the Convention against torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, adopted by the United Nations in 1984.

d) With regard to the third paragraph of Article 8, since a case may only be submitted to the international fora whose competence has been recognized by the State of Chile.

Withdrawal of Reservations:

On August 21, 1990 deposited an instrument dated May 18, 1990, withdrawing the reservations formulated by the Government of Chile to Article 4 and to the final paragraph of Article 13 of the Convention.

a) To Article 4, to the effect that, inasmuch as it alters the principle of "automatic obedience" established in Chile's domestic law, the Government of Chile will enforce the provisions of that international rule in respect of subordinate personnel subject to the jurisdiction of the Code of Military Justice, provided that execution of an order whose obvious intent is the perpetration of the acts stipulated in Article 2, is not demanded by the superior over the subordinate's representation.

b) With regard to the final paragraph of Article 13, because of the discretionary and subjective way in which the rule is drafted.

c) The Government of Chile states that in its relations with the countries of the Americas that are Parties to the present Convention, it will apply this Convention in those cases where there is incompatibility between its provisions and those of the Convention against torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, adopted by the United Nations in 1984.

d) With regard to the third paragraph of Article 8, since a case may only be submitted to the international fora whose competence has been recognized by the State of Chile.

Withdrawal of Reservations:

On August 21, 1990 deposited an instrument dated May 18, 1990, withdrawing the reservations formulated by the Government of Chile to Article 4 and to the final paragraph of Article 13 of the Convention

INTER-AMERICAN CONVENTION ON
FORCED DISAPPEARANCE OF PERSONS

(Adopted at Belém do Pará, on June 9, 1994, at the twenty fourth regular session of the General Assembly)

PREAMBLE

The member states of the Organization of American States signatory to the present Convention,

DISTURBED by the persistence of the forced disappearance of persons;

REAFFIRMING that the true meaning of American solidarity and good neighborliness can be none other than that of consolidating in this Hemisphere, in the framework of democratic institutions, a system of individual freedom and social justice based on respect for essential human rights;

CONSIDERING that the forced disappearance of persons in an affront to the conscience of the Hemisphere and a grave and abominable offense against the inherent dignity of the human being, and one that contradicts the principles and purposes enshrined in the Charter of the Organization of American States;

CONSIDERING that the forced disappearance of persons of persons violates numerous non-derogable and essential human rights enshrined in the American Convention on Human Rights, in the American Declaration of the Rights and Duties of Man, and in the Universal Declaration of Human Rights;

RECALLING that the international protection of human rights is in the form of a convention reinforcing or complementing the protection provided by domestic law and is based upon the attributes of the human personality;

REAFFIRMING that the systematic practice of the forced disappearance of persons constitutes a crime against humanity;

HOPING that this Convention may help to prevent, punish, and eliminate the forced disappearance of persons in the Hemisphere and make a decisive contribution to the protection of human rights and the rule of law,

RESOLVE to adopt the following Inter-American Convention on Forced Disappearance of Persons:

Article I

The States Parties to this Convention undertake:

- a. Not to practice, permit, or tolerate the forced disappearance of persons, even in states of emergency or suspension of individual guarantees;
- b. To punish within their jurisdictions, those persons who commit or attempt to commit the crime of forced disappearance of persons and their accomplices and accessories;
- c. To cooperate with one another in helping to prevent, punish, and eliminate the forced disappearance of persons;
- d. To take legislative, administrative, judicial, and any other measures necessary to comply with the commitments undertaken in this Convention.

Article II

For the purposes of this Convention, forced disappearance is considered to be the act of depriving a person or persons of his or their freedom, in whatever way, perpetrated by agents of the state or by persons or groups of persons acting with the authorization, support, or acquiescence of the state, followed by an absence of information or a refusal to acknowledge that deprivation of freedom or to give information on the whereabouts of that

person, thereby impeding his or her recourse to the applicable legal remedies and procedural guarantees.

Article III

The States Parties undertake to adopt, in accordance with their constitutional procedures, the legislative measures that may be needed to define the forced disappearance of persons as an offense and to impose an appropriate punishment commensurate with its extreme gravity. This offense shall be deemed continuous or permanent as long as the fate or whereabouts of the victim has not been determined.

The States Parties may establish mitigating circumstances for persons who have participated in acts constituting forced disappearance when they help to cause the victim to reappear alive or provide information that sheds light on the forced disappearance of a person.

Article IV

The acts constituting the forced disappearance of persons shall be considered offenses in every State Party. Consequently, each State Party shall take measures to establish its jurisdiction over such cases in the following instances:

- a. When the forced disappearance of persons or any act constituting such offense was committed within its jurisdiction;
- b. When the accused is a national of that state;
- c. When the victim is a national of that state and that state sees fit to do so.

Every State Party shall, moreover, take the necessary measures to establish its jurisdiction over the crime described in this Convention when the alleged criminal is within its territory and it does not proceed to extradite him.

This Convention does not authorize any State Party to undertake, in the territory of another State Party, the exercise of jurisdiction or the performance of functions that are placed within the exclusive purview of the authorities of that other Party by its domestic law.

Article V

The forced disappearance of persons shall not be considered a political offense for purposes of extradition.

The forced disappearance of persons shall be deemed to be included among the extraditable offenses in every extradition treaty entered into between States Parties.

The States Parties undertake to include the offense of forced disappearance as one which is extraditable in every extradition treaty to be concluded between them in the future.

Every State Party that makes extradition conditional on the existence of a treaty and receives a request for extradition from another State Party with which it has no extradition treaty may consider this Convention as the necessary legal basis for extradition with respect to the offense of forced disappearance.

States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offense as extraditable, subject to the conditions imposed by the law of the requested state.

Extradition shall be subject to the provisions set forth in the constitution and other laws of the request state.

Article VI

When a State Party does not grant the extradition, the case shall be submitted to its competent authorities as if the offense had been committed within its jurisdiction, for the purposes of investigation and when appropriate, for criminal action, in accordance with its national law. Any decision adopted by these authorities shall be communicated to the state that has requested the extradition.

Article VII

Criminal prosecution for the forced disappearance of persons and the penalty judicially imposed on its perpetrator shall not be subject to statutes of limitations.

However, if there should be a norm of a fundamental character preventing application of the stipulation contained in the previous paragraph, the period of limitation shall be equal to

that which applies to the gravest crime in the domestic laws of the corresponding State Party.

Article VIII

The defense of due obedience to superior orders or instructions that stipulate, authorize, or encourage forced disappearance shall not be admitted. All persons who receive such orders have the right and duty not to obey them.

The States Parties shall ensure that the training of public law-enforcement personnel or officials includes the necessary education on the offense of forced disappearance of persons.

Article IX

Persons alleged to be responsible for the acts constituting the offense of forced disappearance of persons may be tried only in the competent jurisdictions of ordinary law in each state, to the exclusion of all other special jurisdictions, particularly military jurisdictions.

The acts constituting forced disappearance shall not be deemed to have been committed in the course of military duties.

Privileges, immunities, or special dispensations shall not be admitted in such trials, without prejudice to the provisions set forth in the Vienna Convention on Diplomatic Relations.

Article X

In no case may exceptional circumstances such as a state of war, the threat of war, internal political instability, or any other public emergency be invoked to justify the forced disappearance of persons. In such cases, the right to expeditious and effective judicial procedures and recourse shall be retained as a means of determining the whereabouts or state of health of a person who has been deprived of freedom, or of identifying the official who ordered or carried out such deprivation of freedom.

In pursuing such procedures or recourse, and in keeping with applicable domestic law, the competent judicial authorities shall have free and immediate access to all detention centers and to each of their units, and to all places where there is reason to believe the disappeared person might be found including places that are subject to military jurisdiction.

Article XI

Every person deprived of liberty shall be held in an officially recognized place of detention and be brought before a competent judicial authority without delay, in accordance with applicable domestic law.

The States Parties shall establish and maintain official up-to-date registries of their detainees and, in accordance with their domestic law, shall make them available to relatives, judges, attorneys, any other person having a legitimate interest, and other authorities.

Article XII

The States Parties shall give each other mutual assistance in the search for, identification, location, and return of minors who have been removed to another state or detained therein as a consequence of the forced disappearance of their parents or guardians.

Article XIII

For the purposes of this Convention, the processing of petitions or communications presented to the Inter-American Commission on Human Rights alleging the forced disappearance of persons shall be subject to the procedures established in the American Convention on Human Rights and to the Statute and Regulations of the Inter-American Commission on Human Rights and to the Statute and Rules of Procedure of the Inter-American Court of Human Rights, including the provisions on precautionary measures.

Article XIV

Without prejudice to the provisions of the preceding article, when the Inter-American Commission on Human Rights receives a petition or communication regarding an alleged forced disappearance, its Executive Secretariat shall urgently and confidentially address the respective government, and shall request that government to provide as soon as possible information as to the whereabouts of the allegedly disappeared person together with any

other information it considers pertinent, and such request shall be without prejudice as to the admissibility of the petition.

Article XV

None of the provisions of this Convention shall be interpreted as limiting other bilateral or multilateral treaties or other agreements signed by the Parties.

This Convention shall not apply to the international armed conflicts governed by the 1949 Geneva Conventions and their Protocols, concerning protection of wounded, sick, and shipwrecked members of the armed forces; and prisoners of war and civilians in time of war.

Article XVI

This Convention is open for signature by the member states of the Organization of American States.

Article XVII

This Convention is subject to ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

Article XVIII

This Convention shall be open to accession by any other state. The instruments of accession shall be deposited with the General Secretariat of the Organization of American States.

Article XIX

The states may express reservations with respect to this Convention when adopting, signing, ratifying or acceding to it, unless such reservations are incompatible with the object and purpose of the Convention and as long as they refer to one or more specific provisions.

Article XX

This Convention shall enter into force for the ratifying states on the thirtieth day from the date of deposit of the second instrument of ratification.

For each state ratifying or acceding to the Convention after the second instrument of ratification has been deposited, the Convention shall enter into force on the thirtieth day from the date on which that state deposited its instrument of ratification or accession.

Article XXI

This Convention shall remain in force indefinitely, but may be denounced by any State Party. The instrument of denunciation shall be deposited with the General Secretariat of the Organization of American States. The Convention shall cease to be in effect for the denouncing state and shall remain in force for the other States Parties one year from the date of deposit of the instrument of denunciation.

Article XXII

The original instrument of this Convention, the Spanish, English, Portuguese, and French texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall forward certified copies thereof to the United Nations Secretariat, for registration and publication, in accordance with Article 102 of the Charter of the United Nations. The General Secretariat of the Organization of American States shall notify member states of the Organization and states acceding to the Convention of the signatures and deposit of instruments of ratification, accession or denunciation, as well as of any reservations that may be expressed.

INTER-AMERICAN CONVENTION

ON FORCED DISAPPEARANCE OF PERSONS

(Adopted at Belém do Pará, on June 9, 1994, at the twenty fourth regular session of the General Assembly)

ENTRY INTO FORCE: March 28, 1996

DEPOSITORY: OAS General Secretariat (Original instrument and ratifications)

TEXT:

UN REGISTRATION:

SIGNATORY COUNTRIES	DEPOSIT OF RATIFICATION
Argentina	28 February 1999
^{4/} Bolivia	5 May 1999
Brazil	
Chile	
^{1/} Colombia	
Costa Rica	2 June 1996
^{7/} Ecuador	
^{2/} Guatemala	25 February 2000 ^{a/}
Honduras	
^{9/} Mexico	9 April 2002 ^{b/}
Nicaragua	
^{5/} Panama	28 February 1996
^{6/} Paraguay	26 November 1996
^{8/} Peru	13 February 2002
^{3/} Uruguay	2 April 1996
Venezuela	19 January 1999

All States herein signed the Convention on June 10, 1994, with the exception of those indicated in the notes.

1. Signed 5 August 1994 at the OAS General Secretariat.
2. Signed 24 June 1994 at the OAS General Secretariat.
3. Signed 30 June 1994 at the OAS General Secretariat.
4. Signed 14 September 1994 at the OAS General Secretariat.
5. Signed 5 October 1994 at the OAS General Secretariat.
6. Signed 2 April 1996 at the OAS General Secretariat.
7. Signed 8 February 2000 at the OAS General Secretariat.
8. Signed 8 January 2001 at the OAS General Secretariat.
9. Signed 4 May 2001 at the OAS General Secretariat.

a. Guatemala:

Pursuant to Article XIX of the Convention, the Republic of Guatemala, upon ratifying the Convention, formulates a reservation regarding the application of Article V thereof, since Article 27 of its Political Constitution establishes that "extradition proceedings, for political crimes shall not be instituted against Guatemalans, who shall in no case be handed over to a foreign government, except as provided in treaties and conventions concerning crimes against humanity or against international law," and that for the time being, there is no domestic Guatemalan legislation governing the matter of extradition.

Withdrawal of the reservation regarding the application of Article V made at the time of the reservation (September 7, 2001). **b. Mexico:** Inter-American Convention on the Forced Disappearance of Persons Reservation made when depositing the instrument of ratification (April 9, 2002)

"The Government of the United Mexican States, upon ratifying the Inter-American Convention on the Forced Disappearance of Persons adopted in Belem, Brazil on June 9, 1994 makes express reservation to Article IX, inasmuch as the Political Constitution recognizes military jurisdiction when a member of the armed forces commits an illicit act while on duty. Military jurisdiction does not constitute a special jurisdiction in the sense of the Convention given that according to Article 14 of the Mexican Constitution nobody may be deprived of his life, liberty, property, possessions, or rights except as a result of a trial

before previously established courts in which due process is observed in accordance with laws promulgated prior to the fact." Interpretative declaration made when depositing the instrument of ratification (April 9, 2002)

Based on Article 14 of the Political Constitution of the United Mexican States, the Government of Mexico declares, upon ratifying the Inter-American Convention on the Forced Disappearance of Persons adopted in Belem, Brazil on June 9, 1994, that it shall be understood that the provisions of said Convention shall apply to acts constituting the forced disappearance of persons ordered, executed, or committed after the entry into force of this Convention.

INTER-AMERICAN CONVENTION ON THE
PREVENTION, PUNISHMENT AND ERADICATION
OF VIOLENCE AGAINST WOMEN
"CONVENTION OF BELEM DO PARA"
(Adopted in Belém do Pará, Brasil, on June 9, 1994,
at the twenty fourth regular session of the
General Assembly)

THE STATES PARTIES TO THIS CONVENTION,
RECOGNIZING that full respect for human rights has been enshrined in the American Declaration of the Rights and Duties of Man and the Universal Declaration of Human Rights, and reaffirmed in other international and regional instruments;

AFFIRMING that violence against women constitutes a violation of their human rights and fundamental freedoms, and impairs or nullifies the observance, enjoyment and exercise of such rights and freedoms;

CONCERNED that violence against women is an offense against human dignity and a manifestation of the historically unequal power relations between women and men;

RECALLING the Declaration on the Elimination of Violence against Women, adopted by the Twenty-fifth Assembly of Delegates of the Inter-American Commission of Women, and affirming that violence against women pervades every sector of society regardless of class, race or ethnic group, income, culture, level of education, age or religion and strikes at its very foundations:

CONVINCED that the elimination of violence against women is essential for their individual and social development and their full and equal participation in all walks of life; and

CONVINCED that the adoption of a convention on the prevention, punishment and eradication of all forms of violence against women within the framework of the Organization of American States is a positive contribution to protecting the rights of women and eliminating violence against them,

HAVE AGREED to the following:

CHAPTER I

DEFINITION AND SCOPE OF APPLICATION

Article 1

For the purposes of this Convention, violence against women shall be understood as any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere.

Article 2

Violence against women shall be understood to include physical, sexual and psychological violence:

a. that occurs within the family or domestic unit or within any other interpersonal relationship, whether or not the perpetrator shares or has shared the same residence with the woman, including, among others, rape, battery and sexual abuse;

b. that occurs in the community and is perpetrated by any person, including, among others, rape, sexual abuse, torture, trafficking in persons, forced prostitution, kidnapping and

sexual harassment in the workplace, as well as in educational institutions, health facilities or any other place; and
c. that is perpetrated or condoned by the state or its agents regardless of where it occurs.

CHAPTER II RIGHTS PROTECTED Article 3

Every woman has the right to be free from violence in both the public and private spheres.
Article 4

Every woman has the right to the recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others:

- a. The right to have her life respected;
- b. The right to have her physical, mental and moral integrity respected;
- c. The right to personal liberty and security;
- d. The right not to be subjected to torture;
- e. The rights to have the inherent dignity of her person respected and her family protected;
- f. The right to equal protection before the law and of the law;
- g. The right to simple and prompt recourse to a competent court for protection against acts that violate her rights;
- h. The right to associate freely;
- i. The right of freedom to profess her religion and beliefs within the law; and
- j. The right to have equal access to the public service of her country and to take part in the conduct of public affairs, including decision-making.

Article 5

Every woman is entitled to the free and full exercise of her civil, political, economic, social and cultural rights, and may rely on the full protection of those rights as embodied in regional and international instruments on human rights. The States Parties recognize that violence against women prevents and nullifies the exercise of these rights.

Article 6

The right of every woman to be free from violence includes, among others:

- a. The right of women to be free from all forms of discrimination; and
- b. The right of women to be valued and educated free of stereotyped patterns of behavior and social and cultural practices based on concepts of inferiority or subordination.

CHAPTER III DUTIES OF THE STATES

Article 7

The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to:

- a. refrain from engaging in any act or practice of violence against women and to ensure that their authorities, officials, personnel, agents, and institutions act in conformity with this obligation;
- b. apply due diligence to prevent, investigate and impose penalties for violence against women;
- c. include in their domestic legislation penal, civil, administrative and any other type of provisions that may be needed to prevent, punish and eradicate violence against women and to adopt appropriate administrative measures where necessary;
- d. adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman or using any method that harms or endangers her life or integrity, or damages her property;

- e. take all appropriate measures, including legislative measures, to amend or repeal existing laws and regulations or to modify legal or customary practices which sustain the persistence and tolerance of violence against women;
- f. establish fair and effective legal procedures for women who have been subjected to violence which include, among others, protective measures, a timely hearing and effective access to such procedures;
- g. establish the necessary legal and administrative mechanisms to ensure that women subjected to violence have effective access to restitution, reparations or other just and effective remedies; and
- h. adopt such legislative or other measures as may be necessary to give effect to this Convention.

Article 8

The States Parties agree to undertake progressively specific measures, including programs:

- a. to promote awareness and observance of the right of women to be free from violence, and the right of women to have their human rights respected and protected;
- b. to modify social and cultural patterns of conduct of men and women, including the development of formal and informal educational programs appropriate to every level of the educational process, to counteract prejudices, customs and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on the stereotyped roles for men and women which legitimize or exacerbate violence against women;
- c. to promote the education and training of all those involved in the administration of justice, police and other law enforcement officers as well as other personnel responsible for implementing policies for the prevention, punishment and eradication of violence against women;
- d. to provide appropriate specialized services for women who have been subjected to violence, through public and private sector agencies, including shelters, counseling services for all family members where appropriate, and care and custody of the affected children;
- e. to promote and support governmental and private sector education designed to raise the awareness of the public with respect to the problems of and remedies for violence against women;
- f. to provide women who are subjected to violence access to effective readjustment and training programs to enable them to fully participate in public, private and social life;
- g. to encourage the communications media to develop appropriate media guidelines in order to contribute to the eradication of violence against women in all its forms, and to enhance respect for the dignity of women;
- h. to ensure research and the gathering of statistics and other relevant information relating to the causes, consequences and frequency of violence against women, in order to assess the effectiveness of measures to prevent, punish and eradicate violence against women and to formulate and implement the necessary changes; and
- i. to foster international cooperation for the exchange of ideas and experiences and the execution of programs aimed at protecting women who are subjected to violence.

Article 9

With respect to the adoption of the measures in this Chapter, the States Parties shall take special account of the vulnerability of women to violence by reason of, among others, their race or ethnic background or their status as migrants, refugees or displaced persons. Similar consideration shall be given to women subjected to violence while pregnant or who are disabled, of minor age, elderly, socioeconomically disadvantaged, affected by armed conflict or deprived of their freedom.

CHAPTER IV INTER-AMERICAN MECHANISMS OF PROTECTION

Article 10

In order to protect the rights of every woman to be free from violence, the States Parties shall include in their national reports to the Inter-American Commission of Women information on measures adopted to prevent and prohibit violence against women, and to assist women affected by violence, as well as on any difficulties they observe in applying those measures, and the factors that contribute to violence against women.

Article 11

The States Parties to this Convention and the Inter-American Commission of Women may request of the Inter-American Court of Human Rights advisory opinions on the interpretation of this Convention.

Article 12

Any person or group of persons, or any nongovernmental entity legally recognized in one or more member states of the Organization, may lodge petitions with the Inter-American Commission on Human Rights containing denunciations or complaints of violations of Article 7 of this Convention by a State Party, and the Commission shall consider such claims in accordance with the norms and procedures established by the American Convention on Human Rights and the Statutes and Regulations of the Inter-American Commission on Human Rights for lodging and considering petitions.

CHAPTER V GENERAL PROVISIONS

Article 13

No part of this Convention shall be understood to restrict or limit the domestic law of any State Party that affords equal or greater protection and guarantees of the rights of women and appropriate safeguards to prevent and eradicate violence against women.

Article 14

No part of this Convention shall be understood to restrict or limit the American Convention on Human Rights or any other international convention on the subject that provides for equal or greater protection in this area.

Article 15

This Convention is open to signature by all the member states of the Organization of American States.

Article 16

This Convention is subject to ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

Article 17

This Convention is open to accession by any other state. Instruments of accession shall be deposited with the General Secretariat of the Organization of American States.

Article 18

Any State may, at the time of approval, signature, ratification, or accession, make reservations to this Convention provided that such reservations are:

- a. not incompatible with the object and purpose of the Convention, and
- b. not of a general nature and relate to one or more specific provisions.

Article 19

Any State Party may submit to the General Assembly, through the Inter-American Commission of Women, proposals for the amendment of this Convention.

Amendments shall enter into force for the states ratifying them on the date when two-thirds of the States Parties to this Convention have deposited their respective instruments of ratification. With respect to the other States Parties, the amendments shall enter into force on the dates on which they deposit their respective instruments of ratification.

Article 20

If a State Party has two or more territorial units in which the matters dealt with in this Convention are governed by different systems of law, it may, at the time of signature, ratification or accession, declare that this Convention shall extend to all its territorial units or to only one or more of them.

Such a declaration may be amended at any time by subsequent declarations, which shall expressly specify the territorial unit or units to which this Convention applies. Such subsequent declarations shall be transmitted to the General Secretariat of the Organization of American States, and shall enter into force thirty days after the date of their receipt.

Article 21

This Convention shall enter into force on the thirtieth day after the date of deposit of the second instrument of ratification. For each State that ratifies or accedes to the Convention after the second instrument of ratification is deposited, it shall enter into force thirty days after the date on which that State deposited its instrument of ratification or accession.

Article 22

The Secretary General shall inform all member states of the Organization of American States of the entry into force of this Convention.

Article 23

The Secretary General of the Organization of American States shall present an annual report to the member states of the Organization on the status of this Convention, including the signatures, deposits of instruments of ratification and accession, and declarations, and any reservations that may have been presented by the States Parties, accompanied by a report thereon if needed.

Article 24

This Convention shall remain in force indefinitely, but any of the States Parties may denounce it by depositing an instrument to that effect with the General Secretariat of the Organization of American States. One year after the date of deposit of the instrument of denunciation, this Convention shall cease to be in effect for the denouncing State but shall remain in force for the remaining States Parties.

Article 25

The original instrument of this Convention, the English, French, Portuguese and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall send a certified copy to the Secretariat of the United Nations for registration and publication in accordance with the provisions of Article 102 of the United Nations Charter.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective governments, have signed this Convention, which shall be called the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women "Convention of Belém do Pará."

DONE IN THE CITY OF BELEM DO PARA, BRAZIL, the ninth of June in the year one thousand nine hundred ninety-four.

INTER-AMERICAN CONVENTION ON THE PREVENTION,
PUNISHMENT, AND ERADICATION OF VIOLENCE AGAINST WOMEN
"CONVENTION OF BELÉM DO PARÁ"

(Adopted in Belém do Pará, Brasil, on June 9, 1994,
at the twenty fourth regular session of the
General Assembly)

ENTRY INTO FORCE: March 5, 1995

DEPOSITARY: General Secretariat OAS (Original instrument and ratifications)

TEXT

UN REGISTRATION:

SIGNATORY COUNTRIES	DEPOSIT OF RATIFICATION
^{2/} Antigua and Barbuda	19 November 1998
^{2/} Argentina	5 July 1996
^{11/} Bahamas	16 May 1995
^{10/} Barbados	16 May 1995

^{20/} Belize	15 November 1996
^{5/} Bolivia	5 December 1994
^{1/} Brazil	27 November 1995
^{7/} Chile	15 November 1996
^{19/} Colombia	15 November 1996
^{1/} Costa Rica	12 July 1995
^{13/} Dominica	6 June 1995
^{1/} Dominican Republic	7 March 1996
^{9/} Ecuador	15 September 1995
^{15/} El Salvador	26 January 1996
^{22/} Grenada	15 February 2001
^{3/} Guatemala	4 April 1995
^{9/} Guyana	28 February 1996
^{21/} Haiti	2 June 1997
^{2/} Honduras	12 June 1995
^{12/} Mexico	12 November 1998
^{1/} Nicaragua	12 December 1995
^{6/} Panama	12 July 1995
^{16/} Paraguay	18 October 1995
^{14/} Peru	4 June 1996
^{1/} Saint Kitts and Nevis	12 June 1995
^{18/} Saint Vincent and the Grenadines	31 May 1996
^{8/} Saint Lucia	4 April 1995
Suriname	8 March 2002
^{17/} Trinidad and Tobago	8 May 1996
^{4/} Uruguay	2 April 1996
^{1/} Venezuela	3 February 1995

1.	Signed	June	10,	1994
2.	Signed	September	14,	1994
3.	Signed	June	9,	1994
4.	Signed	June	9,	1994
5.	Signed	October	17,	1994
6.	Signed	June	24,	1994
7.	Signed	June	10,	1994
8.	Signed	June	10,	1994
9.	Signed	October	5,	1994
10.	Signed	June	9,	1994
11.	Signed	June	9,	1994
12.	Signed	November	11,	1994
13.	Signed	June	30,	1994
14.	Signed	June	9,	1994
15.	Signed	May	16,	1995
16.	Signed	May	16,	1995
18.	Signed	January	10,	1995
19.	Signed	August	14,	1995
20.	Signed	January	10,	1995
21.	Signed	June	4,	1995
22.	Signed	October	17,	1995

23.	Signed	July	12,	1995
24.	Signed	March	5,	1996
25.	Signed	November	3,	1995
26.	Signed	November	15,	1996
27.	Signed February 19, 2002			

INTER-AMERICAN CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST PERSONS WITH DISABILITIES

(Adopted at Guatemala City, Guatemala at the twenty-ninth regular session of the General Assembly of the OAS, held on June 7, 1999)

THE STATES PARTIES TO THIS CONVENTION,

REAFFIRMING that persons with disabilities have the same human rights and fundamental freedoms as other persons; and that these rights, which include freedom from discrimination based on disability, flow from the inherent dignity and equality of each person;

CONSIDERING that the Charter of the Organization of American States, in Article 3.j, establishes the principle that "social justice and social security are bases of lasting peace";

CONCERNED by the discrimination to which people are subject based on their disability;

BEARING IN MIND the agreement of the International Labour Organisation on the vocational rehabilitation and employment of disabled persons (Convention 159); the Declaration of the Rights of Mentally Retarded Persons (UN General Assembly resolution 2856 (XXVI) of December 20, 1971); the Declaration on the Rights of Disabled Persons (UN General Assembly resolution 3447 (XXX) of December 9, 1975); the World Programme of Action concerning Disabled Persons (UN General Assembly resolution 37/52 of December 3, 1982); the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social, and Cultural Rights, "Protocol of San Salvador" (1988); the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (UN General Assembly resolution 46/119 of December 17, 1991); the Declaration of Caracas of the Pan American Health Organization; resolution AG/RES. 1249 (XXIII-O/93), "Situation of Persons with Disabilities in the American Hemisphere"; the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (UN General Assembly resolution 48/96 of December 20, 1993); the Declaration of Managua (December 1993); the Vienna Declaration and Programme of Action, adopted by the UN World Conference on Human Rights (157/93); resolution AG/RES. 1356 (XXV-O/95), "Situation of Persons with Disabilities in the American Hemisphere"; and AG/RES. 1369 (XXVI-O/96), "Panama Commitment to Persons with Disabilities in the American Hemisphere"; and

COMMITTED to eliminating discrimination, in all its forms and manifestations, against persons with disabilities,

HAVE AGREED as follows:

Article I

For the purposes of this Convention, the following terms are defined:

1. Disability

The term "disability" means a physical, mental, or sensory impairment, whether permanent or temporary, that limits the capacity to perform one or more essential activities of daily life, and which can be caused or aggravated by the economic and social environment.

2. Discrimination against persons with disabilities

a. The term "discrimination against persons with disabilities" means any distinction, exclusion, or restriction based on a disability, record of disability, condition resulting from a previous disability, or perception of disability, whether present or past, which has the effect or objective of impairing or nullifying the recognition, enjoyment, or exercise by a person with a disability of his or her human rights and fundamental freedoms.

b. A distinction or preference adopted by a state party to promote the social integration or personal development of persons with disabilities does not constitute discrimination provided that the distinction or preference does not in itself limit the right of persons with disabilities to equality and that individuals with disabilities are not forced to accept such distinction or preference. If, under a state's internal law, a person can be declared legally incompetent, when necessary and appropriate for his or her well-being, such declaration does not constitute discrimination.

Article II

The objectives of this Convention are to prevent and eliminate all forms of discrimination against persons with disabilities and to promote their full integration into society.

Article III

To achieve the objectives of this Convention, the states parties undertake:

1. To adopt the legislative, social, educational, labor-related, or any other measures needed to eliminate discrimination against persons with disabilities and to promote their full integration into society, including, but not limited to:
 - a. Measures to eliminate discrimination gradually and to promote integration by government authorities and/or private entities in providing or making available goods, services, facilities, programs, and activities such as employment, transportation, communications, housing, recreation, education, sports, law enforcement and administration of justice, and political and administrative activities;
 - b. Measures to ensure that new buildings, vehicles, and facilities constructed or manufactured within their respective territories facilitate transportation, communications, and access by persons with disabilities;
 - c. Measures to eliminate, to the extent possible, architectural, transportation, and communication obstacles to facilitate access and use by persons with disabilities; and
 - d. Measures to ensure that persons responsible for applying this Convention and domestic law in this area are trained to do so.
2. To work on a priority basis in the following areas:
 - a. Prevention of all forms of preventable disabilities;
 - b. Early detection and intervention, treatment, rehabilitation, education, job training, and the provision of comprehensive services to ensure the optimal level of independence and quality of life for persons with disabilities; and
 - c. Increasing of public awareness through educational campaigns aimed at eliminating prejudices, stereotypes, and other attitudes that jeopardize the right of persons to live as equals, thus promoting respect for and coexistence with persons with disabilities;

Article IV

To achieve the objectives of this Convention, the states parties undertake to:

1. Cooperate with one another in helping to prevent and eliminate discrimination against persons with disabilities;
2. Collaborate effectively in:
 - a. Scientific and technological research related to the prevention of disabilities and to the treatment, rehabilitation, and integration into society of persons with disabilities; and
 - b. The development of means and resources designed to facilitate or promote the independence, self-sufficiency, and total integration into society of persons with disabilities, under conditions of equality.

Article V

1. To the extent that it is consistent with their respective internal laws, the states parties shall promote participation by representatives of organizations of persons with disabilities, nongovernmental organizations working in this area, or, if such organizations do not exist, persons with disabilities, in the development, execution, and evaluation of measures and policies to implement this Convention.
2. The states parties shall create effective communication channels to disseminate among the public and private organizations working with persons with disabilities the normative

and juridical advances that may be achieved in order to eliminate discrimination against persons with disabilities.

Article VI

1. To follow up on the commitments undertaken in this Convention, a Committee for the Elimination of All Forms of Discrimination against Persons with Disabilities, composed of one representative appointed by each state party, shall be established.
2. The committee shall hold its first meeting within the 90 days following the deposit of the 11th instrument of ratification. Said meeting shall be convened by the General Secretariat of the Organization of American States and shall be held at the Organization's headquarters, unless a state party offers to host it.
3. At the first meeting, the states parties undertake to submit a report to the Secretary General of the Organization for transmission to the Committee so that it may be examined and reviewed. Thereafter, reports shall be submitted every four years.
4. The reports prepared under the previous paragraph shall include information on measures adopted by the member states pursuant to this Convention and on any progress made by the states parties in eliminating all forms of discrimination against persons with disabilities. The reports shall indicate any circumstances or difficulties affecting the degree of fulfillment of the obligations arising from this Convention.
5. The Committee shall be the forum for assessment of progress made in the application of the Convention and for the exchange of experience among the states parties. The reports prepared by the committee shall reflect the deliberations; shall include information on any measures adopted by the states parties pursuant to this Convention, on any progress they have made in eliminating all forms of discrimination against persons with disabilities, and on any circumstances or difficulties they have encountered in the implementation of the Convention; and shall include the committee's conclusions, its observations, and its general suggestions for the gradual fulfillment of the Convention.
6. The committee shall draft its rules of procedure and adopt them by a simple majority.
7. The Secretary General shall provide the Committee with the support it requires in order to perform its functions.

Article VII

No provision of this Convention shall be interpreted as restricting, or permitting the restriction by states parties of the enjoyment of the rights of persons with disabilities recognized by customary international law or the international instruments by which a particular state party is bound.

Article VIII

1. This Convention shall be open for signature by all member states in Guatemala City, Guatemala, on June 8, 1999, and, thereafter, shall remain open for signature by all states at the headquarters of the Organization of American States, until its entry into force.
2. This Convention is subject to ratification.
3. This Convention shall enter into force for the ratifying states on the 30th day following the date of deposit of the sixth instrument of ratification by a member state of the Organization of American States.

Article IX

After its entry into force, this Convention shall be open for accession by all states that have not signed it.

Article X

1. The instruments of ratification and accession shall be deposited with the General Secretariat of the Organization of American States.
2. For each state that ratifies or accedes to the Convention after the sixth instrument of ratification has been deposited, the Convention shall enter into force on the 30th day following deposit by that state of its instrument of ratification or accession.

Article XI

1. Any state party may make proposals for amendment of this Convention. Said proposals shall be submitted to the General Secretariat of the OAS for dissemination to the states parties.

2. Amendments shall enter into force for the states ratifying them on the date of deposit of the respective instruments of ratification by two thirds of the member states. For the remaining states parties, they shall enter into force on the date of deposit of their respective instruments of ratification.

Article XII

The states may enter reservations to this Convention when ratifying or acceding to it, provided that such reservations are not incompatible with the aim and purpose of the Convention and relate to one or more specific provisions thereof.

Article XIII

This Convention shall remain in force indefinitely, but any state party may denounce it. The instrument of denunciation shall be deposited with the General Secretariat of the Organization of American States. The Convention shall cease to have force and effect for the denouncing state one year after the date of deposit of the instrument of denunciation, and shall remain in force for the other states parties. Such denunciation shall not exempt the state party from the obligations imposed upon it under this Convention in respect of any action or omission prior to the date on which the denunciation takes effect.

Article XIV

1. The original instrument of this Convention, the English, French, Portuguese, and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall send a certified copy thereof to the United Nations Secretariat for registration and publication pursuant to Article 102 of the United Nations Charter.

2. The General Secretariat of the Organization of American States shall notify the member states of that Organization and the states that have acceded to the Convention of the signatures, deposits of instruments of ratification, accession, and denunciation, and any reservations entered.

INTER-AMERICAN CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST PERSONS WITH DISABILITIES

(Adopted at Guatemala City, Guatemala on June 7, 1999,
at the twenty-ninth regular session of the General Assembly)

ENTRY INTO FORCE: September 14, 2001

DEPOSITORY: OAS General Secretariat (Original instrument and ratifications)

TEXT:

UN REGISTRATION:

SIGNATORY COUNTRIES	DEPOSIT OF RATIFICATION
Argentina	10 January 2001
Bolivia	
Brazil	15 August 2001
Chile	26 February 2002
Colombia	
Costa Rica	8 February 2000
Dominica (Commonwealth)	
Dominican Republic	
Ecuador	
El Salvador	8 March 2002
Guatemala	29 January 2003

Haiti	
Jamaica	
Mexico	25 January 2001
Nicaragua	25 November 2002
Panama	16 February 2001
Paraguay	22 October 2002
Peru	30 August 2001
Uruguay	20 July 2001
Venezuela	

All States listed herein signed the Convention on June 8, 1999.

STATUTE OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

Approved by Resolution N° 447 taken by the General Assembly of the OAS at its ninth regular session, held in La Paz, Bolivia, October 1979

I. NATURE AND PURPOSES

Article 1

1. The Inter-American Commission on Human Rights is an organ of the Organization of the American States, created to promote the observance and defense of human rights and to serve as consultative organ of the Organization in this matter.
2. For the purposes of the present Statute, human rights are understood to be:
 - a. The rights set forth in the American Convention on Human Rights, in relation to the States Parties thereto;
 - b. The rights set forth in the American Declaration of the Rights and Duties of Man, in relation to the other member states.

II. MEMBERSHIP AND STRUCTURE

Article 2

1. The Inter-American Commission on Human Rights shall be composed of seven members, who shall be persons of high moral character and recognized competence in the field of human rights.
2. The Commission shall represent all the member states of the Organization.

Article 3

1. The members of the Commission shall be elected in a personal capacity by the General Assembly of the Organization from a list of candidates proposed by the governments of the member states.
2. Each government may propose up to three candidates, who may be nationals of the state proposing them or of any other member state of the Organization. When a slate of three is proposed, at least one of the candidates shall be a national of a state other than the proposing state.

Article 4

1. At least six months prior to completion of the terms of office for which the members of the Commission were elected,^[1] the Secretary General shall request, in writing, each member state of the Organization to present its candidates within 90 days.
2. The Secretary General shall prepare a list in alphabetical order of the candidates nominated, and shall transmit it to the member states of the Organization at least thirty days prior to the next General Assembly.

Article 5

The members of the Commission shall be elected by secret ballot of the General Assembly from the list of candidates referred to in Article 4(2). The candidates who obtain the largest number of votes and an absolute majority of the votes of the member states shall be declared elected. Should it become necessary to hold several ballots to elect all the members of the Commission, the candidates who receive the smallest number of votes shall be eliminated successively, in the manner determined by the General Assembly.

Article 6

The members of the Commission shall be elected for a term of four years and may be reelected only once. Their terms of office shall begin on January 1 of the year following the year in which they are elected.

Article 7

No two nationals of the same state may be members of the Commission.

Article 8

1. Membership on the Inter-American Commission on Human Rights is incompatible with engaging in other functions that might affect the independence or impartiality of the member or the dignity or prestige of his post on the Commission.

2. The Commission shall consider any case that may arise regarding incompatibility in accordance with the provisions of the first paragraph of this Article, and in accordance with the procedures provided by its Regulations.

If the Commission decides, by an affirmative vote of a least five of its members, that a case of incompatibility exists, it will submit the case, with its background, to the General Assembly for decision.

3. A declaration of incompatibility by the General Assembly shall be adopted by a majority of two thirds of the member states of the Organization and shall occasion the immediate removal of the member of the Commission from his post, but it shall not invalidate any action in which he may have participated.

Article 9

The duties of the members of the Commission are:

1. Except when justifiably prevented, to attend the regular and special meetings the Commission holds at its permanent headquarters or in any other place to which it may have decided to move temporarily.

2. To serve, except when justifiably prevented, on the special committees which the Commission may form to conduct on-site observations, or to perform any other duties within their ambit.

3. To maintain absolute secrecy about all matters which the Commission deems confidential.

4. To conduct themselves in their public and private life as befits the high moral authority of the office and the importance of the mission entrusted to the Commission.

Article 10

1. If a member commits a serious violation of any of the duties referred to in Article 9, the Commission, on the affirmative vote of five of its members, shall submit the case to the General Assembly of the Organization, which shall decide whether he should be removed from office.

2. The Commission shall hear the member in question before taking its decision.

Article 11

1. When a vacancy occurs for reasons other than the normal completion of a member's term of office, the Chairman of the Commission shall immediately notify the Secretary General of the Organization, who shall in turn inform the member states of the Organization.

2. In order to fill vacancies, each government may propose a candidate within a period of 30 days from the date of receipt of the Secretary General's communication that a vacancy has occurred.
3. The Secretary General shall prepare an alphabetical list of the candidates and shall transmit it to the Permanent Council of the Organization, which shall fill the vacancy.
4. When the term of office is due to expire within six months following the date on which a vacancy occurs, the vacancy shall not be filled.

Article 12

1. In those member states of the Organization that are Parties to the American Convention on Human Rights, the members of the Commission shall enjoy, from the time of their election and throughout their term of office, such immunities as are granted to diplomatic agents under international law. While in office, they shall also enjoy the diplomatic privileges required for the performance of their duties.
2. In those member states of the Organization that are not Parties to the American Convention on Human Rights, the members of the Commission shall enjoy the privileges and immunities pertaining to their posts that are required for them to perform their duties with independence.
3. The system of privileges and immunities of the members of the Commission may be regulated or supplemented by multilateral or bilateral agreements between the Organization and the member states.

Article 13

The members of the Commission shall receive travel allowances and per diem and fees, as appropriate, for their participation in the meetings of the Commission or in other functions which the Commission, in accordance with its Regulations, entrusts to them, individually or collectively. Such travel and per diem allowances and fees shall be included in the budget of the Organization, and their amounts and conditions shall be determined by the General Assembly.

Article 14

1. The Commission shall have a Chairman, a First Vice-Chairman and a Second Vice-Chairman, who shall be elected by an absolute majority of its members for a period of one year; they may be re-elected only once in each four-year period.
2. The Chairman and the two Vice-Chairmen shall be the officers of the Commission, and their functions shall be set forth in the Regulations.

Article 15

The Chairman of the Commission may go to the Commission's headquarters and remain there for such time as may be necessary for the performance of his duties.

III. HEADQUARTERS AND MEETINGS

Article 16

1. The headquarters of the Commission shall be in Washington, D.C.
2. The Commission may move to and meet in the territory of any American State when it so decides by an absolute majority of votes, and with the consent, or at the invitation of the government concerned.
3. The Commission shall meet in regular and special sessions, in conformity with the provisions of the Regulations.

Article 17

1. An absolute majority of the members of the Commission shall constitute a quorum.
2. In regard to those States that are Parties to the Convention, decisions shall be taken by an absolute majority vote of the members of the Commission in those cases established by the American Convention on Human Rights and the present Statute. In other cases, an absolute majority of the members present shall be required.

3. In regard to those States that are not Parties to the Convention, decisions shall be taken by an absolute majority vote of the members of the Commission, except in matters of procedure, in which case, the decisions shall be taken by simple majority.

IV. FUNCTIONS AND POWERS

Article 18

The Commission shall have the following powers with respect to the member states of the Organization of American States:

- a. to develop an awareness of human rights among the peoples of the Americas;
- b. to make recommendations to the governments of the states on the adoption of progressive measures in favor of human rights in the framework of their legislation, constitutional provisions and international commitments, as well as appropriate measures to further observance of those rights;
- c. to prepare such studies or reports as it considers advisable for the performance of its duties;
- d. to request that the governments of the states provide it with reports on measures they adopt in matters of human rights;
- e. to respond to inquiries made by any member state through the General Secretariat of the Organization on matters related to human rights in the state and, within its possibilities, to provide those states with the advisory services they request;
- f. to submit an annual report to the General Assembly of the Organization, in which due account shall be taken of the legal regime applicable to those States Parties to the American Convention on Human Rights and of that system applicable to those that are not Parties;
- g. to conduct on-site observations in a state, with the consent or at the invitation of the government in question; and
- h. to submit the program-budget of the Commission to the Secretary General, so that he may present it to the General Assembly.

Article 19

With respect to the States Parties to the American Convention on Human Rights, the Commission shall discharge its duties in conformity with the powers granted under the Convention and in the present Statute, and shall have the following powers in addition to those designated in Article 18:

- a. to act on petitions and other communications, pursuant to the provisions of Articles 44 to 51 of the Convention;
- b. to appear before the Inter-American Court of Human Rights in cases provided for in the Convention;
- c. to request the Inter-American Court of Human Rights to take such provisional measures as it considers appropriate in serious and urgent cases which have not yet been submitted to it for consideration, whenever this becomes necessary to prevent irreparable injury to persons;
- d. to consult the Court on the interpretation of the American Convention on Human Rights or of other treaties concerning the protection of human rights in the American states;
- e. to submit additional draft protocols to the American Convention on Human Rights to the General Assembly, in order to progressively include other rights and freedoms under the system of protection of the Convention, and
- f. to submit to the General Assembly, through the Secretary General, proposed amendments to the American Convention on Human Rights, for such action as the General Assembly deems appropriate.

Article 20

In relation to those member states of the Organization that are not parties to the American Convention on Human Rights, the Commission shall have the following powers, in addition to those designated in Article 18:

- a. to pay particular attention to the observance of the human rights referred to in Articles I, II, III, IV, XVIII, XXV, and XXVI of the American Declaration of the Rights and Duties of Man;
- b. to examine communications submitted to it and any other available information, to address the government of any member state not a Party to the Convention for information deemed pertinent by this Commission, and to make recommendations to it, when it finds this appropriate, in order to bring about more effective observance of fundamental human rights; and,
- c. to verify, as a prior condition to the exercise of the powers granted under subparagraph b. above, whether the domestic legal procedures and remedies of each member state not a Party to the Convention have been duly applied and exhausted.

V. SECRETARIAT

Article 21

1. The Secretariat services of the Commission shall be provided by a specialized administrative unit under the direction of an Executive Secretary. This unit shall be provided with the resources and staff required to accomplish the tasks the Commission may assign to it.
2. The Executive Secretary, who shall be a person of high moral character and recognized competence in the field of human rights, shall be responsible for the work of the Secretariat and shall assist the Commission in the performance of its duties in accordance with the Regulations.
3. The Executive Secretary shall be appointed by the Secretary General of the Organization, in consultation with the Commission. Furthermore, for the Secretary General to be able to remove the Executive Secretary, he shall consult with the Commission and inform its members of the reasons for his decision.

VI. STATUTE AND REGULATIONS

Article 22

1. The present Statute may be amended by the General Assembly.
2. The Commission shall prepare and adopt its own Regulations, in accordance with the present Statute.

Article 23

1. In accordance with the provisions of Articles 44 to 51 of the American Convention on Human Rights, the Regulations of the Commission shall determine the procedure to be followed in cases of petitions or communications alleging violation of any of the rights guaranteed by the Convention, and imputing such violation to any State Party to the Convention.
2. If the friendly settlement referred to in Articles 44-51 of the Convention is not reached, the Commission shall draft, within 180 days, the report required by Article 50 of the Convention.

Article 24

1. The Regulations shall establish the procedure to be followed in cases of communications containing accusations or complaints of violations of human rights imputable to States that are not Parties to the American Convention on Human Rights.
2. The Regulations shall contain, for this purpose, the pertinent rules established in the Statute of the Commission approved by the Council of the Organization in resolutions

adopted on May 25 and June 8, 1960, with the modifications and amendments introduced by Resolution XXII of the Second Special Inter-American Conference, and by the Council of the Organization at its meeting held on April 24, 1968, taking into account resolutions CP/RES. 253 (343/78), "Transition from the present Inter-American Commission on Human Rights to the Commission provided for in the American Convention on Human Rights," adopted by the Permanent Council of the Organization on September 20, 1979.

VII. TRANSITORY PROVISIONS

Article 25

Until the Commission adopts its new Regulations, the current Regulations (OEA/Ser.L/VII.17, doc. 26) shall apply to all the member states of the Organization.

Article 26

1. The present Statute shall enter into effect 30 days after its approval by the General Assembly.
2. The Secretary General shall order immediate publication of the Statute, and shall give it the widest possible distribution

RULES OF PROCEDURE OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

(Approved by the Commission at its 109^o special session held from December 4 to 8, 2000 and amended at its 116th regular period of sessions, held from October 7 to 25, 2002).

TITLE I ORGANIZATION OF THE COMMISSION

CHAPTER I NATURE AND COMPOSITION

Article 1. Nature and Composition

1. The Inter-American Commission on Human Rights is an autonomous organ of the Organization of American States whose principal functions are to promote the observance and defense of human rights and to serve as an advisory body to the Organization in this area.
2. The Commission represents all the Member States of the Organization.
3. The Commission is composed of seven members elected in their individual capacity by the General Assembly of the Organization. They shall be persons of high moral character and recognized competence in the field of human rights.

CHAPTER II MEMBERSHIP

Article 2. Duration of the Term of Office

1. The members of the Commission shall be elected for four years and may be re-elected only once.

2. In the event that new members of the Commission have not been elected to replace those completing their term of office, the latter shall continue to serve until the new members are elected.

Article 3. Precedence

The members of the Commission shall follow the President and Vice-Presidents in order of precedence according to their seniority in office. When there are two or more members with equal seniority, precedence shall be determined according to age.

Article 4. Incompatibility[1]

1. The position of member of the Inter-American Commission on Human Rights is incompatible with the exercise of activities which could affect the independence or impartiality of the member, or the dignity or prestige of the office. Upon taking office, members shall undertake not to represent victims or their relatives, or States, in precautionary measures, petitions and individual cases before the IACHR for a period of two years, counted from the date of the end of their term as members of the Commission.

2. The Commission, with the affirmative vote of at least five of its members, shall decide whether a situation of incompatibility exists.

3. The Commission, prior to taking a decision, shall hear the member whose activities are claimed to be incompatible.

4. The decision with respect to the incompatibility, together with all the background information, shall be sent to the General Assembly, through the Secretary General of the Organization, for the purposes set forth in Article 8(3) of the Commission's Statute.

Article 5. Resignation

The resignation of a member of the Commission shall be submitted to the President of the Commission in writing. The President shall immediately notify the Secretary General of the OAS for the appropriate purposes.

CHAPTER III BOARD OF OFFICERS OF THE COMMISSION Article 6. Composition and Functions

The Commission shall have as its board of officers a President, a First Vice-President and a Second Vice-President, who shall perform the functions set forth in these Rules of Procedure.

Article 7. Elections

1. Only members present shall participate in the election of each of the officers referred to in the preceding article.

2. Elections shall be by secret ballot. However, with the unanimous consent of the members present, the Commission may decide on another procedure.

3. The affirmative vote of an absolute majority of the members of the Commission shall be required for election to any of the positions referred to in Article 6.

4. Should it be necessary to hold more than one ballot for election to any of these positions, the names receiving the lowest number of votes shall be eliminated successively.

5. Elections shall be held on the first day of the Commission's first session of the calendar year.

Article 8. Duration of Term of Officers

1. The term of office of the officers is one year. The term runs from the date of their election until the elections held the following year for the new board, pursuant to Article 7, paragraph 5. The members of the board of officers may be re-elected to their respective positions only once during each four-year period.

2. In the event that the term of office of a Commission member expires, and he or she is President or Vice-President, the provisions of Article 9, paragraphs 2 and 3 of these Rules of Procedure shall apply.

Article 9. Resignation, Vacancy and Replacements

1. If a member of the board of officers resigns from that position or ceases to be a member of the Commission, the Commission shall fill the position at the next period of sessions for the remainder of the term of office.

2. The First Vice-President shall serve as President until the Commission elects a new President under the provisions of paragraph 1 of this article.

3. In addition, the First Vice-President shall replace the President if the latter is temporarily unable to perform his or her duties. In the event of the absence or disability of the First Vice-President, or if that position is vacant, the Second Vice-President shall serve as President. In the event of the absence or disability of the Second Vice-President, the member with the greatest seniority according to Article 3 shall serve as President.

Article 10. Powers of the President

1. The powers of the President shall be:

a. to represent the Commission before the other organs of the Organization and other institutions;

b. to convoke sessions of the Commission in accordance with the Statute and these Rules of Procedure;

c. to preside over sessions of the Commission and submit to it for consideration all matters appearing on the agenda of the work program approved for the corresponding session; to decide the points of order raised during the deliberations; and to submit matters to a vote in accordance with the applicable provisions of these Rules of Procedure;

d. to give the floor to the members in the order in which they have requested it;

e. to promote the work of the Commission and oversee compliance with its program-budget;

- f. to present a written report to the Commission at the beginning of its period of sessions on what he or she has done during its recesses to carry out the functions assigned to him or her by the Statute and these Rules of Procedure;
 - g. to seek compliance with the decisions of the Commission;
 - h. to attend the meetings of the General Assembly of the OAS and other activities related to the promotion and protection of human rights;
 - i. to travel to the headquarters of the Commission and remain there for as long as he or she considers necessary to carry out his or her functions;
 - j. to designate special committees, ad hoc committees and subcommittees composed of several members to carry out any mandate within his or her area of competence; and,
 - k. to perform any other functions that may be conferred upon him or her in these Rules of Procedure or other tasks entrusted to him or her by the Commission.
2. The President may delegate to one of the Vice-Presidents or to another member of the Commission the powers specified in paragraphs (a), (h) and (k).

CHAPTER IV EXECUTIVE SECRETARIAT

Article 11. Composition

The Executive Secretariat of the Commission shall be composed of an Executive Secretary and at least one Assistant Executive Secretary, with the professional, technical and administrative staff needed to carry out its activities.

Article 12. Powers of the Executive Secretary[2]

- 1. The powers of the Executive Secretary shall be:
 - a. to direct, plan, and coordinate the work of the Executive Secretariat;
 - b. to prepare, in consultation with the President, the draft program-budget of the Commission, which shall be governed by the budgetary provisions in force for the OAS, and with respect to which he or she shall report to the Commission;
 - c. to prepare the draft work program for each session in consultation with the President;
 - d. advise the President and members of the Commission in the performance of their duties;
 - e. to present a written report to the Commission at the beginning of each period of sessions on the activities of the Secretariat since the preceding period of sessions, and on any general matters that may be of interest to the Commission; and,
 - f. to implement the decisions entrusted to him or her by the Commission or its President.

2. The Assistant Executive Secretary shall replace the Executive Secretary in the event of his or her absence or disability. In the absence or disability of both, the Executive Secretary or the Assistant Executive Secretary, as the case may be, shall designate one of the specialists of the Executive Secretariat as a temporary replacement.

3. The Executive Secretary, Assistant Executive Secretary, and staff of the Executive Secretariat must observe the strictest discretion in all matters the Commission considers confidential. Upon taking office, the Executive Secretary shall undertake not to represent victims or their relatives, or States, in precautionary measures, petitions, or individual cases before the IACHR for a period of two years, counted from the time he or she ceases to discharge the functions of Executive Secretary.

Article 13. Functions of the Executive Secretariat

The Executive Secretariat shall prepare the draft reports, resolutions, studies and any other work entrusted to it by the Commission or by the President. In addition, it shall receive and process the correspondence, petitions and communications addressed to the Commission. The Executive Secretariat may also request that interested parties provide any information it deems relevant, in accordance with the provisions of these Rules of Procedure.

CHAPTER V FUNCTIONING OF THE COMMISSION

Article 14. Periods of Sessions

1. The Commission shall hold at least two regular periods of sessions per year for the duration previously determined by it and as many special sessions as it deems necessary. Prior to the conclusion of each period of sessions, the date and place of the next period shall be determined.

2. The sessions of the Commission shall be held at its headquarters. However, the Commission may decide to meet elsewhere, pursuant to the vote of an absolute majority of its members and with the consent or at the invitation of the State concerned.

3. Each period of sessions shall consist of the number of sessions necessary to carry out its activities. The sessions shall be confidential, unless the Commission determines otherwise.

4. Any member who because of illness or for any other serious reason is unable to attend all or part of any session of the Commission, or to fulfill any other function, shall notify the Executive Secretary to this effect as soon as possible. The Executive Secretary shall so inform the President and ensure that those reasons appear in the record.

Article 15. Rapporteurships and Working Groups

1. The Commission may create rapporteurships to better fulfill its functions. The rapporteurs shall be designated by the vote of an absolute majority of the members of the Commission and may be Commission members or other persons. The Commission shall determine the characteristics of the mandate entrusted to each rapporteurship. The rapporteurs shall periodically present their work plans to the plenary of the Commission.

2. The Commission may also create working groups or committees to prepare its periods of sessions or to carry out special programs or projects. The Commission shall constitute working groups as it sees fit.

Article 16. Quorum for Sessions

The presence of an absolute majority of the members of the Commission shall be necessary to constitute a quorum.

Article 17. Discussion and Voting

1. The sessions shall conform primarily to the Rules of Procedure and secondarily to the pertinent provisions of the Rules of Procedure of the Permanent Council of the OAS.

2. Members of the Commission may not participate in the discussion, investigation, deliberation or decision of a matter submitted to the Commission in the following cases:

a. if they are nationals of the State which is the subject of the Commission's general or specific consideration, or if they were accredited or carrying out a special mission as diplomatic agents before that State; or,

b. if they have previously participated in any capacity in a decision concerning the same facts on which the matter is based or have acted as an adviser to, or representative of any of the parties interested in the decision.

3. If a member considers that he or she should abstain from participating in the study or decision of a matter, that member shall so inform the Commission, which shall decide if the disqualification is warranted.

4. Any member may raise the issue of the disqualification of another member on the basis of the grounds set forth in paragraph 2 of this article.

5. When the Commission is not meeting in regular or special session, the members may deliberate and decide on matters within their competence by the means they consider appropriate.

Article 18. Special Quorum to take Decisions

1. The Commission shall decide the following matters by an absolute majority vote of its members:

a. election of the board of officers of the Commission;

b. interpretation of the application of these Rules of Procedure;

c. adoption of a report on the situation of human rights in a specific State; and,

d. for matters where such a majority is required under the provisions of the American Convention, the Statute or these Rules of Procedure.

2. In respect of other matters, the vote of the majority of the members present shall be sufficient.

Article 19. Explanation of Vote

1. Whether or not members agree with the decision of the majority, they shall be entitled to present a written explanation of their vote, which shall be included following the text of that decision.
2. If the decision concerns the approval of a report or preliminary report, the explanation of the vote shall be included following the text of that report or preliminary report.
3. When the decision does not appear in a separate document, the explanation of the vote shall be included in the minutes of the meeting, following the decision in question.

Article 20. Minutes of the Sessions

1. Summary minutes shall be taken of each session. They shall state the day and time at which it was held, the names of the members present, the matters dealt with, the decisions taken, and any statement made by a member especially for inclusion in the minutes. These minutes are confidential internal working documents.
2. The Executive Secretariat shall distribute copies of the summary minutes of each session to the members of the Commission, who may present their observations to the Secretariat prior to the period of sessions at which those minutes are to be approved. If there has been no objection as of the beginning of that period of sessions, the minutes shall be considered approved.

Article 21. Compensation for Special Services

Pursuant to the approval of an absolute majority of its members, the Commission may entrust any member with the preparation of a special study or other specific work to be carried out individually outside the sessions. Such work shall be compensated in accordance with the funds available in the budget. The amount of the fees shall be set on the basis of the number of days required for the preparation and drafting of the work.

TITLE II PROCEDURE CHAPTER I GENERAL PROVISIONS

Article 22. Official Languages

1. The official languages of the Commission shall be Spanish, French, English and Portuguese. The working languages shall be those decided on by the Commission every two years, in accordance with the languages spoken by its members.
2. Any member of the Commission may dispense with the interpretation of debates and preparation of documents in his or her language.

Article 23. Presentation of Petitions

Any person or group of persons or nongovernmental entity legally recognized in one or more of the Member States of the OAS may submit petitions to the Commission, on their own behalf or on behalf of third persons, concerning alleged violations of a human right recognized in, as the case may be, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, the Additional Protocol in the Area of Economic, Social and Cultural Rights, the Protocol to Abolish the Death Penalty, the Inter-

American Convention to Prevent and Punish Torture, the Inter-American Convention on Forced Disappearance of Persons, and/or the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, in accordance with their respective provisions, the Statute of the Commission, and these Rules of Procedure. The petitioner may designate an attorney or other person to represent him or her before the Commission, either in the petition itself or in another writing.

Article 24. Consideration Motu Proprio

The Commission may also, *motu proprio*, initiate the processing of a petition which, in its view, meets the necessary requirements.

Article 25. Precautionary Measures

1. In serious and urgent cases, and whenever necessary according to the information available, the Commission may, on its own initiative or at the request of a party, request that the State concerned adopt precautionary measures to prevent irreparable harm to persons.

2. If the Commission is not in session, the President, or, in his or her absence, one of the Vice-Presidents, shall consult with the other members, through the Executive Secretariat, on the application of the provision in the previous paragraph. If it is not possible to consult within a reasonable period of time under the circumstances, the President or, where appropriate, one of the Vice-President shall take the decision on behalf of the Commission and shall so inform its members.

3. The Commission may request information from the interested parties on any matter related to the adoption and observance of the precautionary measures.

4. The granting of such measures and their adoption by the State shall not constitute a prejudgment on the merits of a case.

CHAPTER II PETITIONS REFERRING TO THE AMERICAN CONVENTION ON HUMAN RIGHTS AND OTHER APPLICABLE INSTRUMENTS

Article 26. Initial Review

1. The Executive Secretariat of the Commission shall be responsible for the study and initial processing of petitions lodged before the Commission that fulfill all the requirements set forth in the Statute and in Article 28 of these Rules of Procedure.

2. If a petition or communication does not meet the requirements called for in these Rules of Procedure, the Executive Secretariat may request that the petitioner or his or her representative satisfy those that have not been fulfilled.

3. If the Executive Secretariat has any doubt as to whether the requirements referred to have been met, it shall consult the Commission.

Article 27. Condition for Considering the Petition

The Commission shall consider petitions regarding alleged violations of the human rights enshrined in the American Convention on Human Rights and other applicable instruments,

with respect to the Member States of the OAS, only when the petitions fulfill the requirements set forth in those instruments, in the Statute, and in these Rules of Procedure.

Article 28. Requirements for the Consideration of Petitions

Petitions addressed to the Commission shall contain the following information:

- a. the name, nationality and signature of the person or persons making the denunciation; or in cases where the petitioner is a nongovernmental entity, the name and signature of its legal representative(s);
- b. whether the petitioner wishes that his or her identity be withheld from the State;
- c. the address for receiving correspondence from the Commission and, if available, a telephone number, facsimile number, and email address;
- d. an account of the act or situation that is denounced, specifying the place and date of the alleged violations;
- e. if possible, the name of the victim and of any public authority who has taken cognizance of the fact or situation alleged;
- f. the State the petitioner considers responsible, by act or omission, for the violation of any of the human rights recognized in the American Convention on Human Rights and other applicable instruments, even if no specific reference is made to the article(s) alleged to have been violated;
- g. compliance with the time period provided for in Article 32 of these Rules of Procedure;
- h. any steps taken to exhaust domestic remedies, or the impossibility of doing so as provided in Article 31 of these Rules of Procedure; and,
- i. an indication of whether the complaint has been submitted to another international settlement proceeding as provided in Article 33 of these Rules of Procedure.

Article 29. Initial Processing

1. The Commission, acting initially through the Executive Secretariat, shall receive and carry out the initial processing of the petitions presented as follows:

- a. it shall receive the petition, register it, record the date of receipt on the petition itself and acknowledge receipt to the petitioner;
- b. if the petition does not meet the requirements of these Rules of Procedure, it may request that the petitioner or his or her representative complete them in accordance with Article 26(2) of these Rules;
- c. if the petition sets forth distinct facts, or if it refers to more than one person or to alleged violations not interconnected in time and place, the claims may be divided and processed separately, so long as all the requirements of Article 28 of these Rules of Procedure are met;

d. if two or more petitions address similar facts, involve the same persons, or reveal the same pattern of conduct, they may be joined and processed together;

e. in the situations provided for in subparagraphs c and d, it shall give written notification to petitioners.

2. In serious or urgent cases, the Executive Secretariat shall immediately notify the Commission.

Article 30. Admissibility Procedure

1. The Commission, through its Executive Secretariat, shall process the petitions that meet the requirements set forth in Article 28 of these Rules of Procedure

2. For this purpose, it shall forward the relevant parts of the petition to the State in question. The identity of the petitioner shall not be revealed without his or her express authorization. The request to the State for information shall not constitute a prejudgment with regard to any decision the Commission may adopt on the admissibility of the petition.

3. The State shall submit its response within two months counted from the date the request is transmitted. The Executive Secretariat shall evaluate requests for extensions of this period that are duly founded. However, it shall not grant extensions that exceed three months from the date of the first request for information sent to the State.

4. In serious or urgent cases, or when it is believed that the life or personal integrity of a person is in real or imminent danger, the Commission shall request the promptest reply from the State, using for this purpose the means it considers most expeditious.

5. Prior to deciding upon the admissibility of the petition, the Commission may invite the parties to submit additional observations, either in writing or in a hearing, as provided for in Chapter VI of these Rules of Procedure.

6. Once the observations have been received or the period set has elapsed with no observations received, the Commission shall verify whether the grounds for the petition exist or subsist. If it considers that they do not exist or subsist, it shall order the case archived.

Article 31. Exhaustion of Domestic Remedies

1. In order to decide on the admissibility of a matter, the Commission shall verify whether the remedies of the domestic legal system have been pursued and exhausted in accordance with the generally recognized principles of international law.

2. The provisions of the preceding paragraph shall not apply when:

a. the domestic legislation of the State concerned does not afford due process of law for protection of the right or rights that have allegedly been violated;

b. the party alleging violation of his or her rights has been denied access to the remedies under domestic law or has been prevented from exhausting them; or,

c. there has been unwarranted delay in rendering a final judgment under the aforementioned remedies.

3. When the petitioner contends that he or she is unable to prove compliance with the requirement indicated in this article, it shall be up to the State concerned to demonstrate to the Commission that the remedies under domestic law have not been previously exhausted, unless that is clearly evident from the record.

Article 32. Deadline for the Presentation of Petitions

1. The Commission shall consider those petitions that are lodged within a period of six-months following the date on which the alleged victim has been notified of the decision that exhausted the domestic remedies.

2. In those cases in which the exceptions to the requirement of prior exhaustion of domestic remedies are applicable, the petition shall be presented within a reasonable period of time, as determined by the Commission. For this purpose, the Commission shall consider the date on which the alleged violation of rights occurred and the circumstances of each case.

Article 33. Duplication of Procedures

1. The Commission shall not consider a petition if its subject matter:

a. is pending settlement pursuant to another procedure before an international governmental organization of which the State concerned is a member; or,

b. essentially duplicates a petition pending or already examined and settled by the Commission or by another international governmental organization of which the State concerned is a member.

2. However, the Commission shall not refrain from considering petitions referred to in paragraph 1 when:

a. the procedure followed before the other organization is limited to a general examination of the human rights situation in the State in question and there has been no decision on the specific facts that are the subject of the petition before the Commission, or it will not lead to an effective settlement; or,

b. the petitioner before the Commission or a family member is the alleged victim of the violation denounced and the petitioner before the other organization is a third party or a nongovernmental entity having no mandate from the former.

Article 34. Other Grounds for Inadmissibility

The Commission shall declare any petition or case inadmissible when:

a. it does not state facts that tend to establish a violation of the rights referred to in Article 27 of these Rules of Procedure;

b. the statements of the petitioner or of the State indicate that it is manifestly groundless or out of order; or,

c. supervening information or evidence presented to the Commission reveals that a matter is inadmissible or out of order.

Article 35. Desistance

The petitioner may at any time desist from his or her petition or case, to which effect he or she must so state in writing to the Commission. The statement by the petitioner shall be analyzed by the Commission, which may archive the petition or case if it deems this appropriate, or continue to process it in the interest of protecting a particular right.

Article 36. Working Group on Admissibility

A working group shall meet prior to each regular session in order to study the admissibility of petitions and make recommendations to the plenary of the Commission.

Article 37. Decision on Admissibility

1. Once it has considered the positions of the parties, the Commission shall make a decision on the admissibility of the matter. The reports on admissibility and inadmissibility shall be public and the Commission shall include them in its Annual Report to the General Assembly of the OAS.

2. When an admissibility report is adopted, the petition shall be registered as a case and the proceedings on the merits shall be initiated. The adoption of an admissibility report does not constitute a prejudgment as to the merits of the matter.

3. In exceptional circumstances, and after having requested information from the parties in keeping with the provisions of Article 30 of these Rules of Procedure, the Commission may open a case but defer its treatment of admissibility until the debate and decision on the merits. The case shall be opened by means of a written communication to both parties.

Article 38. Procedure on the Merits

1. Upon opening the case, the Commission shall set a period of two months for the petitioners to submit additional observations on the merits. The pertinent parts of those observations shall be transmitted to the State in question so that it may submit its observations within two months.

2. Prior to making its decision on the merits of the case, the Commission shall set a time period for the parties to express whether they have an interest in initiating the friendly settlement procedure provided for in Article 41 of these Rules of Procedure. The Commission may also invite the parties to submit additional observations in writing.

3. If it deems it necessary in order to advance in its consideration of the case, the Commission may convene the parties for a hearing, as provided for in Chapter VI of these Rules of Procedure.

Article 39. Presumption

The facts alleged in the petition, the pertinent parts of which have been transmitted to the State in question, shall be presumed to be true if the State has not provided responsive information during the maximum period set by the Commission under the provisions of Article 38 of these Rules of Procedure, as long as other evidence does not lead to a different conclusion.

Article 40. On-site Investigation

1. If it deems it necessary and advisable, the Commission may carry out an on-site investigation, for the effective conduct of which it shall request and the State concerned shall furnish all pertinent facilities.
2. However, in serious and urgent cases, only the presentation of a petition or communication that fulfills all the formal requirements of admissibility shall be necessary in order for the Commission to conduct an on-site investigation with the prior consent of the State in whose territory a violation has allegedly been committed.

Article 41. Friendly Settlement

1. On its own initiative or at the request of any of the parties, the Commission shall place itself at the disposal of the parties concerned, at any stage of the examination of a petition or case, with a view to reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in the American Convention on Human Rights, the American Declaration and other applicable instruments.
2. The friendly settlement procedure shall be initiated and continue on the basis of the consent of the parties.
3. When it deems it necessary, the Commission may entrust to one or more of its members the task of facilitating negotiations between the parties.
4. The Commission may terminate its intervention in the friendly settlement procedure if it finds that the matter is not susceptible to such a resolution or any of the parties does not consent to its application, decides not to continue it, or does not display the willingness to reach a friendly settlement based on respect for human rights.
5. If a friendly settlement is reached, the Commission shall adopt a report with a brief statement of the facts and of the solution reached, shall transmit it to the parties concerned and shall publish it. Prior to adopting that report, the Commission shall verify whether the victim of the alleged violation or, as the case may be, his or her successors, have consented to the friendly settlement agreement. In all cases, the friendly settlement must be based on respect for the human rights recognized in the American Convention on Human Rights, the American Declaration and other applicable instruments.
6. If no friendly settlement is reached, the Commission shall continue to process the petition or case.

Article 42. Decision on the Merits

1. The Commission shall deliberate on the merits of the case, to which end it shall prepare a report in which it will examine the arguments, the evidence presented by the parties, and the information obtained during hearings and on-site observations. In addition, the Commission may take into account other information that is a matter of public knowledge.
2. The Commission shall deliberate in private, and all aspects of the discussions shall be confidential.

3. Any question put to a vote shall be formulated in precise terms in one of the official languages of the OAS. At the request of any member, the text shall be translated by the Secretariat into one of the other official languages and distributed prior to the vote.

4. The minutes referring to the Commission's deliberations shall restrict themselves to the subject of the debate and the decision approved, as well as any separate opinions and any statements made for inclusion in the minutes.

Article 43. Report on the Merits

After the deliberation and vote on the merits of the case, the Commission shall proceed as follows:

1. If it establishes that there was no violation in a given case, it shall so state in its report on the merits. The report shall be transmitted to the parties, and shall be published and included in the Commission's Annual Report to the OAS General Assembly.

2. If it establishes one or more violations, it shall prepare a preliminary report with the proposals and recommendations it deems pertinent and shall transmit it to the State in question. In so doing, it shall set a deadline by which the State in question must report on the measures adopted to comply with the recommendations. The State shall not be authorized to publish the report until the Commission adopts a decision in this respect.

3. It shall notify the petitioner of the adoption of the report and its transmittal to the State. In the case of States Parties to the American Convention that have accepted the contentious jurisdiction of the Inter-American Court, upon notifying the petitioner, the Commission shall give him or her one month to present his or her position as to whether the case should be submitted to the Court. When the petitioner is interested in the submission of the case, he or she should present the following:

- a. the position of the victim or the victim's family members, if different from that of the petitioner;
- b. the personal data relative to the victim and the victim's family members;
- c. the reasons he or she considers that the case should be referred to the Court;
- d. the documentary, testimonial, and expert evidence available; and,
- e. the claims concerning reparations and costs.

Article 44. Referral of the Case to the Court

1. If the State in question has accepted the jurisdiction of the Inter-American Court in accordance with Article 62 of the American Convention, and the Commission considers that the State has not complied with the recommendations of the report approved in accordance with Article 50 of the American Convention, it shall refer the case to the Court, unless there is a reasoned decision by an absolute majority of the members of the Commission to the contrary.

2. The Commission shall give fundamental consideration to obtaining justice in the particular case, based, among others, on the following factors:

- a. the position of the petitioner;
- b. the nature and seriousness of the violation;
- c. the need to develop or clarify the case-law of the system;
- d. the future effect of the decision within the legal systems of the Member States; and,
- e. the quality of the evidence available.

Article 45. Publication of the Report

1. If within three months from the transmittal of the preliminary report to the State in question the matter has not been solved or, for those States that have accepted the jurisdiction of the Inter-American Court, has not been referred by the Commission or by the State to the Court for a decision, the Commission, by an absolute majority of votes, may issue a final report that contains its opinion and final conclusions and recommendations.
2. The final report shall be transmitted to the parties, who, within the time period set by the Commission, shall present information on compliance with the recommendations.
3. The Commission shall evaluate compliance with its recommendations based on the information available, and shall decide on the publication of the final report by the vote of an absolute majority of its members. The Commission shall also make a determination as to whether to include it in the Annual Report to the OAS General Assembly, and/or to publish it in any other manner deemed appropriate.

Article 46. Follow-Up

1. Once the Commission has published a report on a friendly settlement or on the merits in which it has made recommendations, it may adopt the follow-up measures it deems appropriate, such as requesting information from the parties and holding hearings in order to verify compliance with friendly settlement agreements and its recommendations.
2. The Commission shall report on progress in complying with those agreements and recommendations as it deems appropriate.

Article 47. Certification of Reports

The originals of the reports signed by the Commissioners who participated in their adoption shall be deposited in the files of the Commission. The reports transmitted to the parties shall be certified by the Executive Secretariat.

Article 48. Interstate Communications

1. A communication presented by a State Party to the American Convention on Human Rights that has accepted the competence of the Commission to receive and examine such communications against other States Parties shall be transmitted to the State Party in question, whether or not it has accepted the Commission's competence in this respect. If that competence has not been accepted, the communication shall be transmitted in order that the State concerned may exercise its option under Article 45, paragraph 3 of the Convention, to recognize that competence in the specific case that is the subject of the communication.

2. If the State in question has accepted the Commission's competence to consider a communication from another State Party, the respective procedure shall be governed by the provisions of the present Chapter II, insofar as they apply.

CHAPTER III PETITIONS CONCERNING STATES THAT ARE NOT PARTIES TO THE AMERICAN CONVENTION ON HUMAN RIGHTS

Article 49. Receipt of the Petition

The Commission shall receive and examine any petition that contains a denunciation of alleged violations of the human rights set forth in the American Declaration of the Rights and Duties of Man in relation to the Member States of the Organization that are not parties to the American Convention on Human Rights.

Article 50. Applicable Procedure

The procedure applicable to petitions concerning Member States of the OAS that are not parties to the American Convention shall be that provided for in the general provisions included in Chapter I of Title II; in Articles 28 to 43 and 45 to 47 of these Rules of Procedure.

CHAPTER IV ON-SITE OBSERVATIONS

Article 51. Designation of the Special Commission

On-site observations shall in each case be conducted by a Special Commission named for that purpose. The number of members of the Special Commission and the designation of its President shall be determined by the Commission. In cases of great urgency, such decisions may be made by the President subject to the approval of the Commission.

Article 52. Disqualification

A member of the Commission who is a national of or who resides in the territory of the State in which the on-site observation is to be conducted shall be disqualified from participating in it.

Article 53. Schedule of Activities

The Special Commission shall organize its own activities. To that end, it may assign any activity related to its mission to its own members and, in consultation with the Executive Secretary, to any staff members or necessary personnel of the Executive Secretariat.

Article 54. Necessary Facilities and Guarantees

In extending an invitation for an on-site observation or in giving its consent thereto, the State shall furnish to the Special Commission all necessary facilities for carrying out its mission. In particular, it shall commit itself not to take any reprisals of any kind against any persons or entities cooperating with or providing information or testimony to the Special Commission.

Article 55. Other Applicable Standards

Without prejudice to the provisions in the preceding article, any on-site observation agreed upon by the Commission shall be carried out in accordance with the following standards:

- a. the Special Commission or any of its members shall be able to interview any persons, groups, entities or institutions freely and in private;
- b. the State shall grant the necessary guarantees to those who provide the Special Commission with information, testimony or evidence of any kind;
- c. the members of the Special Commission shall be able to travel freely throughout the territory of the country, for which purpose the State shall extend all the corresponding facilities, including the necessary documentation;
- d. the State shall ensure the availability of local means of transportation;
- e. the members of the Special Commission shall have access to the jails and all other detention and interrogation sites and shall be able to interview in private those persons imprisoned or detained;
- f. the State shall provide the Special Commission with any document related to the observance of human rights that the latter may consider necessary for the presentation of its reports;
- g. the Special Commission shall be able to use any method appropriate for filming, photographing, collecting, documenting, recording, or reproducing the information it considers useful;
- h. the State shall adopt the security measures necessary to protect the Special Commission;
- i. the State shall ensure the availability of appropriate lodging for the members of the Special Commission;
- j. the same guarantees and facilities that are set forth in this article for the members of the Special Commission shall also be extended to the staff of the Executive Secretariat;
- k. the expenses incurred by the Special Commission, each of its members and the staff of the Executive Secretariat shall be borne by the OAS, subject to the pertinent provisions.

CHAPTER V ANNUAL REPORT AND OTHER REPORTS OF THE COMMISSION

Article 56. Preparation of Reports

The Commission shall submit an annual report to the General Assembly of the OAS. In addition, the Commission shall prepare the studies and reports it deems advisable for the performance of its functions and shall publish them as it sees fit. Once their publication is approved, the Commission shall transmit them, through the General Secretariat, to the Member States of the OAS and its pertinent organs.

Article 57. Annual Report

1. The Annual Report presented by the Commission to the General Assembly of the OAS shall include the following:

a. An analysis of the human rights situation in the hemisphere, along with recommendations to the States and organs of the OAS as to the measures necessary to strengthen respect for human rights;

b. a brief account of the origin, legal bases, structure and purposes of the Commission, as well as the status of ratifications of the American Convention and all other applicable instruments;

c. a summary of the mandates and recommendations conferred upon the Commission by the General Assembly and the other competent organs, and of the status of implementation of such mandates and recommendations;

d. a list of the periods of sessions held during the time period covered by the report and of other activities carried out by the Commission to achieve its purposes, objectives and mandates;

e. a summary of the activities of the Commission carried out in cooperation with other organs of the OAS and with regional or universal organs of the same type, and the results achieved;

f. the reports on individual petitions and cases whose publication has been approved by the Commission, as well as a list of the precautionary measures granted and extended, and of its activities before the Inter-American Court;

g. a statement on the progress made in attaining the objectives set forth in the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights and all other applicable instruments;

h. any general or special report the Commission considers necessary with regard to the situation of human rights in the Member States, and, as the case may be, follow-up reports noting the progress achieved and the difficulties that have existed with respect to the effective observance of human rights; and,

i. any other information, observation or recommendation that the Commission considers advisable to submit to the General Assembly, as well as any new activity or project that implies additional expenditures.

2. For the preparation and adoption of the reports provided for in paragraph 1(h) of this article, the Commission shall gather information from all the sources it deems necessary for the protection of human rights. Prior to its publication in the Annual Report, the Commission shall provide a copy of said report to the respective State. That State may send the Commission the views it deems pertinent within a maximum time period of one month from the date of transmission. The contents of the report and the decision to publish it shall be within the exclusive discretion of the Commission.

Article 58. Report on Human Rights in a State

The preparation of a general or special report on the status of human rights in a specific State shall meet the following standards:

- a. after the draft report has been approved by the Commission, it shall be transmitted to the government of the Member State in question so that it may make any observations it deems pertinent;
- b. the Commission shall indicate to that State the deadline within which it must present its observations;
- c. once the Commission has received the observations from the State, it shall study them and, in light thereof, may maintain or modify its report and decide how it is to be published;
- d. if no observation has been submitted by the State as of the expiration of the deadline, the Commission shall publish the report in the manner it deems appropriate;
- e. after its publication, the Commission shall transmit it through the General Secretariat to the Member States and General Assembly of the OAS.

CHAPTER VI HEARINGS BEFORE THE COMMISSION

Article 59. Initiative

The Commission may decide to hold hearings on its own initiative or at the request of an interested party. The decision to convoke the hearings shall be made by the President of the Commission, at the proposal of the Executive Secretary.

Article 60. Purpose

The hearings may have the purpose of receiving 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.

Article 61. Guarantees

The State in question shall grant the necessary guarantees to all the persons who attend a hearing or who in the course of a hearing provide information, testimony or evidence of any type to the Commission. That State may not prosecute the witnesses or experts, or carry out reprisals against them or their family members because of their statements or expert opinions given before the Commission.

Article 62. Hearings on Petitions or Cases

1. Hearings on petitions or cases shall have as their purpose the receipt of oral or written presentations by the parties relative to new facts and information additional to that which has been produced during the proceeding. The information may refer to any of the following issues: admissibility; the initiation or development of the friendly settlement procedure; the verification of the facts; the merits of the matter; follow-up on recommendations; or any other matter pertinent to the processing of the petition or case.

2. Requests for hearings must be submitted in writing at least 40 days prior to the beginning of the respective session of the Commission. Requests for hearings shall indicate their purpose and the identity of the participants.

3. If the Commission accedes to the request or decides to hold a hearing on its own initiative, it shall convoke both parties. If one party, having been duly notified, does not appear, the Commission shall proceed with the hearing. The Commission shall adopt the necessary measures to maintain in confidence the identity of the experts and witnesses if it believes that they require such protection.

4. The Executive Secretariat shall inform the parties as to the date, place and time of the hearing at least one month in advance. However, that time period may be reduced if the participants grant the Executive Secretariat prior and express consent to that effect.

Article 63. Presentation and Production of Evidence

1. During the hearing, the parties may present any document, testimony, expert report or item of evidence. At the request of a party or on its own initiative, the Commission may receive the testimony of witnesses or experts.

2. With respect to the documentary evidence submitted during the hearing, the Commission shall grant the parties a prudential time period for submitting their observations.

3. A party that proposes witnesses or experts for a hearing shall so state in its request. For this purpose, it shall identify the witness or expert and the purpose of his or her witness or expert testimony.

4. Upon deciding on the request for a hearing, the Commission shall also determine whether to receive the witness or expert testimony proposed.

5. When one party offers witness and expert testimony, the Commission shall notify the other party to that effect.

6. In extraordinary circumstances and for the purpose of safeguarding the evidence, the Commission may, at its discretion, receive testimony in hearings without satisfying the terms of the previous paragraph. In such circumstances, it shall take the measures necessary to guarantee the procedural balance between the parties in the matter submitted for its consideration.

7. The Commission shall hear one witness at a time; the other witnesses shall remain outside the hearing room. Witnesses may not read their presentations to the Commission.

8. Prior to giving their testimony, witnesses and experts shall identify themselves and take an oath or make a solemn promise to tell the truth. At the express request of the interested person, the Commission may maintain the identity of a witness or expert in confidence when necessary to protect him or her or other persons.

Article 64. Hearings of a General Nature

1. Persons who are interested in presenting testimony or information to the Commission on the human rights situation in one or more States, or on matters of general interest, shall direct a request for a hearing to the Executive Secretariat with proper notice prior to the respective session.

2. Persons making such a request shall indicate the purpose of their appearance, a summary of the information they will furnish, the approximate time required for that purpose, and the identity of the participants.

Article 65. Participation of the Commission Members

The President of the Commission may form working groups to participate in the program of hearings.

Article 66. Attendance

Attendance at the hearings shall be limited to the representatives of the parties, the Commission, the staff of the Executive Secretariat, and the Recording Secretaries. The decision to allow the presence of other persons shall vest exclusively in the Commission, which shall so inform the parties prior to beginning the hearing, orally or in writing.

Article 67. Expenses

The party that proposes the production of evidence at a hearing shall cover all of the attendant expenses.

Article 68. Documents and Minutes of the Hearings

1. A summary of the minutes of hearing shall be prepared and shall record the day and time it was held, the names of the participants, the decisions adopted, and the commitments assumed by the parties. The documents submitted by the parties in the hearing shall be attached as annexes to the minutes.

2. The minutes of the hearings are internal working documents of the Commission. If a party so requests, the Commission shall provide a copy, unless, in the view of the Commission, its contents could entail some risk to persons.

3. The Commission shall make a tape of the testimony and shall make it available to the parties that so request.

TITLE III
RELATIONS WITH THE INTER-AMERICAN COURT OF HUMAN RIGHTS
CHAPTER I
DELEGATES, ADVISERS, WITNESSES AND EXPERTS

Article 69. Delegates and Assistants[3]

1. The Commission shall entrust one or more of its members and its Executive Secretary to represent it and participate as delegates in the consideration of any matter before the Inter-American Court of Human Rights. That representation shall remain in effect as long as the delegate is a member of the Commission or serves as its Executive Secretary, although the Commission may, under exceptional circumstances, decide to extend the duration of that representation.

2. If the petitioner so requests, the Commission shall include him or her as a delegate.

3. When it designates more than one delegate, the Commission shall assign to one of them the responsibility of resolving situations that are not foreseen in the instructions, or of clarifying any doubts raised by a delegate.

4. The delegates may be assisted by any person designated by the Commission. In the discharge of their functions, the advisers shall act in accordance with the instructions of the delegates.

Article 70. Witnesses and Experts

1. The Commission may also request the Court to summon other persons as witnesses or experts.

2. The summoning of such witnesses or experts shall be in accordance with the Rules of Procedure of the Court.

CHAPTER II PROCEDURE BEFORE THE COURT

Article 71. Notification of the Petitioner

If the Commission decides to refer a case to the Court, the Executive Secretary shall immediately give notice of that decision to the petitioner and to the victim. With that communication, the Commission shall transmit all the elements necessary for the preparation and presentation of the application.

Article 72. Presentation of the Application

1. When, in accordance with Article 61 of the American Convention on Human Rights, the Commission decides to bring a case before the Court, it shall submit an application specifying the:

- a. claims on the merits, and reparations and costs sought;
- b. parties in the case;
- c. presentation of the facts;
- d. information on the opening of the procedure and admissibility of the petition;
- e. individualization of the witnesses and experts and the purpose of their statements;
- f. legal grounds and the pertinent conclusions;
- g. available information on the original complainant, the alleged victims, their family members or duly accredited representatives;
- h. names of its delegates; and,
- i. the report provided for in Article 50 of the American Convention.

2. The Commission's application shall be accompanied by certified copies of the items in the file that the Commission or its delegate considers pertinent.

Article 73. Transmittal of other Elements

The Commission shall transmit to the Court, at its request, any other evidence, document or information concerning the case, with the exception of documents concerning futile attempts to reach a friendly settlement. The transmittal of documents shall in each case be subject to the decision of the Commission, which shall withhold the name and identity of the petitioner, if the latter has not authorized that this be revealed.

Article 74. Provisional Measures

1. The Commission may request that the Court adopt provisional measures in cases of extreme gravity and urgency, and when it becomes necessary to avoid irreparable damage to persons in a matter that has not yet been submitted to the Court for consideration.

2. When the Commission is not in session, that request may be made by the President, or in his or her absence, by one of the Vice-Presidents in order of precedence.

TITLE IV FINAL PROVISIONS

Article 75. Calendar Computation

All time periods set forth in the present Rules of Procedure--in numbers of days--will be understood to be counted as calendar days.

Article 76. Interpretation

Any doubt that might arise with respect to the interpretation of these Rules of Procedure shall be resolved by an absolute majority of the members of the Commission.

Article 77. Amendment of the Rules of Procedure

The Rules of Procedure may be amended by an absolute majority of the members of the Commission.

Article 78. Transitory Provision

The amendments to these Rules of Procedure, approved at the 116th regular period of sessions of the Commission, held from October 7 to 25, 2002, whose texts in English and Spanish are equally authentic, shall enter into force on January 1, 2003.

STATUTE OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS

Adopted by the General Assembly of the OAS at its
Ninth Regular Session, held in La Paz Bolivia, October 1979
(Resolution N° 448)

CHAPTER I GENERAL PROVISIONS

Article 1. Nature and Legal Organization

The Inter-American Court of Human Rights is an autonomous judicial institution whose purpose is the application and interpretation of the American Convention on Human Rights. The Court exercises its functions in accordance with the provisions of the aforementioned Convention and the present Statute.

Article 2. Jurisdiction

The Court shall exercise adjudicatory and advisory jurisdiction:

1. Its adjudicatory jurisdiction shall be governed by the provisions of Articles 61, 62 and 63 of the Convention, and
2. Its advisory jurisdiction shall be governed by the provisions of Article 64 of the Convention.

Article 3. Seat

1. The seat of the Court shall be San José, Costa Rica; however, the Court may convene in any member state of the Organization of American States (OAS) when a majority of the Court considers it desirable, and with the prior consent of the State concerned.
2. The seat of the Court may be changed by a vote of two-thirds of the States Parties to the Convention, in the OAS General Assembly.

CHAPTER II COMPOSITION OF THE COURT

Article 4. Composition

1. The Court shall consist of seven judges, nationals of the member states of the OAS, elected in an individual capacity from among jurists of the highest moral authority and of recognized competence in the field of human rights, who possess the qualifications required for the exercise of the highest judicial functions under the law of the State of which they are nationals or of the State that proposes them as candidates.
2. No two judges may be nationals of the same State.

Article 5. Judicial Terms

1. The judges of the Court shall be elected for a term of six years and may be reelected only once. A judge elected to replace a judge whose term has not expired shall complete that term.
2. The terms of office of the judges shall run from January 1 of the year following that of their election to December 31 of the year in which their terms expire.
3. The judges shall serve until the end of their terms. Nevertheless, they shall continue to hear the cases they have begun to hear and that are still pending, and shall not be replaced by the newly elected judges in the handling of those cases.

Article 6. Election of the Judges - Date

1. Election of judges shall take place, insofar as possible, during the session of the OAS General Assembly immediately prior to the expiration of the term of the outgoing judges.
2. Vacancies on the Court caused by death, permanent disability, resignation or dismissal of judges shall, insofar as possible, be filled at the next session of the OAS General Assembly. However, an election shall not be necessary when a vacancy occurs within six months of the expiration of a term.
3. If necessary in order to preserve a quorum of the Court, the States Parties to the Convention, at a meeting of the OAS Permanent Council, and at the request of the President of the Court, shall appoint one or more interim judges who shall serve until such time as they are replaced by elected judges.

Article 7. Candidates

1. Judges shall be elected by the States Parties to the Convention, at the OAS General Assembly, from a list of candidates nominated by those States.
2. Each State Party may nominate up to three candidates, nationals of the state that proposes them or of any other member state of the OAS.
3. When a slate of three is proposed, at least one of the candidates must be a national of a state other than the nominating state.

Article 8. Election - Preliminary Procedures

1. Six months prior to expiration of the terms to which the judges of the Court were elected, the Secretary General of the OAS shall address a written request to each State Party to the Convention that it nominate its candidates within the next ninety days.

2. The Secretary General of the OAS shall draw up an alphabetical list of the candidates nominated, and shall forward it to the States Parties, if possible, at least thirty days before the next session of the OAS General Assembly.
3. In the case of vacancies on the Court, as well as in cases of the death or permanent disability of a candidate, the aforementioned time periods shall be shortened to a period that the Secretary General of the OAS deems reasonable.

Article 9. Voting

1. The judges shall be elected by secret ballot and by an absolute majority of the States Parties to the Convention, from among the candidates referred to in Article 7 of the present Statute.
2. The candidates who obtain the largest number of votes and an absolute majority shall be declared elected. Should several ballots be necessary, those candidates who receive the smallest number of votes shall be eliminated successively, in the manner determined by the States Parties.

Article 10. Ad Hoc Judges

1. If a judge is a national of any of the States Parties to a case submitted to the Court, he shall retain his right to hear that case.
2. If one of the judges called upon to hear a case is a national of one of the States Parties to the case, any other State Party to the case may appoint a person to serve on the Court as an ad hoc judge.
3. If among the judges called upon to hear a case, none is a national of the States Parties to the case, each of the latter may appoint an ad hoc judge. Should several States have the same interest in the case, they shall be regarded as a single party for purposes of the above provisions. In case of doubt, the Court shall decide.
4. The right of any State to appoint an ad hoc judge shall be considered relinquished if the State should fail to do so within thirty days following the written request from the President of the Court.
5. The provisions of Articles 4, 11, 15, 16, 18, 19 and 20 of the present Statute shall apply to ad hoc judges.

Article 11. Oath

1. Upon assuming office, each judge shall take the following oath or make the following solemn declaration: "I swear" - or "I solemnly declare" - "that I shall exercise my functions as a judge honorably, independently and impartially and that I shall keep secret all deliberations."
2. The oath shall be administered by the President of the Court and, if possible, in the presence of the other judges.

CHAPTER III STRUCTURE OF THE COURT

Article 12. Presidency

1. The Court shall elect from among its members a President and Vice-President who shall serve for a period of two years; they may be reelected.
2. The President shall direct the work of the Court, represent it, regulate the disposition of matters brought before the Court, and preside over its sessions.
3. The Vice-President shall take the place of the President in the latter's temporary absence, or if the office of the President becomes vacant. In the latter case, the Court shall elect a new Vice-President to serve out the term of the previous Vice-President.
4. In the absence of the President and the Vice-President, their duties shall be assumed by other judges, following the order of precedence established in Article 13 of the present Statute.

Article 13. Precedence

1. Elected judges shall take precedence after the President and Vice-President according to their seniority in office.
2. Judges having the same seniority in office shall take precedence according to age.

3. Ad hoc and interim judges shall take precedence after the elected judges, according to age. However, if an ad hoc or interim judge has previously served as an elected judge, he shall have precedence over any other ad hoc or interim judge.

Article 14. Secretariat

1. The Secretariat of the Court shall function under the immediate authority of the Secretary, in accordance with the administrative standards of the OAS General Secretariat, in all matters that are not incompatible with the independence of the Court.
2. The Secretary shall be appointed by the Court. He shall be a full-time employee serving in a position of trust to the Court, shall have his office at the seat of the Court and shall attend any meetings that the Court holds away from its seat.
3. There shall be an Assistant Secretary who shall assist the Secretary in his duties and shall replace him in his temporary absence.
4. The Staff of the Secretariat shall be appointed by the Secretary General of the OAS, in consultation with the Secretary of the Court.

CHAPTER IV RIGHTS, DUTIES AND RESPONSIBILITIES

Article 15. Privileges and Immunities

1. The judges of the Court shall enjoy, from the moment of their election and throughout their term of office, the immunities extended to diplomatic agents under international law. During the exercise of their functions, they shall, in addition, enjoy the diplomatic privileges necessary for the performance of their duties.
2. At no time shall the judges of the Court be held liable for any decisions or opinions issued in the exercise of their functions.
3. The Court itself and its staff shall enjoy the privileges and immunities provided for in the Agreement on Privileges and Immunities of the Organization of American States, of May 15, 1949, mutatis mutandis, taking into account the importance and independence of the Court.
4. The provision of paragraphs 1, 2 and 3 of this article shall apply to the States Parties to the Convention. They shall also apply to such other member states of the OAS as expressly accept them, either in general or for specific cases.
5. The system of privileges and immunities of the judges of the Court and of its staff may be regulated or supplemented by multilateral or bilateral agreements between the Court, the OAS and its member states.

Article 16. Service

1. The judges shall remain at the disposal of the Court, and shall travel to the seat of the Court or to the place where the Court is holding its sessions as often and for as long a time as may be necessary, as established in the Regulations.
2. The President shall render his service on a permanent basis.

Article 17. Emoluments

1. The emoluments of the President and the judges of the Court shall be set in accordance with the obligations and incompatibilities imposed on them by Articles 16 and 18, and bearing in mind the importance and independence of their functions.
2. The ad hoc judges shall receive the emoluments established by Regulations, within the limits of the Court's budget.
3. The judges shall also receive per diem and travel allowances, when appropriate.

Article 18. Incompatibilities

1. The position of judge of the Inter-American Court of Human Rights is incompatible with the following positions and activities:
 - a. Members or high-ranking officials of the executive branch of government, except for those who hold positions that do not place them under the direct control of the executive branch and those of diplomatic agents who are not Chiefs of Missions to the OAS or to any of its member states;
 - b. Officials of international organizations;

- c. Any others that might prevent the judges from discharging their duties, or that might affect their independence or impartiality, or the dignity and prestige of the office.
2. In case of doubt as to incompatibility, the Court shall decide. If the incompatibility is not resolved, the provisions of Article 73 of the Convention and Article 20(2) of the present Statute shall apply.
3. Incompatibilities may lead only to dismissal of the judge and the imposition of applicable liabilities, but shall not invalidate the acts and decisions in which the judge in question participated.

Article 19. Disqualification

1. Judges may not take part in matters in which, in the opinion of the Court, they or members of their family have a direct interest or in which they have previously taken part as agents, counsel or advocates, or as members of a national or international court or an investigatory committee, or in any other capacity.
2. If a judge is disqualified from hearing a case or for some other appropriate reason considers that he should not take part in a specific matter, he shall advise the President of his disqualification. Should the latter disagree, the Court shall decide.
3. If the President considers that a judge has cause for disqualification or for some other pertinent reason should not take part in a given matter, he shall advise him to that effect. Should the judge in question disagree, the Court shall decide.
4. When one or more judges are disqualified pursuant to this article, the President may request the States Parties to the Convention, in a meeting of the OAS Permanent Council, to appoint interim judges to replace them.

Article 20. Disciplinary Regime

1. In the performance of their duties and at all other times, the judges and staff of the Court shall conduct themselves in a manner that is in keeping with the office of those who perform an international judicial function. They shall be answerable to the Court for their conduct, as well as for any violation, act of negligence or omission committed in the exercise of their functions.
2. The OAS General Assembly shall have disciplinary authority over the judges, but may exercise that authority only at the request of the Court itself, composed for this purpose of the remaining judges. The Court shall inform the General Assembly of the reasons for its request.
3. Disciplinary authority over the Secretary shall lie with the Court, and over the rest of the staff, with the Secretary, who shall exercise that authority with the approval of the President.
4. The Court shall issue disciplinary rules, subject to the administrative regulations of the OAS General Secretariat insofar as they may be applicable in accordance with Article 59 of the Convention.

Article 21. Resignation - Incapacity

1. Any resignation from the Court shall be submitted in writing to the President of the Court. The resignation shall not become effective until the Court has accepted it.
2. The Court shall decide whether a judge is incapable of performing his functions.
3. The President of the Court shall notify the Secretary General of the OAS of the acceptance of a resignation or a determination of incapacity, for appropriate action.

CHAPTER V

THE WORKINGS OF THE COURT

Article 22. Sessions

1. The Court shall hold regular and special sessions.
2. Regular sessions shall be held as determined by the Regulations of the Court.
3. Special sessions shall be convoked by the President or at the request of a majority of the judges.

Article 23. Quorum

1. The quorum for deliberations by the Court shall be five judges.

2. Decisions of the Court shall be taken by a majority vote of the judges present.
3. In the event of a tie, the President shall cast the deciding vote.

Article 24. Hearings, Deliberations, Decisions

1. The hearings shall be public, unless the Court, in exceptional circumstances, decides otherwise.
2. The Court shall deliberate in private. Its deliberations shall remain secret, unless the Court decides otherwise.
3. The decisions, judgments and opinions of the Court shall be delivered in public session, and the parties shall be given written notification thereof. In addition, the decisions, judgments and opinions shall be published, along with judges' individual votes and opinions and with such other data or background information that the Court may deem appropriate.

Article 25. Rules and Regulations

1. The Court shall draw up its Rules of Procedure.
2. The Rules of Procedure may delegate to the President or to Committees of the Court authority to carry out certain parts of the legal proceedings, with the exception of issuing final rulings or advisory opinions. Rulings or decisions issued by the President or the Committees of the Court that are not purely procedural in nature may be appealed before the full Court.
3. The Court shall also draw up its own Regulations.

Article 26. Budget, Financial System

1. The Court shall draw up its own budget and shall submit it for approval to the General Assembly of the OAS, through the General Secretariat. The latter may not introduce any changes in it.
2. The Court shall administer its own budget.

CHAPTER VI

RELATIONS WITH GOVERNMENTS AND ORGANIZATIONS

Article 27. Relations with the Host Country, Governments and Organizations

1. The relations of the Court with the host country shall be governed through a headquarters agreement. The seat of the Court shall be international in nature.
2. The relations of the Court with governments, with the OAS and its organs, agencies and entities and with other international governmental organizations involved in promoting and defending human rights shall be governed through special agreements.

Article 28. Relations with the Inter-American Commission on Human Rights

The Inter-American Commission on Human Rights shall appear as a party before the Court in all cases within the adjudicatory jurisdiction of the Court, pursuant to Article 2(1) of the present Statute.

Article 29. Agreements of Cooperation

1. The Court may enter into agreements of cooperation with such nonprofit institutions as law schools, bar associations, courts, academies and educational or research institutions dealing with related disciplines in order to obtain their cooperation and to strengthen and promote the juridical and institutional principles of the Convention in general and of the Court in particular.
2. The Court shall include an account of such agreements and their results in its Annual Report to the OAS General Assembly.

Article 30. Report to the OAS General Assembly

The Court shall submit a report on its work of the previous year to each regular session of the OAS General Assembly. It shall indicate those cases in which a State has failed to comply with the Court's ruling. It may also submit to the OAS General Assembly proposals or recommendations on ways to improve the inter-American system of human rights, insofar as they concern the work of the Court.

**CHAPTER VII
FINAL PROVISIONS**

Article 31. Amendments to the Statute

The present Statute may be amended by the OAS General Assembly, at the initiative of any member state or of the Court itself.

Article 32. Entry into Force

The present Statute shall enter into force on January 1, 1980.

RULES OF PROCEDURE OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS

Approved by the Court at its Forty-ninth Regular Session

held from November 16 to 25, 2000

PRELIMINARY PROVISIONS

Article 1. Purpose

1. These Rules regulate the organization and establish the procedure of the Inter-American Court of Human Rights.

2. The Court may adopt such other Rules as may be necessary to carry out its functions.

3. In the absence of a provision in these Rules or in case of doubt as to their interpretation, the Court shall decide.

Article 2. Definitions

For the purposes of these Rules:

1. the term "Agent" refers to the person designated by a State to represent it before the Inter-American Court of Human Rights;

2. the term "Deputy Agent" refers to the person designated by a State to assist the Agent in the discharge of his duties and to replace him during his temporary absences;
3. the expression "General Assembly" refers to the General Assembly of the Organization of American States;
4. the term "Commission" refers to the Inter-American Commission on Human Rights;
5. the expression "Permanent Commission" refers to the Permanent Commission of the Inter-American Court of Human Rights;
6. The expression "Permanent Council" refers to the Permanent Council of the Organization of American States;
7. the term "Convention" refers to the American Convention on Human Rights (Pact of San José, Costa Rica);
8. the term "Court" refers to the Inter-American Court of Human Rights;
9. the term "Delegates" refers to the persons designated by the Commission to represent it before the Court;
10. the expression "original claimant" refers to the person, group of persons, or nongovernmental entity that instituted the original petition before the Commission, pursuant to Article 44 of the Convention;
11. the term "day" shall be understood to be a natural day;
12. the expression "States Parties" refers to the States that have ratified or adhered to the Convention;

13. the expression "Member States" refers to the States that are members of the Organization of American States;

14. the term "Statute" refers to the Statute of the Court adopted by the General Assembly of the Organization of American States on 31 October 1979 (AG/RES. 448 [IX-0/79]), as amended;

15. the expression "next of kin" refers to the immediate family, that is, the direct ascendants and descendants, siblings, spouses or permanent companions, or those determined by the Court, if applicable;

16. the expression "report of the Commission" refers to the report provided for in Article 50 of the Convention;

17. the term "Judge" refers to the judges who compose the Court for each case;

18. the expression "Titular Judge" refers to any judge elected pursuant to Articles 53 and 54 of the Convention;

19. the expression "Interim Judge" refers to any judge appointed pursuant to Articles 6(3) and 19(4) of the Statute;

20. the expression "Judge ad hoc" refers to any judge appointed pursuant to Article 55 of the Convention;

21. the term "month" shall be understood to be a calendar month;

22. the acronym "OAS" refers to the Organization of American States;

23. the expression "parties to the case" refers to the victim or the alleged victim, the State and, only procedurally, the Commission;

24. the term "President" refers to the President of the Court;
25. the term "Secretariat" refers to the Secretariat of the Court;
26. the term "Secretary" refers to the Secretary of the Court;
27. the expression "Deputy Secretary" refers to the Deputy Secretary of the Court;
28. the expression "Secretary General" refers to the Secretary General of the Organization of American States;
29. the expression "Vice-President" refers to the Vice-President of the Court;
30. the expression "alleged victim" refers to the person whose rights under the Convention are alleged to have been violated;
31. the term "victim" refers to the person whose rights have been violated, according to a judgment pronounced by the Court.

TITLE I

ORGANIZATION AND FUNCTIONING OF THE COURT

Chapter I

The Presidency and Vice-Presidency

Article 3. Election of the President and the Vice-President

1. The President and the Vice-President shall be elected by the Court for a period of two years and may be reelected. Their term shall begin on the first day of the first session of the corresponding year. The election shall take place at the last regular session held by the Court during the preceding year.

2. The elections referred to in this Article shall be by secret ballot of the Titular Judges present. The judge who wins four or more votes shall be deemed to have been elected. If no candidate receives the required number of votes, a ballot shall take place between the two judges who have received the most votes. In the event of a tie, the judge having precedence in accordance with Article 13 of the Statute shall be deemed to have been elected.

Article 4. Functions of the President

1. The functions of the President are to:

a. represent the Court;

b. preside over the meetings of the Court and to submit for its consideration the topics appearing on the agenda;

c. direct and promote the work of the Court;

d. rule on points of order that may arise during the meetings of the Court. If any judge so requests, the point of order shall be decided by a majority vote;

e. present a biannual report to the Court on the activities he has carried out as President during that period;

f. exercise such other functions as are conferred upon him by the Statute or these Rules, or entrusted to him by the Court.

2. In specific cases, the President may delegate the representation referred to in paragraph 1(a) of this Article to the Vice-President, to any of the judges or, if necessary, to the Secretary or to the Deputy Secretary.

3. If the President is a national of one of the parties to a case before the Court, or in special situations in which he considers it appropriate, he shall relinquish the Presidency for that particular case. The same rule shall apply to the Vice-President or to any judge called upon to exercise the functions of the President.

Article 5. Functions of the Vice-President

1. The Vice-President shall replace the President in the latter's temporary absence, and shall assume the Presidency when the absence is permanent. In the latter case, the Court shall elect a Vice-President to serve out the rest of the term. The same procedure shall be followed if the absence of the Vice-President is permanent.

2. In the absence of the President and the Vice-President, their functions shall be assumed by the other judges in the order of precedence established in Article 13 of the Statute.

Article 6. Commissions

1. The Permanent Commission shall be composed by the President, the Vice-President and any other judges the President deems it appropriate to appoint, according to the needs of the Court. The Permanent Commission shall assist the President in the exercise of his functions.

2. The Court may appoint other commissions for specific matters. In urgent cases, they may be appointed by the President if the Court is not in session.

3. The commissions shall be governed by the provisions of these Rules, as applicable.

Chapter II

The Secretariat

Article 7. Election of the Secretary

1. The Court shall elect its Secretary, who must possess the legal qualifications required for the position, a good command of the working languages of the Court, and the experience necessary for discharging his functions.

2. The Secretary shall be elected for a term of five years and may be re-elected. He may be removed at any time if the Court so decides. A majority of no fewer than four judges, voting by secret ballot in the presence of a quorum, is required for the appointing or removal of the Secretary.

Article 8. Deputy Secretary

1. The Deputy Secretary shall be appointed on the proposal of the Secretary, in the manner prescribed in the Statute. He shall assist the Secretary in the performance of his functions and replace him during his temporary absences.

2. If the Secretary and the Deputy Secretary are both unable to perform their functions, the President may appoint an Interim Secretary.

Article 9. Oath

1. The Secretary and the Deputy Secretary shall take an oath or make a solemn declaration before the President undertaking to discharge their duties faithfully, and to respect the confidential nature of the facts that come to their attention while exercising their functions.

2. The staff of the Secretariat, including any persons called upon to perform interim or temporary duties, shall, upon assuming their functions, take an oath or make a solemn declaration before the President undertaking to discharge their duties faithfully and to respect the confidential nature of the facts that come to their attention while exercising their functions. If the President is not present at the seat of the Court, the Secretary shall administer the oath.

3. All oaths shall be recorded in a document to be signed by the person being sworn in and by the person administering the oath.

Article 10. Functions of the Secretary

The functions of the Secretary shall be to:

- a. communicate the judgments, advisory opinions, orders and other rulings of the Court;
- b. keep the minutes of the meetings of the Court;
- c. attend the meetings of the Court held at its seat or elsewhere;
- d. deal with the correspondence of the Court;
- e. direct the administration of the Court, pursuant to the instructions of the President;
- f. prepare the drafts of the working schedules, rules and regulations, and budgets of the Court;
- g. plan, direct and coordinate the work of the staff of the Court;

- h. carry out the tasks assigned to him by the Court or by the President;
- i. perform any other duties provided for in the Statute or in these Rules.

Chapter III

Functioning of the Court

Article 11. Regular Sessions

During the year, the Court shall hold the sessions needed for the exercise of its functions on the dates decided upon by the Court at the previous session. In exceptional circumstances, the President may change the dates of these sessions after prior consultation with the Court.

Article 12. Special Sessions

Special sessions may be convoked by the President on his own initiative or at the request of a majority of the judges.

Article 13. Quorum

The quorum for the deliberations of the Court shall consist of five judges.

Article 14. Hearings, Deliberations and Decisions

1. Hearings shall be public and shall be held at the seat of the Court. When exceptional circumstances so warrant, the Court may decide to hold a hearing in private or at a different location. The Court shall decide who may attend such hearings. Even in these cases, however, minutes shall be kept in the manner prescribed in Article 42 of these Rules.

2. The Court shall deliberate in private, and its deliberations shall remain secret. Only the judges shall take part in the deliberations, although the Secretary and the Deputy Secretary or their substitutes may attend, as well as such other Secretariat staff as may be required. No other persons may be admitted, except by special decision of the Court and after taking an oath or making a solemn declaration.

3. Any question that calls for a vote shall be formulated in precise terms in one of the working languages. At the request of any of the judges, the Secretariat shall translate the text thereof into the other working languages and distribute it prior to the vote.

4. The minutes of the deliberations of the Court shall be limited to a statement of the subject of the discussion and the decisions taken. Separate opinions, dissenting and concurring, and declarations made for the record shall also be noted.

Article 15. Decisions and Voting

1. The President shall present, point by point, the matters to be voted upon. Each judge shall vote either in the affirmative or the negative; there shall be no abstentions.

2. The votes shall be cast in inverse order to the order of precedence established in Article 13 of the Statute.

3. The decisions of the Court shall be adopted by a majority of the judges present at the time of the voting.

4. In the event of a tie, the President shall have a casting vote.

Article 16. Continuation in Office by the Judges

1. Judges whose terms have expired shall continue to exercise their functions in cases that they have begun to hear and that are still pending. However, in the event of death, resignation or disqualification, the judge in question shall be replaced by the judge who was

elected to take his place, if applicable, or by the judge who has precedence among the new judges elected upon expiration of the term of the judge to be replaced.

2. All matters relating to reparations and indemnities, as well as supervision of the implementation of the judgments of the Court, shall be heard by the judges comprising it at that stage of the proceedings, unless a public hearing has already been held. In that event, they shall be heard by the judges who had attended that hearing.

3. All matters relating to provisional measures shall be heard by the Court composed of Titular Judges.

Article 17. Interim Judges

Interim Judges shall have the same rights and functions as Titular Judges, except for such limitations that have been expressly established.

Article 18. Judges Ad Hoc

1. In a case arising under Article 55(2) and 55(3) of the Convention and Article 10(2) and 10(3) of the Statute, the President, acting through the Secretariat, shall inform the States referred to in those provisions of their right to appoint a Judge ad hoc within 30 days of notification of the application.

2. When it appears that two or more States have a common interest, the President shall inform them that they may jointly appoint one Judge ad hoc, pursuant to Article 10 of the Statute. If those States have not communicated their agreement to the Court within 30 days of the last notification of the application, each State may propose its candidate within 15 days. Thereafter, and if more than one candidate has been nominated, the President shall choose a common Judge ad hoc by lot, and shall communicate the result to the interested parties.

3. Should the interested States fail to exercise their right within the time limits established in the preceding paragraphs, they shall be deemed to have waived that right.

4. The Secretary shall communicate the appointment of Judges ad hoc to the other parties to the case.

5. The Judge ad hoc shall take an oath at the first meeting devoted to the consideration of the case for which he has been appointed.

6. Judges ad hoc shall receive honoraria on the same terms as Titular Judges.

Article 19. Impediments, excuses and disqualification

1. Impediments, excuses and disqualification of Judges shall be governed by the provisions of Article 19 of the Statute.

2. Motions for impediments and excuses must be filed prior to the first hearing of the case. However, if the grounds therefore were not known at the time, such motions may be submitted to the Court at the first possible opportunity, so that it can rule on the matter immediately.

3. When, for any reason whatsoever, a judge is not present at one of the hearings or at other stages of the proceedings, the Court may decide to disqualify him from continuing to hear the case, taking all the circumstances it deems relevant into account.

TITLE II

PROCEDURE

Chapter I

General Rules

Article 20. Official Languages

1. The official languages of the Court shall be those of the OAS, which are Spanish, English, Portuguese and French.
2. The working languages shall be those agreed upon by the Court each year. However, in a specific case, the language of one of the parties may be adopted as a working language, provided it is one of the official languages.
3. The working languages for each case shall be determined at the beginning of the proceedings, unless they are the same as those already being employed by the Court.
4. The Court may authorize any person appearing before it to use his own language if he does not have sufficient knowledge of the working languages. In such circumstances, however, the Court shall make the necessary arrangements to ensure that an interpreter is present to translate that testimony into the working languages. The interpreter must take an oath or make a solemn declaration, undertaking to discharge his duties faithfully and to respect the confidential nature of the facts that come to his attention in the exercise of his functions.
5. The Court shall, in all cases, determine which text is authentic.

Article 21. Representation of the States

1. The States Parties to a case shall be represented by an Agent, who may, in turn, be assisted by any persons of his choice.
2. If a State replaces its Agent, it shall so notify the Court, and the replacement shall only take effect once the notification has been received at the seat of the Court.
3. A Deputy Agent may be designated who will assist the Agent in the exercise of his functions and replace him during his temporary absences.
4. When appointing its Agent, the State in question shall indicate the address at which all relevant communications shall be deemed to have been officially received.

Article 22. Representation of the Commission

The Commission shall be represented by the Delegates it has designated for the purpose. The Delegates may be assisted by any persons of their choice.

Article 23. Participation of the Alleged Victims

1. When the application has been admitted, the alleged victims, their next of kin or their duly accredited representatives may submit their requests, arguments and evidence, autonomously, throughout the proceeding.

2. When, there are several alleged victims, next of kin or duly accredited representatives, they shall designate a common intervenor who shall be the only person authorized to present requests, arguments and evidence during the proceedings, including the public hearings.

3. In case of disagreement, the Court shall make the appropriate ruling.

Article 24. Cooperation of the States

1. The States Parties to a case have the obligation to cooperate so as to ensure that all notices, communications or summonses addressed to persons subject to their jurisdiction are duly executed. They shall also facilitate compliance with summonses by persons who either reside or are present within their territory.

2. The same rule shall apply to any proceeding that the Court decides to conduct or order in the territory of a State Party to a case.

3. When the performance of any of the measures referred to in the preceding paragraphs requires the cooperation of any other State, the President shall request the corresponding government to provide the requisite assistance.

Article 25. Provisional Measures

1. At any stage of the proceedings involving cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court may, at the request of a party or on its own motion, order such provisional measures as it deems pertinent, pursuant to Article 63(2) of the Convention.

2. With respect to matters not yet submitted to it, the Court may act at the request of the Commission.

3. The request may be made to the President, to any judge of the Court, or to the Secretariat, by any means of communication. In every case, the recipient of the request shall immediately bring it to the President's attention.

4. If the Court is not sitting, the President, in consultation with the Permanent Commission and, if possible, with the other judges, shall call upon the government concerned to adopt such urgent measures as may be necessary to ensure the effectiveness of any provisional measures that may be ordered by the Court at its next session.

5. The Court, or its President if the Court is not sitting, may convoke the parties to a public hearing on provisional measures.

6. In its Annual Report to the General Assembly, the Court shall include a statement concerning the provisional measures ordered during the period covered by the report. If those measures have not been duly implemented, the Court shall make such recommendations as it deems appropriate.

Article 26. Filing of Briefs

1. The application, the reply thereto, and any other briefs addressed to the Court, may be presented in person, by courier, facsimile, telex, mail or any other method generally used.

If they are dispatched by electronic means, the original documents must be submitted within 15 days.

2. The President may, in consultation with the Permanent Commission, reject any communication from the parties which he considers patently inadmissible, and shall order that it be returned to the interested party, without further action.

Article 27. Default Procedure

1. When a party fails to appear in or continue with a case, the Court shall, on its own motion, take such measures as may be necessary to complete the consideration of the case.

2. When a party enters a case at a later stage of the proceedings, it shall take up the proceedings at that stage.

Article 28. Joinder of Cases and Proceedings

1. The Court may, at any stage of the proceedings, order the joinder of interrelated cases, when there is identity of parties, subject-matter and ruling law.

2. The Court may also order that the written or oral proceedings of several cases, including the introduction of witnesses, be carried out jointly.

3. After consulting the Agents and the Delegates, the President may direct that two or more cases be conducted simultaneously.

Article 29. Decisions

1. The judgments and orders for discontinuance of a case shall be rendered exclusively by the Court.

2. All other orders shall be rendered by the Court if it is sitting, and by the President if it is not, unless otherwise provided. Decisions of the President that are not purely procedural may be appealed before the Court.

3. Judgments and orders of the Court may not be contested in any way.

Article 30. Publication of Judgments and Other Decisions

1. The Court shall order the publication of:

a. its judgments and other decisions, including separate opinions, dissenting or concurring, whenever they fulfill the requirements set forth in Article 55(2) of these Rules;

b. documents from the dossier, except those considered irrelevant or unsuitable for publication;

c. records of the hearings;

d. any other document that the Court considers suitable for publication.

2. The judgments shall be published in the working languages used in each case. All other documents shall be published in their original language.

3. Documents relating to cases already adjudicated, and deposited with the Secretariat of the Court, shall be made accessible to the public, unless the Court decides otherwise.

Article 31. Application of Article 63(1) of the Convention

Application of this provision may be invoked at any stage of the proceedings.

Chapter II

Written Proceedings

Article 32. Institution of the Proceedings

For a case to be referred to the Court under Article 61(1) of the Convention, the application shall be filed in the Secretariat of the Court in the working languages. Whereas the filing of an application in only one working language shall not suspend the proceeding, the translations into the other language or languages must be submitted within 30 days.

Article 33. Filing of the Application

The brief containing the application shall indicate:

1. the claims (including those relating to reparations and costs); the parties to the case; a statement of the facts; the orders on the opening of the proceeding and the admissibility of the petition by the Commission; the supporting evidence, indicating the facts on which it will bear; the particulars of the witnesses and expert witnesses and the subject of their statements; the legal arguments, and the pertinent conclusions. In addition, the Commission shall include the name and address of the original petitioner, and also the name and address of the alleged victims, their next of kin or their duly accredited representatives, when this is possible.
2. The names of the Agents or the Delegates.

If the application is filed by the Commission, it shall be accompanied by the report referred to in Article 50 of the Convention.

Article 34. Preliminary Review of the Application

When, during a preliminary review of the application, the President finds that the basic requirements have not been met, he shall request the applicant to correct any deficiencies within 20 days.

Article 35. Notification of the Application

1. The Secretary of the Court shall notify of the application to:
 - a. The President and the judges of the Court;
 - b. the respondent State;
 - c. the Commission, when it is not the applicant;
 - d. the original claimant, if known;
 - e. the alleged victim, his next of kin, or his duly accredited representatives, if applicable.
2. The Secretary shall inform the other States Parties, the Permanent Council of the OAS through its President, and the Secretary General of the OAS, of the filing of the application.
3. When notifying, the Secretary shall request the respondent States to designate their Agent, and the Commission to appoint its Delegates, within one month. Until the Delegates are duly appointed, the Commission shall be deemed to be properly represented by its President for all purposes of the case.
4. When the application has been notified to the alleged victim, his next of kin or his duly accredited representatives, they shall have a period of 30 days to present autonomously to the Court their requests, arguments and evidence.

Article 36. Preliminary Objections

1. Preliminary objections may only be filed in the brief answering the application.
2. The document setting out the preliminary objections shall set out the facts on which the objection is based, the legal arguments, and the conclusions and supporting documents, as well as any evidence which the party filing the objection may wish to produce.
3. The presentation of preliminary objections shall not cause the suspension of the proceedings on the merits, nor the respective time periods or terms.
4. Any parties to the case wishing to submit written briefs on the preliminary objections may do so within 30 days of receipt of the communication.
5. When the Court considers it indispensable, it may convene a special hearing on the preliminary objections, after which it shall rule on the objections.
6. The Court may decide on the preliminary objections and the merits of the case in a single judgment, under the principle of procedural economy.

Article 37. Answer to the application

1. The respondent shall answer the application in writing within two months of the notification. The requirements indicated in Article 33 of these Rules shall apply. The Secretary shall communicate the said answer to the persons referred to in Article 35(1) above.
2. In its answer, the respondent must state whether it accepts the facts and claims or whether it contradicts them, and the Court may consider accepted those facts that have not been expressly denied and the claims that have not been expressly contested.

Article 38. Other Steps in the Written Proceedings

Once the application has been answered, and before the opening of the oral proceedings, the parties may seek the permission of the President to enter additional written pleadings. In such a case, the President, if he sees fit, shall establish the time limits for presentation of the relevant documents.

Chapter III

Oral Proceedings

Article 39. Opening

The President shall announce the date for the opening of the oral proceedings and shall call such hearings as may be necessary.

Article 40. Conduct of the Hearings

1. The President shall direct the hearings. He shall prescribe the order in which the persons eligible to take part shall be heard, and determine the measures required for the smooth conduct of the hearings.

2. The provisions of Article 23 of these Rules of Procedure shall be observed, with regard to who may speak for the victims or the alleged victims, their next of kin or their duly accredited representatives.

Article 41. Questions Put During the Hearings

1. The judges may ask all persons appearing before the Court any questions they deem proper.

2. The witnesses, expert witnesses and any other persons the Court decides to hear may, subject to the control of the President, be examined by the persons referred to in Articles 21, 22 and 23 of these Rules.

3. The President is empowered to rule on the relevance of the questions posed and to excuse the person to whom the questions are addressed from replying, unless the Court decides otherwise. Leading questions shall not be permitted.

Article 42. Minutes of the Hearings

1. Minutes shall be taken at each hearing and shall contain the following:

a. the names of the judges present;

b. the names of those persons referred to in Articles 21, 22 and 23 of these Rules, who are present at the hearing;

c. the names and personal information of the witnesses, expert witnesses and other persons appearing at the hearing;

d. statements made expressly for the record by the States Parties, by the Commission, by the victims or alleged victims, by their next of kin or their duly accredited representatives;

e. the statements of the witnesses, expert witnesses and other persons appearing at the hearing, as well as the questions posed to them and the replies thereto;

f. the text of the questions posed by the judges and the replies thereto;

g. the text of any decisions rendered by the Court during the hearing.

2. The Agents, Delegates, victims or alleged victims, their next of kin or their duly accredited representatives, and also the witnesses, expert witnesses and other persons

appearing at the hearing, shall receive a copy of the relevant parts of the transcript of the hearing to enable them, subject to the control of the Secretary, to correct any errors in transcription. The Secretary shall set the time limits for this purpose, in accordance with the instructions of the President.

3. The minutes shall be signed by the President and the Secretary, and the latter shall attest to their accuracy.

4. Copies of the minutes shall be transmitted to the Agents, the Delegates, the victims and the alleged victims, their next of kin or their duly accredited representatives.

Chapter IV

Evidence

Article 43. Admission

1. Items of evidence tendered by the parties shall be admissible only if previous notification thereof is contained in the application and in the reply thereto and, when appropriate, in the document setting out the preliminary objections and in the answer thereto.

2. Evidence tendered to the Commission shall form part of the file, provided that it has been received in a procedure with the presence of both parties, unless the Court considers it essential that such evidence should be repeated.

3. Should any of the parties allege force majeure, serious impediment or the emergence of supervening events as grounds for producing an item of evidence, the Court may, in that particular instance, admit such evidence at a time other than those indicated above, provided that the opposing parties are guaranteed the right of defense.

4. In the case of the alleged victim, his next of kin or his duly accredited representatives, the admission of evidence shall also be governed by the provisions of Articles 23, 35(4) and 36(5) of the Rules of Procedure.

Article 44. Procedure for Taking Evidence

The Court may, at any stage of the proceedings:

1. Obtain, on its own motion, any evidence it considers helpful. In particular, it may hear as a witness, expert witness, or in any other capacity, any person whose evidence, statement or opinion it deems to be relevant.

2. Request the parties to provide any evidence within their reach or any explanation or statement that, in its opinion, may be useful.

3. Request any entity, office, organ or authority of its choice to obtain information, express an opinion, or deliver a report or pronouncement on any given point. The documents may not be published without the authorization of the Court.

4. Commission one or more of its members to conduct measures in order to gather evidence.

Article 45. Cost of Evidence

The party requesting the production of an item of evidence shall cover its cost.

Article 46. Convocation of Witnesses and Expert Witnesses

1. The Court shall determine when the parties are to call their witnesses and expert witnesses whom the Court considers it necessary to hear. They shall be summoned in the manner deemed most suitable by the Court.

2. The summons shall indicate:

- a. the name of the witness or expert witness;
- b. the facts on which the examination will bear or the object of the expert opinion.

Article 47. Oath or Solemn Declaration by Witnesses and Expert Witnesses

1. After his identity has been established and before giving evidence, every witness shall take an oath or make a solemn declaration in which he shall state that he will speak the truth, the whole truth and nothing but the truth.

2. After his identity has been established and before performing his task, every expert witness shall take an oath or make a solemn declaration in which he shall state that he will discharge his duties honorably and conscientiously.

3. The oath shall be taken, or the declaration made, before the Court or the President or any of the judges so delegated by the Court.

Article 48. Objections to Witnesses

1. Any party may object to a witness before he testifies.

2. If the Court considers it necessary, it may nevertheless hear, for purposes of information, a person who is not qualified to be heard as a witness.

3. The Court shall assess the value of the testimony and of the objections made by the parties.

Article 49. Objections to Expert Witnesses

1. The grounds for disqualification applicable to judges under Article 19(1) of the Statute shall also apply to expert witnesses.

2. Objections shall be presented within 15 days of notification of the appointment of the expert witness.

3. If the expert witness who has been challenged contests the ground invoked against him, the Court shall rule on the matter. However, when the Court is not in session, the President may, after consultation with the Permanent Commission, order the evidence to be presented. The Court shall be informed thereof and shall rule on the value of the evidence.

4. Should it become necessary to appoint a new expert witness, the Court shall rule on the matter. Nevertheless, if the evidence needs to be heard as a matter of urgency, the President, after consultation with the Permanent Commission, shall make the appointment and inform the Court accordingly. The Court shall rule on the value of the evidence.

Article 50. Protection of Witnesses and Expert Witnesses

States may neither institute proceedings against witnesses or expert witnesses nor bring illicit pressure to bear on them or on their families on account of declarations or opinions they have delivered before the Court.

Article 51. Failure to Appear or False Evidence

The Court shall inform the States when those persons summoned to appear or declare, fail to appear or refuse to give evidence without good reason, or when, in the opinion of the Court, they have violated their oath or solemn declaration, so that the appropriate action may be taken under the relevant domestic legislation.

Chapter V

Early Termination of the Proceedings

Article 52. Discontinuance of a Case

1. When the party that has brought the case notifies the Court of its intention not to proceed with it, the Court shall, after hearing the opinions of the other parties thereto, decide whether to discontinue the hearing and, consequently, to strike the case from its list.

2. If the respondent informs the Court of its acquiescence to the claims of the party that has brought the case, the Court, after hearing the opinions of the other parties to the case whether such acquiescence and its juridical effects are acceptable. In that event, the Court shall determine the appropriate reparations and indemnities.

Article 53. Friendly Settlement

When the parties to a case before the Court inform it of the existence of a friendly settlement, compromise, or any other occurrence likely to lead to a settlement of the dispute, the Court may strike the case from its list.

Article 54. Continuation of a Case

The Court, may notwithstanding the existence of the conditions indicated in the preceding paragraphs, and bearing in mind its responsibility to protect human rights, decide to continue the consideration of a case.

Chapter VI

Judgments

Article 55. Contents of the Judgment

1. The judgment shall contain:

- a. the names of the President, the judges who rendered it, the Secretary and Deputy Secretary.
- b. the identity of the parties and their representatives;
- c. a description of the proceedings;
- d. the facts of the case;
- e. the conclusions of the parties;
- f. the legal arguments;
- g. the ruling on the case;
- h. the decision, if any, on reparations and costs;
- i. the result of the voting;
- j. a statement indicating which text is authentic.

2. Any judge who has taken part in the consideration of a case is entitled to append a separate opinion, concurring or dissenting, to the judgment. These opinions shall be submitted within a time limit to be fixed by the President, so that the other judges may take

cognizance thereof prior to notification of the judgment. The said opinions shall only refer to the issues covered in the judgment.

Article 56. Judgment on Reparations

1. When no specific ruling on reparations has been made in the judgment on the merits, the Court shall set the time and determine the procedure for the deferred decision thereon.

2. If the Court is informed that the parties to the case have reached an agreement in regard to the execution of the judgment on the merits, it shall verify the fairness of the agreement and rule accordingly.

Article 57. Delivery and Communication of the Judgment

1. When a case is ready for judgment, the Court shall deliberate in private and adopt the judgment, which shall be notified to the parties by the Secretariat.

2. The texts, legal arguments and votes shall all remain secret until the parties have been notified of the judgment.

3. Judgments shall be signed by all the judges who participated in the voting and by the Secretary. However, a judgment signed by the majority of the judges and the Secretary shall also be valid.

4. Separate opinions, dissenting or concurring, shall be signed by the judges submitting them and by the Secretary.

5. The judgments shall conclude with an order, signed by the President and the Secretary and sealed by the latter, providing for the communication and execution of the judgment.

6. The originals of the judgments shall be deposited in the archives of the Court. The Secretary shall dispatch certified copies to the States Parties, the parties to the case, the

Permanent Council through its President, the Secretary General of the OAS, and any other interested person who requests them.

Article 58. Request for Interpretation

1. The request for interpretation, referred to in Article 67 of the Convention, may be made in connection with judgments on the merits or on reparations and shall be filed with the Secretariat. It shall state with precision the issues relating to the meaning or scope of the judgment of which the interpretation is requested.

2. The Secretary shall transmit the request for interpretation to the parties to the case and shall invite them to submit any written comments they deem relevant, within the time limit established by the President.

3. When considering a request for interpretation, the Court shall be composed, whenever possible, of the same judges who delivered the judgment of which the interpretation is being sought. However, in the event of death, resignation, impediment, excuse or disqualification, the judge in question shall be replaced pursuant to Article 16 of these Rules.

4. A request for interpretation shall not suspend the effect of the judgment.

5. The Court shall determine the procedure to be followed and shall render its decision in the form of a judgment.

TITLE III

ADVISORY OPINIONS

Article 59. Interpretation of the Convention

1. Requests for an advisory opinion under Article 64(1) of the Convention shall state with precision the specific questions on which the opinion of the Court is being sought.

2. Requests for an advisory opinion submitted by a Member State or by the Commission shall, in addition, identify the provisions to be interpreted, the considerations giving rise to the request, and the names and addresses of the Agent or the Delegates.

3. If the advisory opinion is sought by an OAS organ other than the Commission, the request shall also specify, further to the information listed in the preceding paragraph, how it relates to the sphere of competence of the organ in question.

Article 60. Interpretation of Other Treaties

1. If the interpretation requested refers to other treaties concerning the protection of human rights in the American states, as provided for in Article 64(1) of the Convention, the request shall indicate the name of, and parties to, the treaty, the specific questions on which the opinion of the Court is being sought, and the considerations giving rise to the request.

2. If the request is submitted by an OAS organ, it shall indicate how the subject of the request falls within the sphere of competence of the organ in question.

Article 61. Interpretation of Domestic Laws

1. A request for an advisory opinion presented pursuant to Article 64(2) of the Convention shall indicate the following:

a. the provisions of domestic law and of the Convention or of other treaties concerning the protection of human rights to which the request relates;

b. the specific questions on which the opinion of the Court is being sought;

c. the name and address of the applicant's Agent.

2. Copies of the domestic laws referred to in the request shall accompany the application.

Article 62. Procedure

1. On receipt of a request for an advisory opinion, the Secretary shall transmit copies thereof to all the Member States, the Commission, the Permanent Council of the OAS through its President, the Secretary General of the OAS and the OAS organs within whose spheres of competence the subject of the revision of request falls, as appropriate.
2. The President shall establish the time limits for the filing of written comments by the interested parties.
3. The President may invite or authorize any interested party to submit a written opinion on the issues covered by the request. If the request is governed by Article 64(2) of the Convention, he may do so after prior consultation with the Agent.
4. At the conclusion of the written proceedings, the Court shall decide whether there should be oral proceedings and shall fix the date for such a hearing, unless it delegates the latter task to the President. Prior consultation with the Agent is required in cases governed by Article 64(2) of the Convention.

Article 63. Application by Analogy

The Court shall apply the provisions of Title II of these Rules to advisory proceedings, to the extent that it deems them to be compatible.

Article 64. Delivery and Content of Advisory Opinions

1. The delivery of advisory opinions shall be governed by Article 57 of these Rules.
2. Advisory opinions shall contain:

- a. the name of the President, the judges who rendered the opinion, the Secretary and Deputy Secretary;
- b. the issues presented to the Court;
- c. a description of the proceedings;
- d. the legal arguments;
- e. the opinion of the Court;
- f. a statement indicating which text is authentic.

3. Any judge who has taken part in the delivery of an advisory opinion is entitled to append a separate opinion, dissenting or concurring, to the opinion of the Court. These opinions shall be submitted within a time limit to be fixed by the President, so that the other judges can take cognizance thereof before the advisory opinion is rendered. They shall be published in accordance with Article 30(1)(a) of these Rules.

4. Advisory opinions may be delivered in public.

TITLE IV

FINAL AND TRANSITORY PROVISIONS

Article 65. Amendments to the Rules of Procedure

These Rules of Procedure may be amended by the decision of an absolute majority of the Titular Judges of the Court. Upon their entry into force, they shall abrogate the previous Rules of Procedure.

Article 66. Entry into Force

These Rules of Procedure, the Spanish and English versions of which are equally authentic, shall enter into force on 1 June 2001.

Done at the seat of the Inter-American Court of Human Rights in San José, Costa Rica on this twenty-fourth day of November, 2000.

DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION PREAMBLE

REAFFIRMING the need to ensure respect for and full enjoyment of individual freedoms and fundamental rights of human beings under the rule of law;

AWARE that consolidation and development of democracy depends upon the existence of freedom of expression;

PERSUADED that the right to freedom of expression is essential for the development of knowledge and understanding among peoples, that will lead to a true tolerance and cooperation among the nations of the hemisphere;

CONVINCED that any obstacle to the free discussion of ideas and opinions limits freedom of expression and the effective development of a democratic process;

CONVINCED that guaranteeing the right to access to information held by the State will ensure greater transparency and accountability of governmental activities and the strengthening of democratic institutions;

RECALLING that freedom of expression is a fundamental right recognized in the American Declaration on the Rights and Duties of Man and the American Convention on Human Rights, the Universal Declaration of Human Rights, Resolution 59 (1) of the United Nations General Assembly, Resolution 104 adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Covenant on Civil and Political Rights, as well as in other international documents and national constitutions;

RECOGNIZING that the member states of the Organization of American States are subject to the legal framework established by the principles of Article 13 of the American Convention on Human Rights;

REAFFIRMING Article 13 of the American Convention on Human Rights, which establishes that the right to freedom of expression comprises the freedom to seek, receive and impart information and ideas, regardless of borders and by any means of communication;

CONSIDERING the importance of freedom of expression for the development and protection of human rights, the important role assigned to it by the Inter-American Commission on Human Rights and the full support given to the establishment of the Office of the Special Rapporteur for Freedom of Expression as a fundamental instrument for the protection of this right in the hemisphere at the Summit of the Americas in Santiago, Chile;

RECOGNIZING that freedom of the press is essential for the full and effective exercise of freedom of expression and an indispensable instrument for the functioning of representative democracy, through which individuals exercise their right to receive, impart and seek information;

REAFFIRMING that the principles of the Declaration of Chapultepec constitute a basic document that contemplates the protection and defense of freedom of expression, freedom and independence of the press and the right to information;

CONSIDERING that the right to freedom of expression is not a concession by the States but a fundamental right;

RECOGNIZING the need to protect freedom of expression effectively in the Americas, the Inter-American Commission on Human Rights, in support of the Special Rapporteur for Freedom of Expression, adopts the following Declaration of Principles:

PRINCIPLES 1. Freedom of expression in all its forms and manifestations is a fundamental and inalienable right of all individuals. Additionally, it is an indispensable requirement for the very existence of a democratic society.

2. Every person has the right to seek, receive and impart information and opinions freely under terms set forth in Article 13 of the American Convention on Human Rights. All people should be afforded equal opportunities to receive, seek and impart information by any means of communication without any discrimination for reasons of race, color, sex, language, religion, political or other opinions, national or social origin, economic status, birth or any other social condition.

3. Every person has the right to access to information about himself or herself or his/her assets expeditiously and not onerously, whether it be contained in databases or public or private registries, and if necessary to update it, correct it and/or amend it.

4. Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.

5. Prior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression.

6. Every person has the right to communicate his/her views by any means and in any form. Compulsory membership or the requirement of a university degree for the practice of journalism constitute unlawful restrictions of freedom of expression. Journalistic activities must be guided by ethical conduct, which should in no case be imposed by the State.

7. Prior conditioning of expressions, such as truthfulness, timeliness or impartiality, is incompatible with the right to freedom of expression recognized in international instruments.

8. Every social communicator has the right to keep his/her source of information, notes, personal and professional archives confidential.

9. The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation.

10. Privacy laws should not inhibit or restrict investigation and dissemination of information of public interest. The protection of a person's reputation should only be guaranteed through civil sanctions in those cases in which the person offended is a public official, a public person or a private person who has voluntarily become involved in matters of public interest. In addition, in these cases, it must be proven that in disseminating the news, the social communicator had the specific intent to inflict harm, was fully aware that false news was disseminated, or acted with gross negligence in efforts to determine the truth or falsity of such news.

11. Public officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as "desacato laws," restrict freedom of expression and the right to information.

12. Monopolies or oligopolies in the ownership and control of the communication media must be subject to anti-trust laws, as they conspire against democracy by limiting the plurality and diversity which ensure the full exercise of people's right to information. In no case should such laws apply exclusively to the media. The concession of radio and television broadcast frequencies should take into account democratic criteria that provide equal opportunity of access for all individuals.

13. The exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans, the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law. The means of communication have the right to carry out their role in an independent manner. Direct or indirect pressures exerted upon journalists or other social communicators to stifle the dissemination of information are incompatible with freedom of expression.

CHARTER

OF THE ORGANIZATION

OF AMERICAN STATES

As amended by the Protocol of Amendment to the Charter of the Organization of American States "Protocol of Buenos Aires", signed on February 27, 1967, at the Third Special Inter-American Conference,

by the Protocol of Amendment to the Charter of the Organization of American States "Protocol of Cartagena de Indias", approved on December 5, 1985, at the Fourteenth Special Session of the General Assembly,

by the Protocol of Amendment to the Charter of the Organization of American States "Protocol of Washington", approved on December 14, 1992, at the Sixteenth Special Session of the General Assembly,

and by the Protocol of Amendment to the Charter of the Organization of American States "Protocol of Managua", adopted on June 10, 1993, at the Nineteenth Special Session of the General Assembly.

CHARTER OF THE ORGANIZATION
OF AMERICAN STATES*

IN THE NAME OF THEIR PEOPLES, THE STATES REPRESENTED AT THE NINTH
INTERNATIONAL CONFERENCE OF AMERICAN STATES,

Convinced that the historic mission of America is to offer to man a land of liberty and a favorable environment for the development of his personality and the realization of his just aspirations;

Conscious that that mission has already inspired numerous agreements, whose essential value lies in the desire of the American peoples to live together in peace and, through their mutual understanding and respect for the sovereignty of each one, to provide for the betterment of all, in independence, in equality and under law;

Convinced that representative democracy is an indispensable condition for the stability, peace and development of the region;

Confident that the true significance of American solidarity and good neighborliness can only mean the consolidation on this continent, within the framework of democratic institutions, of a system of individual liberty and social justice based on respect for the essential rights of man;

Persuaded that their welfare and their contribution to the progress and the civilization of the world will increasingly require intensive continental cooperation;

Resolved to persevere in the noble undertaking that humanity has conferred upon the United Nations, whose principles and purposes they solemnly reaffirm;

Convinced that juridical organization is a necessary condition for security and peace founded on moral order and on justice; and

In accordance with Resolution IX of the Inter-American Conference on Problems of War and Peace, held in Mexico City,

HAVE AGREED

upon the following

CHARTER OF THE ORGANIZATION OF AMERICAN STATES

PART ONE

Chapter I

NATURE AND PURPOSES

Article 1

The American States establish by this Charter the international organization that they have developed to achieve an order of peace and justice, to promote their solidarity, to strengthen their collaboration, and to defend their sovereignty, their territorial integrity, and their independence. Within the United Nations, the Organization of American States is a regional agency.

The Organization of American States has no powers other than those expressly conferred upon it by this Charter, none of whose provisions authorizes it to intervene in matters that are within the internal jurisdiction of the Member States.

Article 2

The Organization of American States, in order to put into practice the principles on which it is founded and to fulfill its regional obligations under the Charter of the United Nations, proclaims the following essential purposes:

- a) To strengthen the peace and security of the continent;
- b) To promote and consolidate representative democracy, with due respect for the principle of nonintervention;
- c) To prevent possible causes of difficulties and to ensure the pacific settlement of disputes that may arise among the Member States;
- d) To provide for common action on the part of those States in the event of aggression;
- e) To seek the solution of political, juridical, and economic problems that may arise among them;
- f) To promote, by cooperative action, their economic, social, and cultural development;
- g) To eradicate extreme poverty, which constitutes an obstacle to the full democratic development of the peoples of the hemisphere; and
- h) To achieve an effective limitation of conventional weapons that will make it possible to devote the largest amount of resources to the economic and social development of the Member States.

Chapter II

PRINCIPLES

Article 3

The American States reaffirm the following principles:

- a) International law is the standard of conduct of States in their reciprocal relations;
- b) International order consists essentially of respect for the personality, sovereignty, and independence of States, and the faithful fulfillment of obligations derived from treaties and other sources of international law;
- c) Good faith shall govern the relations between States;
- d) The solidarity of the American States and the high aims which are sought through it require the political organization of those States on the basis of the effective exercise of representative democracy;
- e) Every State has the right to choose, without external interference, its political, economic, and social system and to organize itself in the way best suited to it, and has the duty to abstain from intervening in the affairs of another State. Subject to the foregoing, the American States shall cooperate fully among themselves, independently of the nature of their political, economic, and social systems;
- f) The elimination of extreme poverty is an essential part of the promotion and consolidation of representative democracy and is the common and shared responsibility of the American States;
- g) The American States condemn war of aggression: victory does not give rights;
- h) An act of aggression against one American State is an act of aggression against all the other American States;
- i) Controversies of an international character arising between two or more American States shall be settled by peaceful procedures;

j) Social justice and social security are bases of lasting peace;

k) Economic cooperation is essential to the common welfare and prosperity of the peoples of the continent;

l) The American States proclaim the fundamental rights of the individual without distinction as to race, nationality, creed, or sex;

m) The spiritual unity of the continent is based on respect for the cultural values of the American countries and requires their close cooperation for the high purposes of civilization;

n) The education of peoples should be directed toward justice, freedom, and peace.

Chapter III

MEMBERS

Article 4

All American States that ratify the present Charter are Members of the Organization.

Article 5

Any new political entity that arises from the union of several Member States and that, as such, ratifies the present Charter, shall become a Member of the Organization. The entry of the new political entity into the Organization shall result in the loss of membership of each one of the States which constitute it.

Article 6

Any other independent American State that desires to become a Member of the Organization should so indicate by means of a note addressed to the Secretary General, in which it declares that it is willing to sign and ratify the Charter of the Organization and to accept all the obligations inherent in membership, especially those relating to collective security expressly set forth in Articles 28 and 29 of the Charter.

Article 7

The General Assembly, upon the recommendation of the Permanent Council of the Organization, shall determine whether it is appropriate that the Secretary General be authorized to permit the applicant State to sign the Charter and to accept the deposit of the corresponding instrument of ratification. Both the recommendation of the Permanent Council and the decision of the General Assembly shall require the affirmative vote of two thirds of the Member States.

Article 8

Membership in the Organization shall be confined to independent States of the Hemisphere that were Members of the United Nations as of December 10, 1985, and the nonautonomous territories mentioned in document OEA/Ser. P, AG/doc.1939/85, of November 5, 1985, when they become independent.

Article 9

A Member of the Organization whose democratically constituted government has been overthrown by force may be suspended from the exercise of the right to participate in the sessions of the General Assembly, the Meeting of Consultation, the Councils of the Organization and the Specialized Conferences as well as in the commissions, working groups and any other bodies established.

- a) The power to suspend shall be exercised only when such diplomatic initiatives undertaken by the Organization for the purpose of promoting the restoration of representative democracy in the affected Member State have been unsuccessful;

- b) The decision to suspend shall be adopted at a special session of the General Assembly by an affirmative vote of two-thirds of the Member States;

- c) The suspension shall take effect immediately following its approval by the General Assembly;
- d) The suspension notwithstanding, the Organization shall endeavor to undertake additional diplomatic initiatives to contribute to the re-establishment of representative democracy in the affected Member State;
- e) The Member which has been subject to suspension shall continue to fulfill its obligations to the Organization;
- f) The General Assembly may lift the suspension by a decision adopted with the approval of two-thirds of the Member States;
- g) The powers referred to in this article shall be exercised in accordance with this Charter.

Chapter IV

FUNDAMENTAL RIGHTS AND DUTIES OF STATES

Article 10

States are juridically equal, enjoy equal rights and equal capacity to exercise these rights, and have equal duties. The rights of each State depend not upon its power to ensure the exercise thereof, but upon the mere fact of its existence as a person under international law.

Article 11

Every American State has the duty to respect the rights enjoyed by every other State in accordance with international law.

Article 12

The fundamental rights of States may not be impaired in any manner whatsoever.

Article 13

The political existence of the State is independent of recognition by other States. Even before being recognized, the State has the right to defend its integrity and independence, to provide for its preservation and prosperity, and consequently to organize itself as it sees fit, to legislate concerning its interests, to administer its services, and to determine the jurisdiction and competence of its courts. The exercise of these rights is limited only by the exercise of the rights of other States in accordance with international law.

Article 14

Recognition implies that the State granting it accepts the personality of the new State, with all the rights and duties that international law prescribes for the two States.

Article 15

The right of each State to protect itself and to live its own life does not authorize it to commit unjust acts against another State.

Article 16

The jurisdiction of States within the limits of their national territory is exercised equally over all the inhabitants, whether nationals or aliens.

Article 17

Each State has the right to develop its cultural, political, and economic life freely and naturally. In this free development, the State shall respect the rights of the individual and the principles of universal morality.

Article 18

Respect for and the faithful observance of treaties constitute standards for the development of peaceful relations among States. International treaties and agreements should be public.

Article 19

No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic, and cultural elements.

Article 20

No State may use or encourage the use of coercive measures of an economic or political character in order to force the sovereign will of another State and obtain from it advantages of any kind.

Article 21

The territory of a State is inviolable; it may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly, on any grounds whatever. No territorial acquisitions or special advantages obtained either by force or by other means of coercion shall be recognized.

Article 22

The American States bind themselves in their international relations not to have recourse to the use of force, except in the case of self- defense in accordance with existing treaties or in fulfillment thereof.

Article 23

Measures adopted for the maintenance of peace and security in accordance with existing treaties do not constitute a violation of the principles set forth in Articles 19 and 21.

Chapter V

PACIFIC SETTLEMENT OF DISPUTES

Article 24

International disputes between Member States shall be submitted to the peaceful procedures set forth in this Charter.

This provision shall not be interpreted as an impairment of the rights and obligations of the Member States under Articles 34 and 35 of the Charter of the United Nations.

Article 25

The following are peaceful procedures: direct negotiation, good offices, mediation, investigation and conciliation, judicial settlement, arbitration, and those which the parties to the dispute may especially agree upon at any time.

Article 26

In the event that a dispute arises between two or more American States which, in the opinion of one of them, cannot be settled through the usual diplomatic channels, the parties shall agree on some other peaceful procedure that will enable them to reach a solution.

Article 27

A special treaty will establish adequate means for the settlement of disputes and will determine pertinent procedures for each peaceful means such that no dispute between

American States may remain without definitive settlement within a reasonable period of time.

Chapter VI

COLLECTIVE SECURITY

Article 28

Every act of aggression by a State against the territorial integrity or the inviolability of the territory or against the sovereignty or political independence of an American State shall be considered an act of aggression against the other American States.

Article 29

If the inviolability or the integrity of the territory or the sovereignty or political independence of any American State should be affected by an armed attack or by an act of aggression that is not an armed attack, or by an extracontinental conflict, or by a conflict between two or more American States, or by any other fact or situation that might endanger the peace of America, the American States, in furtherance of the principles of continental solidarity or collective self- defense, shall apply the measures and procedures established in the special treaties on the subject.

Chapter VII

INTEGRAL DEVELOPMENT

Article 30

The Member States, inspired by the principles of inter-American solidarity and cooperation, pledge themselves to a united effort to ensure international social justice in their relations and integral development for their peoples, as conditions essential to peace

and security. Integral development encompasses the economic, social, educational, cultural, scientific, and technological fields through which the goals that each country sets for accomplishing it should be achieved.

Article 31

Inter-American cooperation for integral development is the common and joint responsibility of the Member States, within the framework of the democratic principles and the institutions of the inter-American system. It should include the economic, social, educational, cultural, scientific, and technological fields, support the achievement of national objectives of the Member States, and respect the priorities established by each country in its development plans, without political ties or conditions.

Article 32

Inter-American cooperation for integral development should be continuous and preferably channeled through multilateral organizations, without prejudice to bilateral cooperation between Member States.

The Member States shall contribute to inter-American cooperation for integral development in accordance with their resources and capabilities and in conformity with their laws.

Article 33

Development is a primary responsibility of each country and should constitute an integral and continuous process for the establishment of a more just economic and social order that will make possible and contribute to the fulfillment of the individual.

Article 34

The Member States agree that equality of opportunity, the elimination of extreme poverty, equitable distribution of wealth and income and the full participation of their peoples in decisions relating to their own development are, among others, basic objectives of integral development. To achieve them, they likewise agree to devote their utmost efforts to accomplishing the following basic goals:

- a) Substantial and self-sustained increase of per capita national product;
- b) Equitable distribution of national income;
- c) Adequate and equitable systems of taxation;
- d) Modernization of rural life and reforms leading to equitable and efficient land-tenure systems, increased agricultural productivity, expanded use of land, diversification of production and improved processing and marketing systems for agricultural products; and the strengthening and expansion of the means to attain these ends;
- e) Accelerated and diversified industrialization, especially of capital and intermediate goods;
- f) Stability of domestic price levels, compatible with sustained economic development and the attainment of social justice;
- g) Fair wages, employment opportunities, and acceptable working conditions for all;
- h) Rapid eradication of illiteracy and expansion of educational opportunities for all;
- i) Protection of man's potential through the extension and application of modern medical science;
- j) Proper nutrition, especially through the acceleration of national efforts to increase the production and availability of food;
- k) Adequate housing for all sectors of the population;

- l) Urban conditions that offer the opportunity for a healthful, productive, and full life;

- m) Promotion of private initiative and investment in harmony with action in the public sector; and

- n) Expansion and diversification of exports.

Article 35

The Member States should refrain from practicing policies and adopting actions or measures that have serious adverse effects on the development of other Member States.

Article 36

Transnational enterprises and foreign private investment shall be subject to the legislation of the host countries and to the jurisdiction of their competent courts and to the international treaties and agreements to which said countries are parties, and should conform to the development policies of the recipient countries.

Article 37

The Member States agree to join together in seeking a solution to urgent or critical problems that may arise whenever the economic development or stability of any Member State is seriously affected by conditions that cannot be remedied through the efforts of that State.

Article 38

The Member States shall extend among themselves the benefits of science and technology by encouraging the exchange and utilization of scientific and technical knowledge in accordance with existing treaties and national laws.

Article 39

The Member States, recognizing the close interdependence between foreign trade and economic and social development, should make individual and united efforts to bring about the following:

a) Favorable conditions of access to world markets for the products of the developing countries of the region, particularly through the reduction or elimination, by importing countries, of tariff and nontariff barriers that affect the exports of the Member States of the Organization, except when such barriers are applied in order to diversify the economic structure, to speed up the development of the less- developed Member States, and intensify their process of economic integration, or when they are related to national security or to the needs of economic balance;

b) Continuity in their economic and social development by means of:

i. Improved conditions for trade in basic commodities through international agreements, where appropriate; orderly marketing procedures that avoid the disruption of markets, and other measures designed to promote the expansion of markets and to obtain dependable incomes for producers, adequate and dependable supplies for consumers, and stable prices that are both remunerative to producers and fair to consumers;

ii. Improved international financial cooperation and the adoption of other means for lessening the adverse impact of sharp fluctuations in export earnings experienced by the countries exporting basic commodities;

iii. Diversification of exports and expansion of export opportunities for manufactured and semimanufactured products from the developing countries; and

iv. Conditions conducive to increasing the real export earnings of the Member States, particularly the developing countries of the region, and to increasing their participation in international trade.

Article 40

The Member States reaffirm the principle that when the more developed countries grant concessions in international trade agreements that lower or eliminate tariffs or other barriers to foreign trade so that they benefit the less-developed countries, they should not

expect reciprocal concessions from those countries that are incompatible with their economic development, financial, and trade needs.

Article 41

The Member States, in order to accelerate their economic development, regional integration, and the expansion and improvement of the conditions of their commerce, shall promote improvement and coordination of transportation and communication in the developing countries and among the Member States.

Article 42

The Member States recognize that integration of the developing countries of the Hemisphere is one of the objectives of the inter-American system and, therefore, shall orient their efforts and take the necessary measures to accelerate the integration process, with a view to establishing a Latin American common market in the shortest possible time.

Article 43

In order to strengthen and accelerate integration in all its aspects, the Member States agree to give adequate priority to the preparation and carrying out of multinational projects and to their financing, as well as to encourage economic and financial institutions of the inter-American system to continue giving their broadest support to regional integration institutions and programs.

Article 44

The Member States agree that technical and financial cooperation that seeks to promote regional economic integration should be based on the principle of harmonious, balanced, and efficient development, with particular attention to the relatively less-developed countries, so that it may be a decisive factor that will enable them to promote, with their own efforts, the improved development of their infrastructure programs, new lines of production, and export diversification.

Article 45

The Member States, convinced that man can only achieve the full realization of his aspirations within a just social order, along with economic development and true peace, agree to dedicate every effort to the application of the following principles and mechanisms:

a) All human beings, without distinction as to race, sex, nationality, creed, or social condition, have a right to material well-being and to their spiritual development, under circumstances of liberty, dignity, equality of opportunity, and economic security;

b) Work is a right and a social duty, it gives dignity to the one who performs it, and it should be performed under conditions, including a system of fair wages, that ensure life, health, and a decent standard of living for the worker and his family, both during his working years and in his old age, or when any circumstance deprives him of the possibility of working;

c) Employers and workers, both rural and urban, have the right to associate themselves freely for the defense and promotion of their interests, including the right to collective bargaining and the workers' right to strike, and recognition of the juridical personality of associations and the protection of their freedom and independence, all in accordance with applicable laws;

d) Fair and efficient systems and procedures for consultation and collaboration among the sectors of production, with due regard for safeguarding the interests of the entire society;

e) The operation of systems of public administration, banking and credit, enterprise, and distribution and sales, in such a way, in harmony with the private sector, as to meet the requirements and interests of the community;

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 all efforts of popular promotion and cooperation that have as their purpose the development and progress of the community;

g) Recognition of the importance of the contribution of organizations such as labor unions, cooperatives, and cultural, professional, business, neighborhood, and community associations to the life of the society and to the development process;

- h) Development of an efficient social security policy; and
- i) Adequate provision for all persons to have due legal aid in order to secure their rights.

Article 46

The Member States recognize that, in order to facilitate the process of Latin American regional integration, it is necessary to harmonize the social legislation of the developing countries, especially in the labor and social security fields, so that the rights of the workers shall be equally protected, and they agree to make the greatest efforts possible to achieve this goal.

Article 47

The Member States will give primary importance within their development plans to the encouragement of education, science, technology, and culture, oriented toward the overall improvement of the individual, and as a foundation for democracy, social justice, and progress.

Article 48

The Member States will cooperate with one another to meet their educational needs, to promote scientific research, and to encourage technological progress for their integral development. They will consider themselves individually and jointly bound to preserve and enrich the cultural heritage of the American peoples.

Article 49

The Member States will exert the greatest efforts, in accordance with their constitutional processes, to ensure the effective exercise of the right to education, on the following bases:

- a) Elementary education, compulsory for children of school age, shall also be offered to all others who can benefit from it. When provided by the State it shall be without charge;

b) Middle-level education shall be extended progressively to as much of the population as possible, with a view to social improvement. It shall be diversified in such a way that it meets the development needs of each country without prejudice to providing a general education; and

c) Higher education shall be available to all, provided that, in order to maintain its high level, the corresponding regulatory or academic standards are met.

Article 50

The Member States will give special attention to the eradication of illiteracy, will strengthen adult and vocational education systems, and will ensure that the benefits of culture will be available to the entire population. They will promote the use of all information media to fulfill these aims.

Article 51

The Member States will develop science and technology through educational, research, and technological development activities and information and dissemination programs. They will stimulate activities in the field of technology for the purpose of adapting it to the needs of their integral development. They will organize their cooperation in these fields efficiently and will substantially increase exchange of knowledge, in accordance with national objectives and laws and with treaties in force.

Article 52

The Member States, with due respect for the individuality of each of them, agree to promote cultural exchange as an effective means of consolidating inter-American understanding; and they recognize that regional integration programs should be strengthened by close ties in the fields of education, science, and culture.